



BRIEFING

Immigration Rebalance - options for employer-assisted workers and partners

Date:	29 October 2021	Priority:	Medium
Security classification:	In Confidence	Tracking number:	2122-1422

Action sought		
	Action sought	Deadline
Hon Kris Faafoi Minister of Immigration	Agree to options for Cabinet consideration Agree Cabinet timeframes	3 November 2021

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Ruth Isaac	General Manager Employment, Skills and Immigration Policy	Privacy of natural persons	✓
Andrew Craig	Manager, Immigration Policy (Skills and Residence)	Privacy of natural persons	✓
Steven Sue	Principal Policy Advisor	Privacy of natural persons	

The following departments/agencies have been consulted

Minister's office to complete:

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 Withdrawn |

Comments



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Purpose

To seek agreement to a package of options for Cabinet consideration.

Executive summary

Context

Cabinet invited you to report on a package of options to rebalance the immigration system before and as the border reopens. The shut border has created a breakpoint for immigration. A purposeful reopening that continues to short the previous supply of migrant labour can improve outcomes for New Zealand in the long term, including:

- Net migration levels that are sustainable in terms of infrastructure,
- Increased incentives to train and employ New Zealanders, and meet (rather than displace) the domestic market, and
- Improved productivity (capital investment over labour intensive production).

This can be achieved by taking action that limits the growth rate of migrant inflows post COVID and focuses on higher migrant skill levels. In July 2019 (prior to the pandemic), there were 200,000 temporary migrants working onshore, which had grown from around 80,000 in 2012, at a rate of about 20,000 (14 percent) each year. This compares to annual growth in the overall workforce of between 2 to 3 percent each year over that period. During the lockdown the total number of temporary migrants working onshore has remained largely the same, with a small inflow of critical workers coming into New Zealand.

The largely-closed borders have created some workforce pressures, but have also driven some increase in sector efforts to improve conditions and business models. The inflow rate will increase again as the borders are gradually reopened but the opportunity here is to focus that growth on higher skilled migrants and reducing the inflows to levels that our infrastructure can handle and better complements the existing workforce. The aim would be to maintain a smaller and more skilled proportion of migrants in the overall workforce. It will also reduce risks of exploitation by limiting the arrivals of migrants with unrealistic expectations of a pathway to residence, and targeting common occupations that are used as residence pathways but do not reflect the skills New Zealand wants to attract and retain.

Positive outcomes for employers and migrants include:

- More long-term certainty about the pipeline to residence for workers. The 2021 Resident visa as part of the Rebalance has already provided certainty that workforces can be retained where jobs remain attractive. Future settings can reduce the gap between the number of temporary migrants needed to meet labour demand, and the number of temporary migrants who can qualify for residence;

- More attractive offers for the highly skilled and critical occupations with improved residence timelines and pathways;
- Simpler systems and rules that are clearer and administratively simple allowing quick decisions. Tighter and simpler restrictions on who can come reduce need for complex labour market and skills testing.

The incoming temporary work changes will strengthen the labour market test, while allowing simpler pathways for the highly skilled and some regional differentiation. However, the labour market test is an individual job-by-job assessment that may be passed by a poor employer who cannot find New Zealanders. It does not take a whole-of-sector look at holistic workforce needs, skill supply and efforts to attract New Zealanders, or productivity opportunities. It will not therefore achieve a strong limit on the flow of low skilled migrants into sectors that could do more. The class exception process has provided experience with making these sector-based holistic judgements as a basis for limiting arrival numbers.

Proposed package

We have identified an initial set of options to achieve these goals. These are:

- Faster/easier entry for **green list occupations** of high benefit based on long-term skills shortages or growth areas, particularly at higher skill levels. This will include faster offshore and onshore paths to residence for the highly-skilled migrants, and more certain paths for other scarce roles if they stay working in the sector. This is likely to cover roles such as doctors, teachers, highly-skilled construction trades, and might include primary sector roles (like dairy farmers) if a strong case can be made;
- **Not allowing recruitment of migrants below the median wage** (or higher or lower amount) unless for an occupation on the green list or allowed in limited numbers as part of a sector agreement;

Confidential advice to Government

- **Sector agreements** would be reset and restarted with a small number of sectors where there is a short-term or ongoing need for capped access to lower skilled migrants in exchange for industry action on training, conditions and productivity improvement (but only where sector coordination is feasible). Sector agreements also provide the best vehicle to consider requirements or exceptions that will enhance **Pacific labour mobility** allowing skills to be developed in New Zealand and returned to the Pacific where needed;
- **Requiring partners to qualify for work rights in their own right** (based on the limitations above including passing relevant labour market tests), but allowing them to work less than the 30 hour full time requirement if desired (we can consider whether more relaxed provisions are maintained for partners of New Zealanders and/or partners of people on green list jobs);
- Restricting **international student access to sub-degree courses** or post study work rights where the sub-degree course is not aligned with skill shortage occupations New Zealand wants to develop. (You will receive further advice on international students separately).
- **Requiring accreditation** for all businesses who wish to employ migrant workers (including those with open work rights).

- Recalibrating and reactivating the **stand-down period** to align with future decisions on the **threshold for skilled residence** so migrants do not settle in New Zealand with no realistic prospect of residence. The stand-down period is especially needed if the median wage restriction is not activated.

The median wage threshold for employer-assisted work visas, restricting the work rights of partners, and restricting international student access to sub-degree courses will drive most of the impact from this package of changes. The remaining elements either provide additional nuance to the median wage threshold (red and green lists, and sector agreements) or improve the processes and conditions around employing migrant workers (extending accreditation). A key challenge will be managing pressure to add many occupations to the positive exemption lists, undermining the intent of the changes and producing a more administratively burdensome system.

Different combinations of these levers are possible for lighter or more extensive change from the status quo:

- A lighter touch package would be to use just the **Confidential advice to Government** and sector agreements, dropping the median wage requirement. This would provide for “targeted fine tuning” of the current system allowing particular occupations to be promoted, excluded or limited where there is an issue. There is less risk of pressure from numerous smaller occupation groups under the median wage to be exempted, but it will not produce as a significant a change across lower skilled occupations so may not achieve your Rebalance goals.
- A more extensive package would be to dispense with green list and sector agreement exemptions below the median wage. This would drive the most change, but does not provide for the ‘safety valve’ to support managed transitions to different business models and workforce configurations in some key sectors.

Initial assessments are that the recommended package could eventually reduce working migrant volumes by around a quarter. These reductions would impact on sectors across the economy, but in particular tourism, retail and hospitality.

Further work and next steps

An element of the broader Immigration Rebalance that has yet to be developed is residence pathways. This would complement the green list approach outlined above. We will provide you with advice in early-mid 2022 on skilled residence pathways, together with options for how to restart draws from the SMC EOI, in time for the scheduled recommencement in August 2022. Decisions on this package of options, which will affect the volume and types of temporary migrant workers that can enter New Zealand, will inform options on the proportion that will have a pathway to residence.

More work is required to fully develop the criteria that would define different lists and sector agreements, the mechanisms needed to operationalise the changes, and to assess the full impacts on specific sectors. We have had only initial discussions with other agencies, and full impacts will depend on what roles are on the green and red lists and where sector agreements are established.

You have asked for this package to be incorporated into a paper for Cabinet consideration in December. Cabinet will be able to decide whether the potential scale of impacts of this package aligns with its Rebalance, economic recovery and growth, and sector transformation goals. If it does, decisions should be taken to confirm the preferred option and complete detailed design so changes can be implemented as the border reopens. If not, we can further reframe the Rebalance messages and pursue a more limited option set.

Given the limited opportunity for agency and Ministerial engagement leading up to Cabinet consideration in December, we recommend that the Cabinet paper seek:

- agreement to the Immigration Rebalance package proposed here,

- agreement to further detailed work on the package, including further engagement with agencies and Ministers, potentially targeted consultation with some sectors, for Cabinet consideration in March 2022, and
- agreement to an interim package of expanded border restrictions (1.5 times the median wage plus class exceptions for groups of workers and some students) to be implemented as part of 'Reconnecting New Zealand' if the border is opening in early 2022 before the main components of the Rebalance package are ready to be implemented. Initial assessments are that we could have the proposed package in place by mid-2022, though this will depend on exact mechanisms for determining lists and level of sector engagement.

We are exploring possibility of implementing the core Rebalance package in mid-2022 alongside the accredited employer work visa. The feasibility of this timing will be explored with Immigration New Zealand for the December Cabinet paper. Later implementation (e.g., in 2023) is also possible without losing the reset opportunity if the interim package of border restrictions is in place for 2022.

Recommended action

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

a **Agree** that the following Immigration Rebalance package is incorporated into a paper for Cabinet consideration:

- i. **A green list** for specified high skilled or scarce and important roles that will allow access to migrants and faster pathways to residence

Agree / Disagree

- ii. **Salary threshold restrictions** to accessing offshore migrant workers (unless exempted by the green list or a sector agreement)

Agree / Disagree

- iii. Confidential advice to Government

Agree / Disagree

- iv. **A 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 in exchange for industry action on training, conditions and productivity improvement

Agree / Disagree

- v. **Restrictions to partner work rights** to roles for which they qualify in their own right, but allowing them to work less than 30 hours, and permitting partners of Green listed migrants to obtain open work rights without the same test

Agree / Disagree

- vi. **Require all employers to be accredited to employ any migrant workers** including open work rights visa holders

Agree / Disagree

- vii. **Reinstate the stand down period** with a reduced two years maximum time in New Zealand, but match visa durations to this period so migrants and employers do not need to reapply for a visa while remaining in the role (the threshold for the stand-down should be recalibrated to better align with skilled residence thresholds)

Agree / Disagree

b **Note** that you have also commissioned separate advice on:

- i. Limiting international student volumes or access to post study work rights
- ii. Pathways to skilled residence and the skilled residence threshold
- iii. Over stayer options.

Noted

c **Agree** to a set of interim settings if the border opens earlier than the Rebalance can be implemented, including:

- i. Access for critical workers at or above 1.5 times the median wage, but not having to meet the 'not readily available' skills test
- ii. Other Critical workers by class exception only
- iii. Larger class exceptions for students at degree-level and above only, and in capped volumes.

Agree / Disagree

d **Instruct** MBIE to prepare a Cabinet paper aiming for consideration by Cabinet Economic Development Committee on 8 December 2021, seeking:

- i. agreement to the interim package to be implemented as part of 'Reconnecting New Zealand',
- ii. agreement to the proposed Immigration Rebalance package, and
- iii. agreement for further detailed work on the package, including further agency input and targeted consultation with some sectors, for Cabinet consideration in March 2022.

Agree / Disagree

Privacy of natural persons

Andrew Craig
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Labour, Science and Enterprise, MBIE

Hon Kris Faafoi
Minister of Immigration

29/10/21

..... / /

Context

1. On 12 July 2021 Cabinet 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 [CAB-21-MIN-0279 refers].
2. You were invited 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.
3. We are now unlikely to meet the November timeframe, largely due to the considerable work required to develop and implement the 2021 Resident visa. However, as that work has now been done, there is no longer any need for the report back to cover options for currently onshore migrants.
4. We have resumed work on changes to employer-assisted work visa and partner settings. This paper provides more information on the proposed Rebalance package we discussed with you on Friday, 22 October.

What the Rebalance aims to achieve

5. The Rebalance aims to incentivise businesses to lift working conditions, improve the skills training and career pathways for workers, and contribute to greater productivity by encouraging investment in higher skill levels and technology. This will also help to reduce the economy's reliance on lower-skilled migrant workers while the flow of people across borders will remain uncertain, even after our borders are reopened.
6. The Rebalance is also about ensuring that as we reopen the borders, there is a greater balance of higher skilled migrant workers flowing into New Zealand, and inflows resume at lesser level compared to before the pandemic. As we deliver this, we are seeking to build greater consideration of sector workforce needs (as opposed to the workforce needs of individual employers) into the immigration system. This paper presents a package of options that delivers on these aims.
7. Delivering on these aims requires some intentional shorting of the labour market. However, while this sounds severe, the (near) zero flow of migrants we have seen during COVID-19 means that any ability to hire migrants from abroad in the coming year will be greater than what most employers have been able to recruit from abroad in the past 18 months.

Desired action from businesses and employers

8. Reducing business' reliance on migrant labour to fill lower-skilled, lower-paid roles and encouraging increased investment in higher skill levels and technology means getting employers to:
 - Improve the quality of the job on offer (by improving working conditions like pay and career opportunities) to better attract New Zealanders or more highly-skilled migrants, and/or
 - Removing the need for the role (by making productivity enhancing changes), and/or
 - Find a substitute for migrant labour in these roles (through or domestic jobseekers).
9. To achieve these outcomes, changes are needed that mean employers are unable or unwilling to hire a migrant for lower-skilled, lower-paid roles. In short, it becomes easier for employers to provide better jobs than it is for them to hire a migrant into a lower-skilled, lower-paid role. This can be done with immigration levers by decreasing the burden on employers to hire a highly skilled migrant, or increasing the burden to hire a lower-skilled migrant.

10. Shifts resulting from actions aimed at delivering these outcomes will naturally lead to a reduction in migrant volumes: actions focused solely on reducing volumes will not best serve the desired outcomes.
11. The Rebalance also presents an opportunity to reduce capacity for migrant exploitation (by employers) and misuse of the system by migrants to get residence when they would not otherwise be eligible.
12. The Rebalance should not unduly hamstring business and sector growth in key sectors. It is important that employers retain the ability to hire highly skilled migrants, and migrants for genuine skill shortages where there are no other viable alternatives. There is a constructive tension to be created and calibrated where immigration levers can complement other Government and sector actions to force change while recognising and allowing time for transformation efforts that are genuinely underway. We consider that the pre-COVID tension was set too low to help drive this change as seen from some of the improvements and alternate approaches explored by some sectors since the border closures.

Desired shifts in migrant composition

13. The Rebalance also aims to shift the balance of migrant workers coming to New Zealand to higher skill levels. There are several ways to do this:
 - a. *Attracting more highly-skilled migrants:* By treating higher paid or scarce occupations more favourably, including a more streamlined residence pathway. We can identify desirable occupations through the occupation lists and sector agreements, and operationalise this approach through residence policies.
 - b. *By making changes that affect all low-paid and/or low-skilled workers:* We estimate that about 25 percent of essential skills visa holders are earning below the median wage, and perhaps 60 percent of those on open work rights. This type of change would affect all sectors, but lower-paying sectors, such as retail, hospitality and tourism would be affected most. This is a reasonably blunt approach which could be supplemented by some tailored measures to allow businesses to employ temporary migrant workers for *certain scarce or strategic jobs (for example in the construction or primary sectors)*.
 - c. *By making changes that impact certain occupations only:* There are some jobs that either employ a high proportion of migrants at pay rates below the median wage (the commonly used proxy for 'low-skilled'), or that are used to give migrants with no realistic prospect of residence a residence pathway. Examples include a number of high-volume, low-skill roles in retail and hospitality.
14. Figure One (below) shows temporary migrant worker use by industry in 2021. To make a significant difference to both the balance of highly skilled migrants and to temper future temporary migrant numbers, volumes need to be constrained significantly from the high-use industries. For a significant shift in the overall balance of low-paid, low-skilled migrant workers, a large volume of these roles will need to come out of the lower-paying industries, particularly Accommodation and Food Services (tourism and hospitality) and Retail. Some roles of particular economic or social value sit in high-volume industries, and specific provision for those roles to feature on 'green' lists or sector agreements would be required if it was considered important to preserve access to migrant workers for those roles (particularly some primary industries, construction and aged care).

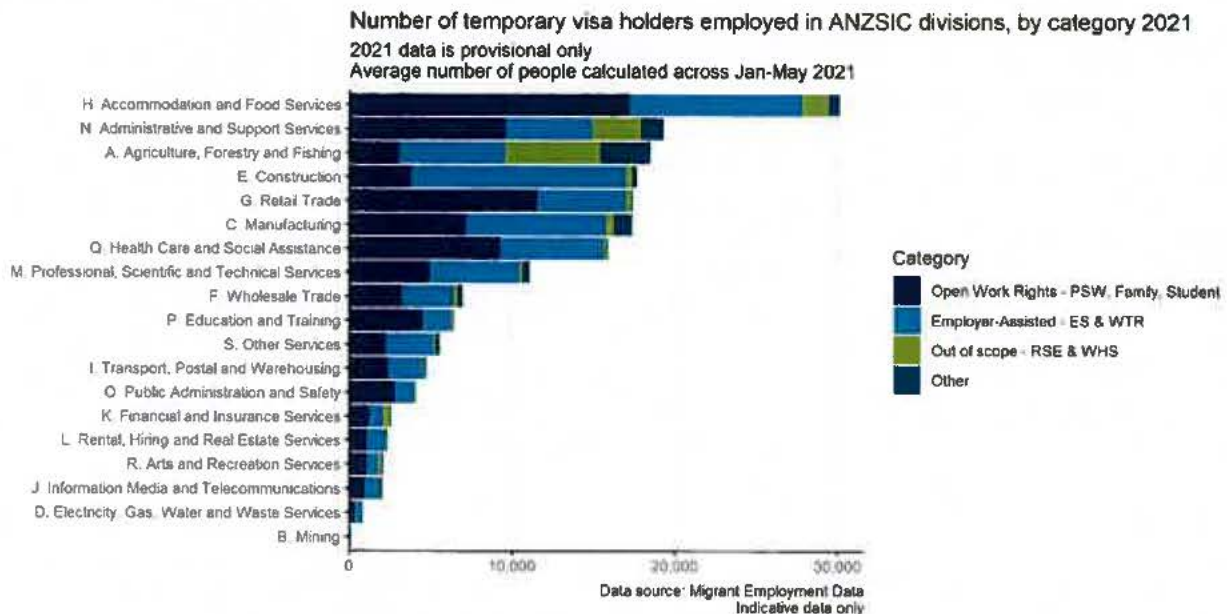


Figure One: Industry breakdown of temporary migrant worker use

Cabinet agreed to focus on three key visa groups – students and post-study work visa holders, employer-assisted workers, and partners - and action is needed across all to be effective

15. The main visas affected by the Rebalance are the employer assisted visas, student and post-study work visas, and partner visas. There are migrants in low-paid, low-skilled roles across all the visas in scope, but the majority of these roles are held by people on visas with open work rights. Action affecting all of these visa groups is necessary to meeting the goals established for the Immigration Rebalance.
16. Together, students and post-study work visa holders, employer-assisted workers, and partners made up 80 percent of temporary migrant workers in New Zealand in July 2019. Migrant workers are in low-paid roles across the economy but some sectors have higher concentrations of low-paid roles, such as retail, tourism and hospitality.
17. Temporary migrants working onshore has grown significantly from 2012 to 2019, from 80,000 to 200,000 respectively. That equated to a growth in numbers of about 20,000 people (14 percent) each year over that period. This outstripped the growth rate of the overall labour force of 2 to 3 percent each year over that period. This resulted in the share of migrant labour in the overall workforce increasing from 4 percent in July 2012 to 9 percent in July 2019.
18. While there was a clear trend in temporary migrant numbers growing in the years leading up to 2019, with working migrant numbers vastly outstripping growth in the overall workforce, numbers in coming months and years are going to look a bit different:
 - a. While temporary migrant worker numbers remained reasonably stable since New Zealand closed its borders, this number is expected to reduce dramatically over 2022 as up to an estimated onshore 165,000 temporary migrants apply and are granted a 2021 Resident Visa. This won't change the size of the New Zealand workforce, only who is counted as a temporary migrant worker.
 - b. Migrant flows are expected to gradually grow over the course of 2022 as health and border restrictions for the COVID-19 pandemic ease, but initially any pent up demand for temporary workers may ultimately be constrained by border and visa policies.
 - c. There has been significant shifts in economic activity across sectors since the pandemic began and it is hard to predict how this will develop as we reopen our

borders. For example, tourism activity has reduced but construction and healthcare have grown. This is a significant factor for workforce demands and therefore demand for migrant workers.

19. Regardless of these challenges in measuring impacts on volumes, any package needs to be sufficiently bold if it is going to make any change the future volumes and balance of migrant workers.

Temporary migrants working on an employer assisted work visa (specifically work to residence and essential skills visas)

20. In July 2019, there were 68,000 such visa holders, accounting for 34 percent of the temporary migrant worker population. This is a significant increase from the 20,000 on these visas in July 2012.
21. Temporary work visa holders have restricted work rights – they are required to work a minimum number of hours to be eligible for these visas and for the employer specified on their visa. Visa holders can change employer but do need to apply for a variation of conditions to do so. The majority of these visa holders (around 75 percent) are employed in roles paid above the median wage¹. The top roles these visa holders are engaged by volume (over 500) are listed in the below table below table – employment in these roles account for nearly half of temporary work visa holders employment:

Employer assisted work visa holders, June 2021	
Largest roles	Volumes
Carpenter	4983
Chef	4827
Dairy Cattle Farmer	2559
Retail Manager (General)	2391
Dairy Cattle Farm Worker	2169
Retail Supervisor	2109
Cafe or Restaurant Manager	2061
Personal Care Assistant	2016
Truck Driver (General)	1527
Cook	1524
Metal Fabricator	1269
Registered Nurse (Aged Care)	1095
Telecommunications Technician	927
Diesel Motor Mechanic	909
Scaffolder	882
Motor Mechanic (General)	870
Electrician (General)	738
Painting Trades Worker	669
Builder's Labourer	651
Baker	627
Fibrous Plasterer	618
Technicians and Trades Workers nec	552
Steel Fixer	549
Office Manager	549
Welder (First Class) (Aus) / Welder (NZ)	549
Hairdresser	543
Program or Project Administrator	540

Temporary migrants working on student and post study work visas

22. In July 2019, there were:

¹ When comparing wages recorded upon application against the median wage at the time.

- a. 23,000 people working on student visas, accounting for 12 percent of the temporary migrant worker population
 - b. 33,000 people were working on post study work visas, accounting for 17 percent of the temporary migrant worker population.
23. Student volumes have largely grown in line with the growth in temporary migrant numbers since 2012, but the share of post study work visa holders working has increased over that period.
 24. Both of these visas have open work rights (that is, holders can work in almost any job for any employer), although students can only work part-time. These visa holders tend to work in industries that have high levels of 'low-skilled, low-paid' roles. While we know what industries people on open work visas are in, we do not know what their specific job is or how much they are being paid.
 25. We are currently developing a separate paper with the Ministry of Education covering the options for student and post study work visas. The proposals in this paper should be considered alongside those made for student and post study work visa holders.

Partner work visa holders

26. This grouping covers three visa types – work visa for partners of students, workers and New Zealand citizens or residents. In July 2019, there were 34,000 working partners, accounting for 17 percent of the temporary migrant worker population. Working partner migrants have grown in line with overall temporary migrant numbers over the 2012 to 2019 period. These visa holders have open work rights (that is, holders can work in almost any job for any employer). Like students and post study work visa holders, partners tend to work in industries that have high levels of 'low-skilled, low-paid' roles.

Pay levels across these visas

27. While we can see what the particular roles are within the employer-assisted work visas and what they are paid, we do not have the same level of information for open work visas (such as student, partner and post study work visas). However, we know that employer-assisted work visas are skewed towards higher paid roles (about 75 percent at or above the median wage) and that open work rights holders tend to work in the lower paying industries. This suggests that it is important to focus on the open work right visas as much as the employer assisted work visas, particularly given that there are more open work right visa holders in scope than employer assisted work visas.

Out of scope visas

28. Cabinet agreed to exclude working holiday scheme visas, seasonal or specific purpose work visas (such as SSE and RSE), and visitor visas from the scope of the Immigration Rebalance, owing to either ongoing reviews or the genuinely transient nature of these visas. WHS and RSE workers made up about 16 percent of the working temporary migrants in July 2019. A further 4 percent of the temporary work migrant population were on other visas with work rights.

Improving the balance across low and high-skilled temporary migrant workers

29. Levers that restrict access to temporary migrants for low-paid, low-skilled roles and achieve general volume reductions range from bespoke and flexible (but administratively burdensome) mechanisms to system-wide rules that are simple and transparent, but increasingly prescriptive.

30. The proposed package primarily uses system-wide rules to drive the desired outcomes, and uses bespoke solutions to phase the effects of the changes and achieve sector-specific outcomes. The **proposed package** suggests:
- a. To better attract highly-skilled migrants and those able to fill long-term skill shortages to New Zealand by offering streamlined residence pathways:
 - i. Introducing a short 'green' list of nationally scarce and highly skilled occupations that are to be exempt from restrictions and receive a streamlined residence pathway (*bespoke*)
 - b. To limit employer access to migrants for lower-skilled, lower-paid roles, by either raising the cost of hiring a migrant or by directly limiting access to migrants for certain roles:
 - i. Introducing a 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 (see below) or covered by a sector agreement (*system-wide*)
 - ii. Confidential advice to Government
 - iii. Compulsory employer accreditation to hire any migrants (including open work rights holders) (*system-wide*)
 - iv. Requiring partners to qualify for work rights in their own right (on the same basis as an employer-assisted visa holder), without the minimum hours requirement of 30+ hours (*system-wide*)
 - c. To deliver sector-specific outcomes, we recommend creating a very limited number of sector-specific agreements that contain some variations on system-wide rules (*bespoke*), to either:
 - i. Support the transition of these sectors by providing for example a sinking lid of the migrant workforce, or
 - ii. Target occupations that do not meet criteria for inclusion on the 'green' list but warrant some action for more favourable treatment (for example a capped proportion of the total workforce, or exemptions subject to training commitments).
31. The below diagram (Figure Two) demonstrates at the high-level impact of these changes on eligibility for employer-assisted work visas, based on pay level. Note, the impact of limiting the work rights of partners' is also reflected (although not specifically identified) as partners will be subject to the same changes:

Figure Two: outline of how key elements of the proposed Rebalance package will affect jobs within employer-assisted work visas

32. The proposed package caters well for the majority of roles through system-wide levers, relying on changes to the pay threshold and partners' work rights to reduce employer reliance on migrants for lower-skilled, lower-paid roles. This provides consistent and transparent treatment of migrants, employers and across sectors. Where there are narrow situations warranting a short-term allowance or ongoing reliance on migrant labour (for example, in aged care where there are not enough qualified New Zealanders to meet growing demand), bespoke solutions are used to vary the system-wide rules. This gives flexibility, and allows us to respond to the realities of the labour market but in a targeted, minimally interfering way.
33. Alternatively, you could pursue:
 - a. A more extensive approach, with increased use of system-wide rules: this could mean no sector agreements or ^{Confidential advice to Government} and possibly the introduction of system-wide caps (for example, on the number of temporary migrant work visas approved per annum). This will be more transparent and will reduce complexity in the system (as lists and sector agreements are administratively burdensome to create and maintain), but allows no flexibility to respond to the realities of the labour market. The impact on sectors will be more severe.
 - b. A lighter approach, with less use of system-wide rules: this could mean no pay threshold and removing the need for all employers to be accredited. You would need to use ^{Confidential advice to Government} more extensively to achieve the same scale of outcomes, which would mean longer occupation lists and more complexity in the system. This would also place a higher burden on government to make decisions sector-by-sector or occupation-by-occupation on an ongoing basis, and increase the risk of unfair and inconsistent treatment between employers and sectors, with less robust justification for any differences. This may also create an expectation among employers and sector bodies that immigration will continue to be highly responsive to demands of the labour market, limiting the burden on employers to adapt and leading to increased lobbying.

Details on recommended package

34. This section provides details on the rationale and possible operation of the options package presented at paragraph 30.

Introducing a short green list of nationally scarce and highly skilled occupations that are to be exempt from restrictions and receive a streamlined residence pathway

35. **Rationale:** a green list is a tool for attracting to New Zealand the most desirable migrants who are highly-skilled and/or working in scarce occupations. While there are few barriers to entry under an open border situation, the green list would provide a fast-track to residence for highly-skilled in-demand roles, and a streamlined residence pathway for less-skilled scarce roles with a requirement to complete a period of time in the role before residence is provided. Neither currently exist. In some cases the list would also provide exemption from other restrictions that prevent or discourage entry (e.g. pay threshold, partner visa restrictions).
36. A green list both:
 - a. ensures employers have access to highly skilled migrants, to support the growth of their businesses, as well as migrants qualified to meet genuine, long-term skills shortages, regardless of pay, and
 - b. attracts these valuable skills to New Zealand with access to fast-tracked or streamlined residence pathways.
37. **Possible implementation:** we recommend this be a short list of occupations that is updated on a three-yearly basis, to support moving away from a short-term responsive approach and limit implementation costs. This list is not intended to respond to short-term labour shortages, but to support recruiting migrant workers to fill long-term shortages and meet demand for very highly-skilled workers. The green list could be agreed in March 2022 and implemented from mid-2022, to coincide with the implementation of other temporary work visa reforms.
38. In developing this list, we do not suggest reviewing all occupations in New Zealand. Instead, we recommend developing criteria that refine the roles to be considered for this list and provide transparency and robustness to decisions taken for a three-year period. The final list of roles would then be selected and agreed by the government. These criteria could be developed in consultation with agencies and possibly with input from sectors. Key (indicative only) criteria for refinement of occupations could include:
 - a. Ongoing long-term and significant labour need that is unable to be met domestically (for example, there are sectors like aged care where forecast labour demand will not be able to be met domestically, regardless of measures taken).
 - b. Whether the role provides critical social benefit to New Zealand, or is of national significance.
 - c. Measures already in place to attract New Zealanders to the occupation (including improved working conditions and pay, non-pay benefits, training pathways, and reduced barriers to access).
39. In addition, for lower-skilled scarce roles we suggest considering whether the role is pivotal to the function of other links in a value chain, and the availability of relevant skillsets among New Zealand jobseekers.
40. For highly-skilled roles, we also suggest that a high degree of training and experience be needed, with limited or no availability of relevant skills in New Zealand, be considered.
41. With these kind of criteria refining the list, roles that may be on the green list include:
 - a. **Fast-tracked:** nurses (including aged care nurses), teachers (primary and secondary), specialist doctors, some engineers, veterinarians,

- b. **Streamlined** (with a set time period required before residence is available): heavy vehicle mechanics and operators, aged carers, dairy farmers.

Note, very few migrants in these occupations on employer-assisted visas are paid under the median wage, with the exception of aged carers and dairy farmers. In those cases in particular a key criteria is understanding whether the sector has demonstrated sufficient effort to improve working conditions and attract New Zealanders.

- 42. The main challenge for any list that determines immigration eligibility is lobbying pressure to be on the list. We need to do more work on the exact thresholds and mechanisms for determining a green list, but the goals are:
 - a. There will be a high bar for inclusion,
 - b. Criteria will inform but not determine decisions - not every job that appears to meet the criteria would be included on the list,
 - c. Occupations will be identified and approved by Government, rather than decided on the basis of applications,
 - d. Experience with running the class border exceptions process will be drawn on, and a review of the development and use of skill shortage lists in the immigration system (including connections to training and other pipelines).
- 43. **Other options considered:** as an alternative to a list, easier access for existing residence pathways (e.g. more points for the Skilled Migrant Category) was considered. However, this is less attractive, as the burden would be greater on applicants than a streamlined pathway and it is not easily communicated.
- 44. The suggested criteria above will refine a list of candidate roles but could yield a long list if broadly interpreted. Alternatively, government could undertake role-by-role decision-making, outline a more tightly defined set of criteria to govern decisions, or use a weighting process to limit the list of roles. However, these options do not create the same benefits of transparency and simplicity while also providing flexibility for government to take final decisions as having refinement criteria.
- 45. **Impacts:** a green list would have no negative impact on any sector but would offer significant benefits to those with roles on the list. This option will contribute to overall migrant volumes, but will also support a higher proportion of skilled migrants.
- 46. **Risks and mitigations:** given the benefits of having a role included on this list, this will receive extensive lobbying. A robust, transparent process for developing and applying the refinement criteria (possibly developed in consultation with external stakeholders), to inform Government decisions, may help mitigate pressure to an extent.
- 47. **Further work required:** to develop the criteria and process for selecting the green list. This should be done with agency input and may include consultation with sectors before the criteria for refining candidate roles are finalised.

Introducing a pay threshold that employers must meet to hire a temporary migrant for a role on an employer-assisted work visa, unless the role is on the green list or part of a sector agreement

- 48. **Rationale:** introducing a pay threshold that employers must pay above to be able to recruit migrants directly delivers on the goal of reducing reliance on lower-skilled, lower-paid migrant labour. This approach raises the cost of hiring a migrant, and employers need to either improve the roles (i.e. 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. This is a system-wide lever that is easy to understand and implement, but can also be set at a level to target those roles of most concern (i.e. those that are lower-paid or lower-skilled).

49. **Possible implementation:** we recommend that, if you were to introduce a pay threshold, it be set at the median wage (updated annually). Wage is used as in the immigration system as a proxy to indicate skill level - roles paid below the median wage are considered 'lower-skilled/lower-paid' and this is where we are seeking to have an impact. While only a proxy, a pay threshold is far simpler to operationalise and more certain for migrants and employers than previous occupation skill level lists (ANZSCO). Setting a pay threshold at the median wage both aligns to the wider immigration system and targets action at the roles where you are seeking to reduce the proportion of migrants.
50. A median wage threshold could be implemented in July 2022 together with the new accredited employer work visa. This would also follow the interim settings for border re-opening which prioritises a gradual increase in arrivals to New Zealand by retaining tight limits on migration to limit possible impacts of COVID-19.
51. **Other options considered:** a higher pay threshold reduces employer access to migrants unnecessarily, and affects skilled roles outside the scope of the Rebalance. For example, if you set the pay threshold at 1.5 times the median wage (around \$85,000 per annum before tax), employers would be unable to recruit migrants to work as registered nurses, primary and secondary school teachers, or in most carpenter, plumber and electrician roles. Only 6 percent of the current stock of temporary migrants on essential skills visas would be permitted entry under this threshold.
52. A lower pay threshold than the median wage would be largely redundant as it would not capture all of the 'lower skilled and lower paid' roles as they are defined for immigration purposes, and may lead to perverse wage behaviours.
53. **Impacts:** a pay threshold at the median wage could reduce the volumes of migrants eligible for essential skills visas by 25 percent. The tourism, hospitality and retail sectors will be particularly affected, as they have the highest proportion of their migrant workforce paid below the median wage: 3,100 (out of 8,000) migrants on essential skill visas employed in the hospitality sector, 70 (out of 150) in tourism, and 1,600 (out of 5,500) in the retail sector are paid below the median wage. Employers will not be able to hire employer-assisted migrant workers for these roles if the threshold were implemented and these roles continued to be paid below the median wage.
54. Businesses would continue to be able to hire migrants with open work visas regardless of pay level (noting the option below on restricting the work rights of partners).
55. **Risks and mitigations:** the use of wage as a proxy for indicating skill does have its limitations: it does not account for entry-level roles in highly skilled professions, where pay progression is slow, or 'pivotal roles' which are necessary to support a wider operation but not necessarily highly paid (e.g. scaffolders). This will in turn drive pressure to have roles included on exemption lists.
56. The sectors most impacted by this change are also those that have suffered the most from the effects of the pandemic – these changes could add to the difficulty of operating businesses that fail to attract New Zealanders or change their business model. While a healthy tension to encourage productivity-enhancing action by employers is beneficial, crippling regulation is not. Some of the effects of the Rebalance as a whole (including the pay threshold) could be mitigated to some extent by sector agreements (either short-term to support transition, or longer-term to support growth) and the green list, but it is best to have

as few overrides as possible to ensure delivery on the outcomes. This requires broad Ministerial comfort with the scale and distribution of impacts.

57. The impacts of the median wage threshold will vary, depending on the characteristics of different sectors or occupations. Occupations that are significantly reliant on migrant labour will be most impacted. For example, in those occupations that pay:
- a. over the median: the threshold will have no effect.
 - b. mainly over the median wage, with a small number paid less: businesses may be pressured to increase wages to bring the sector more in-line and the vast majority of New Zealanders and migrants are paid at or above median – this is desirable in most cases. Examples could include carers.
 - c. most or entirely under median wage: sector may be forced to increase wages to secure labour. In some cases wage increases may not be viable which could lead to reduced output and labour shortages. This will be a particular issue for sectors with small margins such as hospitality, or where there is no alternative to migrant labour – in these cases decisions will need to be made about whether interventions such as sector agreements are needed or reduced output is acceptable.
58. **Further work required:** a pay threshold is reasonably straightforward to implement, although more effort may be required in verifying wage levels.

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Creating a very limited number of sector-specific agreements that contain some variations on system-wide rules

67. **Rationale:** we are suggesting creating sector-specific agreements to permit (likely) capped numbers of low-wage migrants to enter as an exemption to the wage threshold. These would be used in a small number of cases to provide the ability to reduce immediate and unwanted severe impacts of the Rebalance, by enabling limited exceptions and providing added benefits where necessary to support the sector's transition from reliance on migrants or to limit the proportion of migrants (while allowing higher volumes) in growth sectors.
68. The difference with green list roles would be the sector agreement allows for capping or other conditions such as training to be imposed, so is more appropriate where the government wants to support a change.
69. This will involve a change in approach from the previously planned use of sector agreements which had been approached as a negotiation for flexible conditions and pathway into workforce planning. The challenge is this puts government on the back foot to argue why the sector can manage with less workers. With a pay threshold in place, Government will be in a stronger position to provide these limited allowances (i.e. allowing workers back in) in exchange for sector behaviour change. This would likely involve a stronger opening bottom line from the Government to limit workers and/or see specified changes.
70. **Possible implementation:** establishing sector agreements could range from flexibly negotiating conditions with sector organisations to requiring action in exchange for limited offers. We favour the latter approach. A pay threshold provides Government the opportunity to form strategic agreements that encourage and support sector change in-line with objectives to move to a higher-skill, higher-wage economy, plan and train for labour need, and ensure good working conditions.
71. Sector agreements could use the following mechanisms to support these objectives:

- a. A time-limited or sinking-lid cap for migrants that can fill a role paid below the pay threshold, to support the sector's transition;
 - b. Access to a Pacific preference pathway (more detail on this follows);
 - c. A capped residence pathway for some critical roles that do not quite meet the green list threshold.
72. These mechanisms would be offered in exchange for action by the sector that supports its transition, such as agreements to increase domestic training and employ more New Zealanders over time, create new sector workforce plans, create new apprenticeship opportunities, or establish iwi partnerships where appropriate.
73. Similar to the green list, we recommend that sector agreements are enduring for at least three years to move away from reactivity and support transition over time while providing labour certainty.
74. We also strongly recommend very few sector agreements are pursued. They are burdensome to establish and administer, and if they are too widespread they undermine the operation of the other Rebalance options. This is a change in approach to previous plans that sector agreements would be used across multiple sectors to come to agreements about reducing migrant labour.
75. Sector agreements would complement the use of the green list by providing solutions in cases where placing a role on the green list is too permissive to improve sector practices, but there is a need to enable short-term migrant labour use while providing support to the sector to transition away from this reliance.
76. Sectors that have made significant efforts to ensure good labour market conditions and move away from migrant labour as far as possible are more likely to be considered for the green list. In contrast, good candidates for sector agreements will be roles where there is:
- a. Demonstrated ongoing need for migrant labour, **and**
 - b. Clear risk to nationally significant interests if the need is not met, **and**
 - c. Capacity for improvement in a sector's approach to attraction, retention, work conditions and/or training to resolve the labour shortage, **and**
 - d. A sector organisation(s) that is in a good position to negotiate and support change.
77. **Impacts:** this option may contribute to overall migrant volumes, but will reduce negative impacts of the Rebalance for key occupations in the short-term while providing a lever to reduce migrant volumes over time. Early analysis suggests that sector agreements may be warranted in aged care (possibly a capped residence pathway for aged carers), construction (a Pacific preference option (discussed further below) to meet construction labour needs), red meat and dairy (capped access for halal slaughters and possible pathways for dairy farm workers).
78. Roles or sectors which are highly reliant on migrant labour but there is no clear justification or national interest in supporting this labour use, or where there has is little to no evident effort to improve recruitment and retention of New Zealanders will not be candidates for sector agreements. This is likely to include sectors such as tourism, hospitality and retail. These sectors will experience some difficulties in being unable to access low-wage migrant labour and are likely to lobby for sector agreements to be established, but we consider their practices will improve over time as a result of the pressure of Rebalance settings and without agreements.

79. **Risks and mitigations:** given the benefits of having a sector agreement, Government will receive extensive lobbying for inclusion. Robust, transparent criteria (possibly developed in consultation with external stakeholders), which are clearly communicated may help mitigate pressure from sectors to an extent.
80. **Further work needed:** we recommend that you seek Cabinet agreement to the criteria for establishing limited sector agreements and differentiating from green listed roles in December 2021. Following that, government agencies can work to jointly identify, prioritise and prepare appropriate processes and suggested agreement mandates, to confirm with Cabinet in March 2022. With Cabinet agreement, government officials could then negotiate time-sensitive agreements before confirming them with the Minister of Immigration or Joint Ministers in early June 2022, possibly enabling implementation alongside wider temporary work visa reforms in July 2022. This is a similar but much more streamlined approach to sector agreements than that previously planned. Not all sector agreements would be progressed together.

Options for a Pacific preference

81. As part of the wider Pacific policy approach of this government, opportunities for employers to preferentially hire migrants from the Pacific to work in New Zealand could be created. The extent of this sort of programme and the roles migrants from the Pacific could fill will need to align to our Pacific objectives and be agreed with Pacific nations. This could range from having a capped number of Pacific migrants available to fill any role with any employer, regardless of pay, to a capped number of Pacific migrants available for very specific roles that meet development needs. This is a longer-term measure and further work is needed on what is viable in this space.

Compulsory employer accreditation to hire any migrants (including open work rights holders)

82. **Rationale:** compulsory accreditation increases the burden on employers if they want to hire any migrant, and it will impact the employment of open work rights holders as well as employer assisted visa holders. Some small-volume employers of migrants may prefer to make adjustments to attract and hire New Zealanders, rather than go through the hassle of accreditation. Once accredited, Immigration New Zealand has recourse against poor performing employers (by blacklisting from future accreditation), helping reduce exploitation.
83. **Possible implementation:** we recommend a phased implementation of compulsory accreditation, to ensure the system can cope with the proposed increase in accreditation volumes this option requires. The accredited employer work visa reforms are due to go live in July 2022, with employers looking to sponsor migrants on an Accredited Employer visa to be accredited from that date. We recommend requiring all other employers to be accredited in mid-2023, once the 2022 changes have had time to bed-in.
84. **Impacts:** this option is aimed at improving the practices of businesses that hire migrants but it may also have an effect on volumes by reducing the pool of businesses who are able to be accredited.
85. **Risks and mitigations:** it is possible that some employers do not comply and hire migrants without accreditation. Increased compliance and verification activity could be considered to discourage this behaviour.
86. **Further work needed:** significant further scoping is required to determine the amount of resource required implement this option, and how compliance can be effectively monitored.

Requiring partners to qualify for work rights in their own right (on the same basis as an employer-assisted visa holder), without the minimum hours requirement of 30+ hours

87. **Rationale:** partners are one of the largest groups of open work rights holders, a group which tend to be working 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. Also, if there are not more limitations placed on the work partners can do, then continued access to this group by employers can undermine the impacts of other proposed changes.
88. **Possible implementation:** we recommend that this requirement be implemented as soon as possible to prevent any inconsistent treatment of families that may enter New Zealand as the border reopens.
89. We recommend that for partners, the minimum hourly requirement which applies to the primary applicant should be removed. Partners often work fewer hours to support their families. Requiring minimum hours doesn't support the Rebalance objectives.
90. **Other options considered:** we also considered not applying this restriction to partners of New Zealanders. We recommend applying this change to all partners, but you could consider retaining open work rights for partners of green list applicants, to ensure New Zealand remains an attractive destination for highly skilled migrants and those with scarce skills. We can do further work on these options if you are interested.
91. **Impacts:** based on 2019 volumes of partners, around 34,000 partners would have been required to apply for an employer-assisted work visa if they wished to work. Officials estimate 60 percent of this cohort may not qualify for an employer-assisted visa if a median wage pay threshold was in force (given this cohort tends to work in lower-skilled, lower-paid sectors). The sectors most affected would be accommodation and food services, and administrative and support services as employers of the greatest proportion of open work rights holders.
92. **Risks and mitigations:** this change may deter some principal applicants from coming to New Zealand, including the highly skilled - this is a less generous approach than adopted in Australia, where partners do have open work rights.

Other options to consider

Changes to the stand-down period

93. Stand-downs provide clarity and certainty for migrants about their prospects for residency in New Zealand. Many migrants have come to New Zealand with unrealistic hopes based on a lack of clarity in the system: the reality is that we cannot and do not want to extend a residence offer to every temporary migrant who has entered New Zealand. It is unfair to foster false hope that the situation is otherwise: the stand-down prevents people who cannot access residence pathways from becoming settled.
94. We believe that there is value in maintaining the stand-down, but its form will likely change pending decisions taken on the package of options:
95. If the pay threshold is agreed: the stand-down as it is currently framed (i.e. requiring migrants paid below the median wage to depart New Zealand for at least 12 months after three years onshore) will not be needed. There will be no migrants paid below the median wage who lack a pathway to residence.
96. However, there is scope to change the threshold of who the stand-down applies to, to align with any changes agreed in the upcoming review of residence settings. In the event that residence settings are tightened, it is possible that, even if the package proposed in this paper is implemented, there will be migrants onshore who have no realistic prospect of

residence. A higher-threshold stand-down could be used to enforce the 'temporary' nature of visas in this circumstance.

97. If the pay threshold is not agreed: in this instance there is still a need for a stand-down, and there is opportunity to enhance the positive outcomes from the use of a stand-down. By reducing the period before the stand-down applies to two years, it increases the cost of relying on migrant labour for employers (as they would have to absorb costs for more frequent retraining) – this provides added incentive to invest in New Zealanders.
98. To avoid undue pressure on the system and to make the process more streamlined, we also recommend increasing the visa duration (migrants will only have the single visa duration before they are required to leave New Zealand).
99. Based on 2019 levels, there were 17,000 employer-assisted visa holders employed in roles paid below the median wage: these people would have been subject to the stand-down. The 2021 Resident Visa means most of these people have qualified for residence so the impact of this change on volumes has been greatly reduced: the volumes affected will depend entirely on incoming migrant numbers as the border reopens. The sectors most affected would be hospitality, retail and construction, as employers with the highest volume of migrant employees on employer-assisted work visas who are paid below the median wage.

Increasing open work rights in targeted areas

100. To alleviate some of the tension in the labour market created by the proposed changes, open work rights could be offered in targeted areas (e.g. to employer-assisted work visas holders paid above the median wage but not in green list roles, after they have been onshore for a given period). However further work is needed on this option, and this is subject to your views on the proposed core package.

Impact of the proposed package of options

High-level impact

101. The overall impact of the proposed package of options is to rebalance the skill and pay level of temporary migrant workers, both by improving incentives for skilled migrants to come to New Zealand (through the green list) and by restricting the ability for employers to fill lower-skilled, lower-paid roles with migrant workers. The full effect of the package emerges when seen together with the implementation of the accredited employer work visa, proposed changes to international education, and forthcoming work on residence pathways.
102. Importantly any changes to incoming workers are made in the context of the 2021 Resident visa decisions, which will have provided long-term certainty to stay in New Zealand for most workers. The challenge for employers in some sectors will be retaining these workers.
103. The following table provides an outline of how various parts of the package can be expected to impact on working migrant volumes (including the proposed changes to student and post study work visas, which we expect to brief you on next week). This estimate looks at the impact it would have on 2019 (pre-pandemic) volumes, assuming that 2019 is representative of future years.

Option	Estimated % reduction in volume based on 2019 onshore volumes
Median wage threshold – applied to EAWVs (this would remove an estimated quarter of roles within EAWVs, which make up about a third of all temporary migrant workers)	6.5%

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Requiring partners to apply for EAWVs (median wage threshold applies)	10%
Students – access to sub-degree courses limited	3%
Post study work rights – flow on from limited access to sub-degree courses	4%
Total	27%

104. Translated into an impact on growth of temporary migrant numbers in coming years, we can attribute a 27 percent reduction to whatever the growth rate would have been if not for the Rebalance package. Taking the 20,000 per year growth in temporary migrant numbers as a baseline (which was the average in the years leading up to 2019), we estimate that the package could see annual growth in migrant numbers reduce to 15,000, a 5,000 per year reduction on pre-pandemic growth. This assumes that 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, any 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 to eventuate, so it is unlikely that actual migrant growth numbers will follow these estimates.
105. We are looking into the detailed impacts of the proposed package on flows of workers coming into New Zealand. This will include consideration of the numbers of people recruited from overseas, as opposed to those recruited onshore from the pool of existing temporary migrants. This analysis will not take account of the varying success sectors will have in replacing reduced inflows with migrant workers with open work rights or from the domestic workforce. It will be harder to make predictions about the impacts on flows into New Zealand of people with open work rights, which make up the majority of working temporary migrants.
106. A package that does not include introducing a median wage threshold for employer-assisted work visas roles would likely have a lesser impact rebalancing the skills and pay balance of temporary migrants, but such a package would ultimately depend on the scope and scale of caps on occupations introduced under sector agreements.

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Initial sector impact analysis

107. Detailed impact analysis of the proposed package is still being done for consultation with other agencies, and we have yet to test our thinking with agency and sector stakeholders. However, based on some early analysis, we estimate the following impacts on key sectors. The actual impacts on sectors are complex – workforce and production outcomes are the result of a large number of factors such as economic conditions and how successfully businesses respond (such as by moving towards other labour sources – competing for domestic workers and migrants with open work rights – growing the pipeline of the domestic workforce, and adapting their business models).

Aged care

108. This growth sector currently has a high use of employer-assisted visa holders in carer and registered nurse roles, which has been the case for decades. Migrant labour demand is likely to continue to increase as the population ages, and the sectors ability to transition quickly is low. The government has a role in adjusting pay and conditions and opportunities to automate are low. Depending on where carers in the aged care sector are put on a green list (potentially as part of a sector agreement), the impact of this package on this sector will be focused on their ability to recruit open work rights holders. There will be reasonably little impact on this sector's ability to source migrant workers through employer-assisted visas. The majority of the carers on employer-assisted visas are paid above the median wage. We do not know how many carers the sector hires on open work visas and what those migrant workers are paid.

Construction

109. This growth sector has a high use of migrant labour in a range of roles (from engineering to labouring roles), and this use has grown by 500 percent over the last decade, from around 3,000 migrant workers in 2012 to 16,000 migrant workers in July 2019. This sector has maintained migrant worker numbers since the pandemic, and demand is likely to grow in the short term. However, construction tends to operate on a boom-bust model. Over 1,000 construction workers are paid below the median wage on essential skills visas, as carpenters, labourers and trades workers. This group would no longer be eligible under the proposals unless those occupations were included in a green list or covered by a sector agreement. There are also a large number of construction workers who could be impacted on visas with open work rights.

Primary industries

110. This sector has seen gradual growth in migrant labour over the past decade (from around 9,000 in July 2012 to 17,000 in July 2019) but has very seasonal labour use across each year. There have been similar trends in employment pre and during the pandemic (although lower seasonal use due to border restrictions), and demand is likely to be steady moving forward. Migrant labour helps to address range of workforce challenges – some of which cannot be easily adjusted for, such as seasonality. The impact on primary industries will be largely depend on whether key occupations are included in green lists or sector agreements, particularly for dairy and meat processing workers. Primary industries will be somewhat protected from any changes because of the high use of working holiday and RSE worker, which are out of scope. This proposal may create more competition for available migrants (with construction). We think otherwise this presents a healthy tension – but a cumulative effect.

Retail

111. Temporary migrant workers increased in this sector from 8,000 in July 2012 to 20,000 in July 2021. Like tourism and hospitality, the retail industry has one of the highest ratio of open work rights holders to EAWV holders. Around 2/3 of employer-assisted visa holders are retail supervisors and managers. Essential retail was not overly affected by the pandemic, but other types of retail have had to adapt to Alert Level restrictions such as developing online options. This package will target large numbers of lower paid workers in this sector,

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The sector would have to adapt by attracting domestic workers or change its business model. The sector would still have access to working holiday and student migrant workers.

Tourism and hospitality

112. The Accommodation and Food Services industry has seen its use of temporary migrants double in the seven years prior to the pandemic, from 19,000 in July 2012 to 40,000 in 2019, before dropping to around 30,000 in July 2021. The share of lower paid workers is likely to be high across all visa types. While the sector could continue to make use of students and working holiday migrants, there are significant numbers on employer-assisted work visas and partner visas who would not be eligible under the proposed package. It is unlikely that low-paid jobs in this sector would meet the criteria for the green list or for a sector agreement. This will mean that the sector would have to adapt significantly to make better use of the domestic workforce.

What this means for previously-agreed temporary work visa reforms

113. This package builds on the previously-agreed temporary work visa reforms. Those reforms (which are still to be implemented) simplify employer-assisted work visas and add important checks to the system through enhanced labour market testing and accreditation processes. The proposed Rebalance package goes further by:

- a. Using the median wage as the threshold for restricting lower-paid roles – this is a stronger and more direct mechanism than labour market testing (and the stand-down) for lower-skilled roles. If implemented, this would limit labour market testing (in the form of a requirement to advertise) to roles in cities that are not on a skills shortage list. There would be no jobseeker referral step by the Ministry of Social Development as this only applies to roles paid under the median wage.
- b. Extending accreditation to all businesses wishing to employ migrant workers, from covering only migrants on employer-assisted work visa from July 2022, to covering all migrant workers (including those with open work rights) from 2023.

Pathways to Residence

- 114. In scope for the Rebalance is further work on the treatment of onshore workers (mostly dealt with by the 2021 Resident Visa decisions), resetting the Resident Programme thresholds and volumes, a review of the skilled migrant category, and consideration of an amnesty for over stayers. Decisions on these resident settings are not needed now, but it is important to consider temporary and resident settings and objectives together. The connection influences the flow and stock of recent migrants, and therefore infrastructure and labour market impacts. It also drives the behaviour of some temporary visa holders looking for jobs that provide a path to residence.
- 115. We recommend reducing the “wedge” of those who come as temporary workers, can stay for longer periods, but may not meet the bar for residence. The choices to do this are to set a high threshold for skilled residence, capturing the highly skilled and those in long-term skill shortage areas, but put a definite stand down point on a larger group of temporary workers who do not meet this threshold. Or, to provide a lower bar and higher expectation of residency for a larger proportion of temporary workers. The later approach is only compatible with the Rebalance objectives if you implement much stronger controls on the number and skill level of temporary workers able to come to New Zealand in the first place (such as not allowing migrants below the median wage).
- 116. As noted above, we propose further work on a green list of occupations that will have a faster pathway to residence. The exact nature of that quicker pathway could be developed alongside the review of skilled residence. However, we are thinking about two situations:
 - a. A fast offshore approval for the very highly skilled that we would definitely want in New Zealand anyway that bypasses other skilled residence requirements and any queues; and
 - b. A requirement for some migrants to stay in a scarce occupation, say aged care, for several years to access residency.
- 117. Related options and work that is underway or will commence on skilled residence paths includes:
 - a. Confirming the status of the two year pathway to residence for people on the new employer accredited work visa earning twice the median wage;
 - b. Review of skilled migrant category;
 - c. Review of the approach to the Long Term Skill Shortage List and creation of city skill lists;
 - d. Resumption of the stand down policy, particularly for those onshore who do not qualify for a 2021 Resident Visa. They may still be eligible for other residence pathways – including through the review of the skilled migrant category.

Interim package and longer-term view

118. Options to deliver on the Immigration Rebalance, and variations therein, may take time to develop and implement, depending on the level of targeted sector engagement Ministers want to undertake before taking final decisions. Time may also be needed to properly put in place mechanisms for creating and updating exclusion lists, depending on how much weight is being put on these to achieve the rebalance goals.
119. The timeline for the border reopening is uncertain, but at least a partial reopening seems likely in the near future. Officials recommend an interim package of measures be implemented as part of 'Reconnecting New Zealand'. These would serve to bridge the gap between the current border restrictions and very low flow of migrant workers, to a new steady state based on an agreed Immigration Rebalance package of new work visa settings. This would safeguard against an unintended jump up in inflows of migrant workers from 'safe countries' to close to pre-COVID-19 levels if Rebalance changes are not yet implemented.
120. We recommend further work on a package of interim changes that could be ready to implement quickly and are consistent with the overall direction of the Rebalance, while lowering the threshold for some existing of border restrictions:
 - a. Allow critical workers to enter if paid at 1.5 times the median wage as already agreed, but remove the requirement that their skills be 'not readily available'. This will keep the focus on the more highly paid (as a proxy for skilled), while removing the 'not readily available' requirement will allow more in and reduce assessment time for INZ. There should be a return to normal visa requirements for labour market testing, or having accredited employer as relevant.
 - b. Continue to consider seasonal and other roles below 1.5 the median wage as class exceptions. This will allow workforces to enter, but just the sector wide testing of overall demand and supply and conditions. It allows conditions to be added, and aligns with a transition into new sector agreements or a green list of allowed occupations.
 - c. Limiting international students to degree level or higher, and a capped volume.
121. These changes would be relatively simple to implement from the current border restriction framework, and the Rebalance changes, if coming later, would represent a further easing of restrictions – without returning to pre-COVID-19 level flows.
122. A lower threshold could be considered if the 1.5 times the median wage is too restricted. Based on past data, only about 6 percent of essential skills visa holders would meet the 1.5 times the median wage threshold.

Next steps

123. This paper has provided more detail of the proposed package that we had previously tested with you. We are currently preparing a draft Cabinet paper to support you in testing and discussing the proposed package with your Ministerial colleagues. The below table outlines a timeline for delivery of the Cabinet paper.
124. From your discussions with Ministerial colleagues it would be useful to understand if they are comfortable with the proposed scale and distribution of change presented by the recommended package – if so, we can proceed in line with the timelines indicated below.
125. If your colleagues have significant concerns about the proposed package and its impacts, the goals of the Rebalance may need to be reassessed or an alternative package could be developed with more limited impact.

Cabinet agreement in December 2021

126. Given the limited opportunity for agency and Ministerial engagement leading up to Cabinet consideration in December, we recommend that the Cabinet paper seeks:
- a. agreement to the interim package to be implemented as part of 'Reconnecting New Zealand',
 - b. agreement to the proposed Immigration Rebalance package, and
 - c. agreement to a proposed work programme, including targeted consultation with some sectors, to develop a finalised package to be presented to Cabinet in March 2022 (the initial outline of the work programme follows).
127. This allows further engagement with agencies and Ministers to develop the details of the package in early 2022, in time for relevant elements to be implemented in mid-2022 alongside the accredited employer work visa.

Action	Timing
Scheduled update to Employment, Education and Training (EET) Deputy Chief Executives	5 November
Early draft Cabinet paper sent to Minister of Immigration	5 November
Agency consultation on early draft Cabinet Paper	8-11 November
Draft Cabinet paper to Minister of Immigration	12 November
Scheduled update to EET Ministers	18 November
Ministerial consultation	18 November - 1 December
Cabinet Paper lodged for Cabinet Economic Development Committee (DEV) (<i>late lodgement</i>)	Friday 3 December
Cabinet Economic Development (DEV) Committee Meeting	Wed 8 December
Cabinet Paper lodged for Cabinet consideration	Thurs 9 December
Cabinet Meeting	Mon 13 December

Work Programme: Report-back in March 2022

128. We suggest that a Cabinet report back in March 2022 would:
- a. give detailed advice on the Rebalance package, sufficient to seek Cabinet agreement, including:
 - i. propose criteria and processes for the **Confidential advice to Government** and sector agreements
 - ii. propose an initial **Confidential advice to Government**
 - iii. propose candidate sectors for agreements to be made with.
 - b. outline the proposed sector agreement negotiation process and suggested starting points for negotiation, for Cabinet agreement.
 - c. provide a timeline for implementation of the package, including sector agreement negotiations, for Cabinet agreement.
129. It may be possible to implement this package in July 2022, to align with the implementation of the temporary work visa reforms, but this will need to be tested as processes are further developed.
130. Note that alongside this work on the Immigration Rebalance, we are also working on related advice you have commissioned on:

- a. Limiting international student volumes or access to post study work rights (part of the Immigration Rebalance, but developed with the Ministry of Education separately to this core package).
- b. Pathways to skilled residence and the skilled residence threshold.
- c. Options for regularisation.