



BRIEFING

Cabinet Paper after additional consultation - Immigration Rebalance – determining lists and sector agreements

Date:	7 April 2022	Priority:	High
Security classification:	In Confidence	Tracking number:	2122-3331

Action sought		
	Action sought	Deadline
Hon Kris Faafoi Minister of Immigration	<p>Agree the additional changes to the Cabinet paper to reflect feedback from Ministerial consultation</p> <p>Agree to the transitional agreements proposed for the Care and Construction/Infrastructure sectors</p> <p>Agree to lodge the draft Cabinet paper attached at Annex Two</p>	7 April 2022

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Andrew Craig	Manager, Immigration (Skills and Residence) Policy	Privacy of natural persons	Privacy of natural persons	✓
Rachel Carruthers	Senior 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 Withdrawn |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



BRIEFING

Cabinet Paper after additional consultation - Immigration Rebalance – determining lists and sector agreements

Date:	7 April 2022	Priority:	High
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Purpose

To provide you with a summary of additional feedback received from further Ministerial consultation on the Cabinet paper *Immigration Rebalance – determining the lists and sector agreements* and advise of the changes made to the paper as a result.

To advise you of proposed transitional arrangements for some sectors, as sector agreements will not be able to be implemented by 4 July 2022 given revised timelines.

A summary of all Ministerial feedback received is attached as Annex One, and an amended version of the Cabinet Paper is attached as Annex Two. After lodgement, the paper will be considered at Cabinet Social Wellbeing Committee (SWC) on 13 April 2022. Revised talking points to support consideration of the paper at SWC are attached in Annex Three.

Recommended action

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

- a **Note** that, given the time required to consult on, agree and confirm any changes and implement sector agreements, they will not be implemented until September.

Noted
- b **Note** that the Meat Processing and Seasonal Snow and Adventure Tourism sectors do not need any arrangements beyond the median wage threshold from July 4 as the labour needs for the coming seasons will be able to be met by the sector agreements when they come into place from September.

Noted
- c **Agree** to propose transitional settings for the Care, Construction and Infrastructure and Seafood sectors as outlined in the Cabinet paper *Immigration Rebalance – determining the lists and sector agreements*, for some of the sectors identified for sector agreements to be in place from 4 July until the sector agreements are implemented from September.

Agree / Disagree
- d **Agree** to propose that, from July 4 the following Carer, Construction and Infrastructure roles, employers be able to recruit on AEWV at or above 90 per cent of the median wage for construction roles, and at or above \$25.39 for carer roles, and a 2-year stand down would apply:
 - a. Construction and Infrastructure roles: metal fabricators, welders, fitters, painting trades worker, fibrous plasterer, solid plasterer, wall and floor tiler
 - b. Carer roles: kaiāwhina (hauora) (Māori health assistant), disabilities services officer, residential care officer, aged and disabled carers, nursing support worker, personal care assistant, therapy aide, child or youth residential care assistant.

Agree / Disagree

e **Agree** to propose that the existing border class exception for onshore seafood processors is amended, to allow recruitment of 200 workers (to align with the proposed sector agreement, and an increase to the cap of 150 in the existing border class exception) at a \$24 rate as a transitional measure until the Seafood sector agreement is in place.

Agree / Disagree

f **Agree** to propose a conditional transitional measure that should if Step 5 of Reconnecting New Zealand be brought forward ahead of October 2022, a median wage threshold for the Foreign Fishing Crew visa is put in place from 4 July 2022 while the seafood sector agreement is finalised.

Agree / Disagree

g **Note** that additional options have been added to the attached Cabinet paper, to reflect feedback from Ministerial consultation covering: the tourism and hospitality, and dairy sectors.

Noted

h **Provide** feedback on which options to retain in the Cabinet paper for Hospitality and Tourism and for Dairy

Noted

i **Agree** to lodge the draft Cabinet paper attached at Annex Two for consideration at the Cabinet Social Wellbeing Committee on 13 April 2022.

Agree / Disagree

j **Note** that talking points will be provided ahead of DEV on 13 April

Noted

Privacy of natural persons

Andrew Craig
**Manager, Immigration (Skills and Residence)
Policy**
Labour, Science and Enterprise, MBIE

Hon Kris Faafoi
Minister of Immigration

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7 / 4 / 2022

Substantive feedback received from Ministerial consultation

1. The most substantive changes to the paper are the requested inclusion of additional options for:
 - a. Confidential advice to Government
 - b. a sector agreement for a 12-month transitional arrangement for roles below the median in tourism and hospitality; and
 - c. dairy sector green list and below median wages
2. We have included a range of options in the Cabinet paper, and are included in a way that indicates their possibility rather than being a specific proposal encouraged by you. We have included some further information and advice on the options for your consideration here.
3. Confidential advice to Government

Option to provide more support to tourism and hospitality Confidential advice to Government

4. Tourism and hospitality are sectors that have struggled through the pandemic restrictions. The sector has noted that the reopening of borders and lifting of public health restrictions will see the sector unable to meet demand with its currently reduced workforce. As requested, we have included options in the paper that would provide some transitional support to the sector while it rebuilds, and traditional workforces like working holiday makers and international students return in higher numbers.
5. Confidential advice to Government
6. If Ministers considered that further transitional arrangements are required, the sector could be allowed to recruit specified occupations below the median wage, with a wage floor of \$25 per hour, for a period of one year, from 4 July 2022 to July 2023, when the median wage would then be applied for these roles. If Ministers were to pursue this option, we would suggest including all ANZSCO Level 1-3 tourism and hospitality specific roles (see Annex 3), except:
 - a. Confidential advice to Government
 - b. The seasonal snow and adventure tourism roles which are covered by a separate sector agreement
 - c. Chef Confidential advice to Government
7. A more open option is to include ANZSCO Level 4 and 5 roles, which are lower skilled. This includes baristas, waiters, bar attendants and kitchen hands. The sector is keen for these roles to replace working holidays, though the numbers on essential skills visas are traditionally very low.

8. The \$25 per hour is approximately halfway between the “living wage” that some in the sector asserted they were paying and the \$27.76 median wage, and is therefore compatible with a one year phased transition. In it’s letter to you on the Rebalance the Tourism Industry Association talked about a two year exemption from the median as a transition plan.
9. These options would last for one year from 4 July, as a transitional arrangement. Given the tight timing leading up to 4 July, this sector agreement would need to be fast tracked with extremely limited sector engagement on the plan. Ministers would effectively be agreeing to the transition rules at Cabinet, with confirmation by joint Ministers.
10. We are working on advice to you and Minister Nash on the impact of the median wage threshold on the hospitality and tourism sector, on the back of recent meetings with a group of Queenstown hoteliers. We expect to have this advice to you by Monday, 11 April. However, regional distinctions will be difficult to implement at this stage.

Dairy sector options

11. Dairy farmers and dairy farm workers have not been included in green list proposals because pre-pandemic border restrictions they do not appear to have had an issue in attracting the workforce they need, with large numbers of migrant workers coming into these roles. This position has been supported by Ministry for Primary Industries who note that there is a Dairy Workforce Resilience Plan underway, and that this work should be encouraged ahead of any favourable immigration settings being provided. We agree with this approach and have previously provided you advice that the residence pathways for migrant workers in dairy roles could be revisited in light of any impacts of the Skilled Migrant Category Review.
12. Should Cabinet agree to placing dairy roles on a Green list work to residence path, this is straightforward and does not remove a requirement for the sector to meet the median wage threshold. There are no significant concerns to raise about this option.
13. We have also included the option for Cabinet to progress a dairy sector agreement to allow for recruitment below the median wage, focussed on dairy farm workers only (and not including dairy farmers which is a more senior role with greater responsibility). Based on 2021 data, 15 percent of migrant workers in this role are paid less than median wage, which is a lesser proportion than many other sectors and occupations, including tourism and hospitality. Our experience through targeted consultation with the dairy sector is that there has not been strong resistance from the sector to the median wage threshold, although it is sometimes raised as an issue by certain individuals. Compared to the other sector agreements that are being progressed, it is unclear that this sector meets the criteria of having a large proportion of the migrant workforce paid below median in the past, although Cabinet may consider that there is a strategic reason to provide specific support.

Further feedback received from Ministerial consultation

14. Further feedback has been received from your Ministerial colleagues and their offices on the content of the Cabinet paper, *Immigration Rebalance – determining lists and sector agreements*. Specific feedback and responses have been added to the full list of Ministerial feedback attached as Annex One, with the main points raised being:
 - *General feedback*: there was an interest in seeing more detail on how the lists were determined, how the various roles are ‘nationally significant’, and greater analysis of the gender-based population impacts. Text to this effect has been included.
 - *Green listed roles*: questioned whether nurses and medical radiation therapists should be on the fast-track list instead of the work-to-residence path, whether mental health roles were adequately provided for, and whether builders and physician associates should be added to the lists. Registered nurses are on a work-to-residence pathway as this is one occupation where both MBIE and the Ministry of

Health are concerned about retention challenges and requiring two years in the role provide more certainty about our ability to meet labour shortages, and making some adjustments to the presentation of the green list to highlight the mental health roles in the medical professions;

- *Sector agreements*: the lack of measures for dairy (in both sector agreements and the green list) was queried (as covered above), and further detail on the future of sector agreements (including duration and whether they would be renewed) sought. There were also questions about whether the timeline for implementing sector agreements worked for seasonal roles (e.g., in the snow tourism sector).
- *Communications*: there is a need to clearly communicate the rationale of why the roles selected ended up on the various lists, especially as there are roles that most New Zealanders would consider of high importance and in urgent shortage (for example, registered nurses and teachers) on a work-to-residence pathway, rather than the fast-track green list. There is also a need to manage expectations around duration and future use of sector agreements.

15. Further detail on specific feedback is attached in Annex One, to enable your office to respond directly. The talking points we provide will cover common issues raised.

Transitional arrangements for some sector agreements

16. At present, you are due to present final sector agreements for agreement to Cabinet in June. Assuming Cabinet agrees to these final arrangements in June, implementation will not be possible until September, owing to the degree of system changes required. To implement these agreements any sooner would require prebuilding the system to enable visa settings that are not yet agreed by Cabinet and may change during consultation – this is not feasible.
17. This timeline, while necessary, will mean that some of the sectors which will receive sector agreements will not be able to get labour below the median wage until September, with negative impacts for both the sector and the wider government priorities. We recommend that transitional measures be put in place to support some of the sectors that are to receive sector agreements between 4 July (when the AEWV opens to migrant applications) and September (when sector agreements will be implemented from).
18. Not all of the proposed sectors agreement sectors require this. The proposed agreements for the meat processing and tourism sectors would provide seasonal surge capacity - urgent seasonal needs for these sectors are being met by border exceptions (2122-3185 refers), and a September implementation is sufficient to meet future seasonal needs, namely the December meat processing surge and the 2022-23 summer tourism season.

Recommended transitional measures

19. We recommend providing transitional measures for the Care workforce agreement, to maintain the continued entry of the critical care workforce while the sector agreement is finalised, and for the Construction and Infrastructure agreement, to enable the sector to meet labour needs as soon as possible given the immediate pressure to deliver infrastructure and housing.
20. We recommend that both of these sectors be enabled to recruit migrants for specified roles at a lower wage threshold – 90 percent of the median wage for construction roles (approx. \$25), and \$25.39 for carers, in line with the existing pay equity arrangement. We also recommend implementing a requirement that migrants recruited under these measures to leave New Zealand after two years of work. These settings are roughly equivalent than those anticipated in the relevant sector agreements, as we are conscious to avoid loosening settings under transitional arrangements before tightening them under a sector agreement.

21. The proposed roles are those outlined in the sector agreement detail attached to the Cabinet paper:

Carer occupations

- Kaiāwhina (Hauora) (Māori Health Assistant)
- Disabilities Services Officer
- Residential Care Officer
- Aged and Disabled Carers
- Nursing Support Worker
- Personal Care Assistant
- Therapy Aide
- Child or Youth Residential Care Assistant

Construction and Infrastructure occupations

- Metal fabricators
- Welders
- Fitters (general)
- Fitter-welder
- Painting trades worker
- Fibrous plasterer
- Solid plasterer
- Wall and floor tiler

22. This proposal has been incorporated into the Cabinet paper, for your consideration. Note, the Infrastructure Commission has recommended that carpenters, joiners and building labourers are added to the list of occupations for the Construction and Infrastructure sector. We are not confident these occupations will form part of a sector agreement and are concerned about displacing New Zealanders from opportunities in these roles in particular – more information is needed as part of the sector agreement process. We do not recommend including these roles in the transitional arrangement.

Contingent transitional measures

23. The seafood sector currently has a class border exception until October, when migrants on Foreign Fishing Crew visas will be able to enter New Zealand under Step 5 of the Reconnecting New Zealanders strategy. If Step 5 of Reconnecting New Zealand is brought forward (as is currently being considered), we recommend that a median wage threshold be introduced for the Foreign Fishing Crew visa until the Seafood sector agreement and further wage floors are agreed. Without this, there would be a period where migrants could be hired at rates below the median wage, which contrary to the intentions of the sector agreement.
24. A transitional arrangement for onshore seafood processors has also been considered, and MPI is advocating to make changes to the existing border exception to enable up to 500 short-term migrant workers to take up roles while the numbers of Working Holiday makers (who usually fill these roles) rebuild. MPI has not yet finalised its advice to the Minister Parker. We don't support this high level of recruitment which is above the proposed sector agreement cap of 200, and other sectors are not receiving similar arrangements to compensate for Working Holiday makers.
25. However, if you agree to include such a provision for onshore seafood processors, we recommend providing a lower wage threshold of \$24 for the current border exception but increase the cap of 150 to 200 workers, to align with the number in the proposed sector agreement, as a transitional measure ahead of the sector agreement coming into place from September. We are supportive of this proposal however your office may wish to confirm the support of the Minister for Oceans and Fisheries for this proposal. If it is not supported, or your office does not hear ahead of lodgement we will remove this proposal. The Minister may table an option when the paper is considered.

Next steps

26. Subject to your feedback on the additional options including in the Cabinet paper, and your review and approval, the attached Cabinet paper will be lodged for consideration at the Social Wellbeing Committee on 13 April, and then for consideration by Cabinet on 19 April.

You will then report back to the Cabinet Economic Development Committee on the final sector agreements in June.

27. Officials will continue to work on sector agreements, to prepare for consultation once the Rebalance package is announced. To enable this, we require your and relevant Portfolio ministers sign-off on the sector agreement proposals within the next week – otherwise consultation and the June Cabinet paper timelines are jeopardised. To this end, letters to relevant Portfolio Ministers outlining the proposed agreements to take to sectors and seeking their final approval of these will be sent to your office by the end of this week.
28. We understand that an announcement date for the Rebalance package is not yet set, but, pending the outcome of Cabinet on 19 April, we recommend announcement of the package follow as soon as possible. Delays in the announcement reduce the available time to engage with sectors on the sector agreement (potentially jeopardising the June report back) and also lessen the amount of time available to communicate AEWV changes prompted by the Rebalance to employers. We will provide your office with talking points by Monday, 11 April, which will need to reflect your final feedback on what is included in the Cabinet paper.

Annexes

Annex One: Revised table of feedback from Ministerial consultation (*new additions are bolded*)

Annex Two: Final version of the Cabinet Paper (*includes both tracked change and clean versions, and an appendix with sector agreement details*)

Annex Three: List of tourism and hospitality specific roles by skill level

Annex Three: List of tourism and hospitality specific roles by skill level

Occupation	Number of migrants on an Essential Skills or WTR visa, July 2019	Indicative percentage of migrants paid at or above the median wage (based on 2021 data)	Highly-skilled or trades-based? (i.e., ANZSCO Level 1, 2, or 3)	Lower-skilled? (i.e., ANZSCO Level 4 or 5)
Chef	3903	68.9%	✓	
Cafe or Restaurant Manager	1506	69.7%	✓	
Cook	1311	31.0%	✓	
Hotel Service Manager	366	58.1%	✓	
Hospitality, Retail and Service Managers not elsewhere classified	219	73.6%	✓	
Hotel or Motel Manager	144	76.8%	✓	
Waiter	381	27.9%		✓
Commercial Housekeeper	468	15.3%		✓
Accommodation and Hospitality Managers not elsewhere classified	75	68.3%	✓	
Kitchenhand	216	10.2%		✓
Licensed Club Manager	42	60.2%	✓	
Barista	102	49.4%		✓
Hotel or Motel Receptionist	177	32.8%		✓
Conference and Event Organiser	87	69.7%	✓	
Bar Attendant	93	30.2%		✓
Fast Food Cook	111	34.0%		✓
Food Trades Assistants not elsewhere classified	87	52.4%		✓
Hospitality Workers not elsewhere classified	96	22.2%		✓
Cafe Worker	33	59.3%		✓

Travel Consultant	33	52.0%	✓	
Travel Agency Manager	69	54.2%	✓	
Pastrycook's Assistant	60	54.5%		✓
Tour Guide	33	45.0%	✓	
Caravan Park and Camping Ground Manager	48	75.0%	✓	
Doorperson or Luggage Porter	354	14.3%		✓
Diving Instructor (Open Water)	18	75.0%	✓	
Gaming Worker	-	-		✓
Hunting Guide	39	100%	✓	
Travel Attendants not elsewhere classified	-	-		✓
Gallery or Museum Technician	18	100%	✓	
Trekking Guide	-	-	✓	