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**Essential Skills Visa Policy: Report Following Consultation on  
Proposed Changes**

**EGI MINUTE (JULY 2017)**

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have been made consistent with provisions of the Official Information Act.**



# Cabinet Economic Growth and Infrastructure Committee

## Minute of Decision

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### Essential Skills Visa Policy: Report Following Consultation on Proposed Changes

Portfolio **Immigration**

On 26 July 2017, the Cabinet Economic Growth and Infrastructure Committee, having been authorised by Cabinet to have Power to Act [CAB-17-MIN-0386]:

- 1 **noted** that on 13 March 2017, Cabinet agreed in principle, subject to the outcome of consultation, to the following proposals, which form phase one of the review of Temporary Visa Work Visa Settings (the review):
  - 1.1 proposal one: introducing remuneration bands to determine the skill level of the employment of an Essential Skills visa holder (and the associated visa conditions), to align with the Skilled Migrant Category (SMC) bands, to ensure that only workers who have a pathway to residence are able to remain in New Zealand long-term;
  - 1.2 proposal two: introducing a maximum duration of three years for lower-skilled Essential Skills visa holders, after which there will be a one year stand down period before they can apply for another lower-skilled Essential Skills visa;
  - 1.3 proposal three: restricting the ability of lower-skilled Essential Skills visa holders to bring their children and partners;
  - 1.4 proposal four: reinforcing that Essential Skills visas may only be granted for the period for which the employment is offered, including making explicit how this applies to seasonal work;

[CAB-17-MIN-0086]
- 2 **noted** that the above proposals were the subject of public consultation from 19 April to 21 May 2017, with issues and alternative proposals raised as summarised in the paper under EGI-17-SUB-0197;
- 3 **noted** that the public consultation process:
  - 3.1 did not raise any significant new issues but revealed larger than expected impacts in relation to proposal one, which is supported by further analysis of data;
  - 3.2 did not raise any significant new issues or unexpected impacts in relation to proposals two and three;

- 3.3 raised a range of matters which should be prioritised in phase two of the review;
- 3.4 did not provide sufficient information to make final decisions on proposal four, meaning further work is needed as part of the priority actions in phase two of the review;

### Proposal one: minimum remuneration thresholds

- 4 **agreed** to introduce remuneration bands to help determine the skill level of the employment of an Essential Skills visa holder (and the associated visa conditions), including:
  - 4.1 setting the definition of higher-skilled as Essential Skills visa holders earning above 1.5 times the New Zealand median full-time equivalent earnings, and working in an occupation at any ANZSCO level;
  - 4.2 setting the definition of mid-skilled as Essential Skills visa holders earning above 85 percent of the New Zealand median full-time equivalent earnings, and working in an occupation at ANZSCO levels 1 to 3;
  - 4.3 setting the definition of lower-skilled as:
    - 4.3.1 Essential Skills visa holders earning below the mid-skilled remuneration threshold referred to in paragraph 4.2 above, and working in an occupation at ANZSCO levels 1 to 3;
    - 4.3.2 Essential Skills visa holders earning below 1.5 times the New Zealand median full-time equivalent earnings, and working in an occupation at ANZSCO levels 4 and 5;
- 5 **noted** that the minimum remuneration threshold referred to in paragraphs 4.1 and 4.3.2 above is currently the equivalent of \$35.24 per hour, or \$73,299 per annum based on a 40-hour week;
- 6 **noted** that the minimum remuneration threshold referred to in paragraph 4.2 above is currently the equivalent of \$19.97 per hour, or \$41,538 per annum based on a 40-hour week;
- 7 **noted** that the minimum remuneration thresholds referred to in paragraphs 5 and 6 above will be updated annually after the Labour Market Statistics (Income) data on the median income for the June quarter is published in October each year;
- 8 **noted** that setting the mid-skilled Essential Skills remuneration threshold below the SMC threshold reflects that mid-skilled workers are filling genuine shortages and are likely to meet the remuneration threshold required for SMC with further skills acquisition or work experience;

### Proposals two and three: changes to conditions for lower-skilled Essential Skills visa holders

- 9 **agreed** to introduce a maximum duration of three years for lower-skilled Essential Skills visa holders (as defined in paragraph 4.3 above), after which there will be a minimum one year stand down period, which they must spend out of New Zealand, before they can be granted another lower-skilled Essential Skills visa;

- 10 **agreed** to the following changes to remove the ability of lower-skilled Essential Skills visa holders (as defined in paragraph 4.3 above) to support the visa applications of their family:
- 10.1 partners of lower-skilled Essential Skills visa holders will no longer be eligible for either a family-based work visa or a visitor visa based on their relationship;
  - 10.2 primary and secondary school age children of lower-skilled Essential Skills visa holders will no longer be eligible for a student visa with conditions containing 'Domestic Student' based on their parent's Essential Skills visa;
- 11 **noted** that partners and children of lower-skilled Essential Skills visa holders would still be able to come to New Zealand if they met the requirements for a visa in their own right, or as a short-term visitor;
- 12 **agreed** that transitional provisions will provide that:
- 12.1 the conditions referred to in paragraph 9 above will apply to the first Essential Skills visa applied for after these conditions come into effect (in August 2017) and will not take into account time previously spent on an Essential Skills visa;
  - 12.2 partners and children of Essential Skills visa holder defined as lower-skilled under paragraph 4.3 above, who are legally in New Zealand when these conditions come into effect (in August 2017), will be eligible to remain on existing visa conditions so long as the Essential Skills visa holder is eligible to remain in New Zealand;
- 13 **agreed** that, if the holder of a post-study work visa transfers to an Essential Skills visa that is defined as lower-skilled under paragraph 4.3 above after August 2017, then they should not be entitled to support their partner or children to stay in New Zealand, unless they were entitled to support their partner or children while they were studying;
- 14 **noted** that restricting the rights of holders of other temporary work visas to support partners and children to stay in New Zealand (under paragraph 10) will mean that partners or children who are legally in New Zealand may need to leave New Zealand, unless they are eligible for another visa in their own right;
- 15 **noted** that the Minister of Immigration has directed officials to review whether changes should be made to the ability of holders of post-study work visas to support their partners and children to come to New Zealand, unless they had the right to support partners and children to come to New Zealand while studying;

#### **Proposal four: reinforce seasonal visa durations**

- 16 **noted** that submissions provided some support for the development of a seasonal policy for workers in seasonal occupations who spend a significant period outside New Zealand every year;
- 17 **noted** that further engagement is needed with sectors that employ workers in seasonal occupations on how this proposal could be implemented, and that this work has been incorporated into the priority work in phase two of the review, referred to in paragraph 20 below;

#### **Other matters raised in submissions**

- 18 **noted** that during public consultation, a number of submitters proposed expanding the South Island Contribution visa to apply nationally;

**Phase two of the Temporary Visa Work Visa Settings review**

- 19 **agreed** to further work on the following proposals as part of phase two of the review:
- 19.1 adjusting the avenues available to access Essential Skills workers to incentivise more employers to become accredited;
  - 19.2 exploring options for further targeting of immigration settings by regions or sectors, including where there are persistent localised labour shortages;
  - 19.3 expanding the existing Accredited Employer (Labour Hire) programme nationwide;
  - 19.4 strengthening the existing Essential Skills requirements to train and recruit local workers;
  - 19.5 reviewing the process for occupations being added to and remaining on the Essential Skills in Demand lists;
  - 19.6 exploring whether further changes should be made to the requirements for Essential Skills visas for seasonal workers and their employers;
- 20 **agreed** to prioritise exploring options for further targeting of immigration settings by regions or sectors as part of phase two, in response to issues raised in consultation;
- 21 **directed** officials to report to the Minister of Immigration, the Minister and Associate Minister for Primary Industries, and other relevant Ministers, on the:
- 21.1 sectoral issues referred to in paragraph 20 above, by December 2017;
  - 21.2 regional issues referred to in paragraph 20 above, by mid-2018;
  - 21.3 remaining issues referred to in paragraph 19 above, by December 2018;

**Implementation, monitoring and publicity**

- 22 **authorised** the Minister of Immigration to certify any immigration instructions required to implement the above decisions and to make minor policy decisions as necessary in line with the agreed policy intent;
- 23 **noted** that where appropriate, Immigration New Zealand Instructions may impose conditions, under section 49 of the Immigration Act 2009, on visa holders to give effect to the policy changes;
- 24 **noted** that:
- 24.1 any change in third party fees and levies would roughly be offset by the corresponding change in work volumes;
  - 24.2 Immigration New Zealand will meet the costs of implementing the changes to Essential Skills visa policy settings, including additional verification activity, through current baselines, but that these costs will be reviewed as part of the Immigration Fee and Levy Review being undertaken in 2017/18;
- 25 **noted** that officials will monitor the changes to the Essential Skills visa settings, and will report to the Minister of Immigration on the evaluation of the impacts of the changes after 12 months of their implementation;

- 26 **noted** that the Minister of Immigration intends to:
- 26.1 announce the results of the review, including agreement to progress the phase two proposals;
  - 26.2 proactively release the submission under EGI-17-SUB-0197 as part of those announcements.

Janine Harvey  
Committee Secretary

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**Present:**

Hon Steven Joyce (Chair)  
Hon Gerry Brownlee  
Hon Amy Adams  
Hon Michael Woodhouse  
Hon Anne Tolley  
Hon Nathan Guy  
Hon Dr Nick Smith  
Hon Judith Collins  
Hon Maggie Barry  
Hon Paul Goldsmith  
Hon Louise Upston  
Hon Alfred Ngaro  
Hon Nicky Wagner  
Hon Mark Mitchell  
Hon David Bennett  
Hon Tim Macindoe  
Hon Scott Simpson  
Hon Te Ururoa Flavell (part of item)

**Hard-copy distribution:**

Minister of Immigration

**Officials present from:**

Office of the Prime Minister  
Officials Committee for EGI



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



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**Report back on consultation on proposed changes to  
Essential Skills visa policy**

**CABINET PAPER (JULY 2017)**

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Office of the Minister of Immigration

Chair, Cabinet Economic Growth and Infrastructure Committee

## Report back on consultation on proposed changes to Essential Skills visa policy

### Proposal

1. This paper seeks changes to temporary work visa settings; following consultation on proposals which were agreed in principle by Cabinet on 13 March 2017 [CAB-17-MIN-0086 refers]. These changes will support recent changes to the Skilled Migrant Category (SMC) and largely ensure only workers with the potential to transition to residence become well settled in New Zealand, while preserving access to the temporary migrant labour necessary for New Zealand's continued economic growth. The proposed changes to Essential Skills visas will:
  - a. introduce remuneration bands to determine skill level (and the associated visa conditions),
  - b. introduce a maximum duration of three years for lower-skilled visa holders, after which there will be a one-year stand down, and
  - c. restrict the ability of lower-skilled visa holders to bring their family.
2. This paper also notes that these changes are the first phase of a two-phase review, and that consultation on this first phase has helped to refine the scope of the next phase. Phase two will involve a wider review of temporary work visa settings. This paper proposes that phase two will now prioritise the consideration of targeting immigration settings to sectors and regions, to respond to issues raised in submissions.

### Executive Summary

3. In March 2017, Cabinet agreed in principle to changes to temporary work visa settings. This arose out of the increase in recent years of the number of people who have been granted Essential Skills visas and have been in New Zealand on a temporary visa for an extended period.
4. The objectives of the review are to:
  - a. contribute to better alignment between immigration, welfare and education settings,
  - b. incentivise employers to employ and train domestic workers before recruiting migrant labour,
  - c. allow employers to use lower-skilled migrants where there is a genuine need,
  - d. maintain the integrity of temporary migration by ensuring the settings do not encourage lower-skilled and lower-paid temporary migrants to become well settled, and
  - e. make it easier for firms to recruit higher-skilled and higher-paid migrant workers and for those migrants to remain as long as is necessary or appropriate.
5. The review of temporary work visa settings, which focuses on the Essential Skills visa policy, is split into two phases.
  - a. *Phase one*: focuses on managing the settlement expectations of lower-skilled temporary migrants who do not have a pathway to residence;
  - b. *Phase two*: will focus on using the opportunities the immigration system provides to incentivise and reward good employer behaviour.



## Phase one

6. From 19 April until 21 May 2017, the Ministry of Business, Innovation and Employment (MBIE) carried out public consultation on the proposals that made up phase one of the review. Meetings were held across the country and around 170 unique submissions were received.
7. Much of the consultation feedback focussed on where the mid-skilled remuneration threshold for Essential Skills visas was set and the proposal to align it with the SMC threshold for 'skilled employment' which has been set at the New Zealand median full-time equivalent earnings. Stakeholders expressed concern that the proposed remuneration threshold defining mid-skilled workers would:
  - a. unreasonably restrict development opportunities for Essential Skills workers in skilled occupations that are likely to transition to residence under the SMC through skilled employment. These workers would be required to leave, due to the expiry of the maximum duration, before they could gain the skills or work experience necessary to progress, and
  - b. reduce New Zealand's attractiveness to genuinely skilled temporary workers.
8. In recognition of the concerns raised through submissions, I propose setting the mid-skilled remuneration threshold for Essential Skills lower than the SMC threshold. Setting the Essential Skills threshold below the SMC threshold recognises that these Essential Skills workers fill genuine shortages and many are likely to meet the SMC threshold with further skills acquisition or work experience.
9. I am presenting two options for the mid-skilled remuneration threshold, at either 85 per cent or 88 per cent of the New Zealand median full-time equivalent earnings.
10. Following consideration of consultation feedback I am asking Cabinet to agree to the following changes to Essential Skills visas:
  - c. introducing three remuneration bands to help determine skill (lower-skilled, mid-skilled and higher-skilled) based on salary or income information,
  - d. introducing a maximum duration of three years for lower-skilled visa holders, after which there will be a minimum one-year stand down period where they must leave New Zealand before another lower-skilled visa can be granted, and
  - e. restricting the ability of lower-skilled visa holders to bring their children and partners.
11. The consultation process confirmed that the changes will have the greatest impact on sectors that employ high numbers of lower-skilled or lower-paid Essential Skills visa holders, such as: retail, hospitality, tourism, and aged care.
12. Businesses within these sectors (and others that continue to employ lower-skilled Essential Skills visa holders) will have some increase in costs associated with recruiting migrant workers. Employers of lower-skilled Essential Skills visa holders will experience higher staff turnover (once the visa holder reaches the maximum duration) and more frequent visa applications for those who are reclassified as lower-skilled.
13. The consultation process also confirmed that the changes will impact those Essential Skills visa holders who are:
  - not currently considered lower-skilled and who will be reclassified as lower-skilled due to the introduction of remuneration thresholds, and
  - currently considered lower-skilled, as they will be subject to the maximum duration and restrictions on supporting their partner and dependent children.
14. I expect that New Zealand will remain an attractive destination for temporary migrant workers. I believe that the proposed threshold for entry into the mid-skilled salary band will reinforce to workers in skilled occupations that New Zealand is a place where they can develop their skills and gain valuable experience.

15. Overall, I expect the supply of migrant workers will not diminish. There are a range of reasons why temporary migrants choose to work in New Zealand, including the favourable lifestyle and employment opportunities, and there is no evidence that employers will not be able to attract lower-skilled temporary migrants under the proposed visa conditions. There may, however, be some changes in the composition of lower-skilled Essential Skills visa holders, for example there are likely to be more single migrants without dependents.

#### *Phase two*

16. I recommend that the implementation of the final proposal from phase one be delayed – that is, the proposal reinforcing that Essential Skills visas may only be granted for the period for which the employment is offered, which includes making explicit how this applies to seasonal work. Following consultation I consider that this proposal should be incorporated into phase two, to allow more time to work with stakeholders on the detail of the proposal.
17. Further work is needed to design a seasonal policy which will allow seasonal employers access to the skills and labour they need over periods when sufficient workers cannot be found locally, while ensuring seasonal visas reflect seasonal work.
18. I propose to prioritise work on further targeting of immigration settings by regions and sectors in phase two of the review. I will direct officials to report back to me and other relevant Ministers in response to sector-specific issues raised in consultation, by December 2017. I will direct officials to report back on the proposal to design a seasonal policy at the same time.
19. I will direct officials to report back to me and other relevant Ministers in mid-2018 on further targeting of immigration settings to specific regions.
20. Submissions highlighted the importance of the subsequent work that will be carried out in phase two. Phase two extends the review to focus on using the opportunities the immigration system provides to incentivise and reward good employer behaviour. I propose that the remainder of phase two be progressed over the medium term. Strong support for phase two was expressed in the consultation process and I consider it is essential that adequate time be allowed to develop these proposals further and undertake further public consultation.

#### **Background**

*The 2016/17 – 2017/18 New Zealand Residence Programme sets parameters for permanent migration, which temporary migration policies need to support*

21. Residence in New Zealand is regulated through the Residence Programme (NZRP), which has three visa streams: Skilled / Business; Family; and International / Humanitarian. The NZRP planning range from 1 July 2016 to 30 June 2018 is 85,000 to 95,000 people, around half of which is made up of the employment and skills-based SMC [CAB 16-MIN-0500 refers]. The SMC is a points-based category within which employment in New Zealand is one aspect that can be awarded points. As a result, the majority of SMC applicants have always been drawn from the pool of skilled people already working in New Zealand.
22. In recent years, the SMC has come under pressure, as an increasing number of temporary workers and former international students have sought to transition from temporary status to residence. Prior to the changes agreed in March 2017, the criteria by which SMC points were awarded were resulting in the selection of more applicants than the NZRP planning range can accommodate. An assessment of the outcomes of SMC migrants indicated that the criteria were not targeting the most highly-skilled and highly-paid from the pool of potential applicants. New criteria were developed to manage both the quality and quantity of SMC applicants [CAB-17-MIN-0087 refers]. The changes to the SMC have brought the NZRP within the planning range for 2016/17 and, given the current projections, I am considering options for 2017/18.

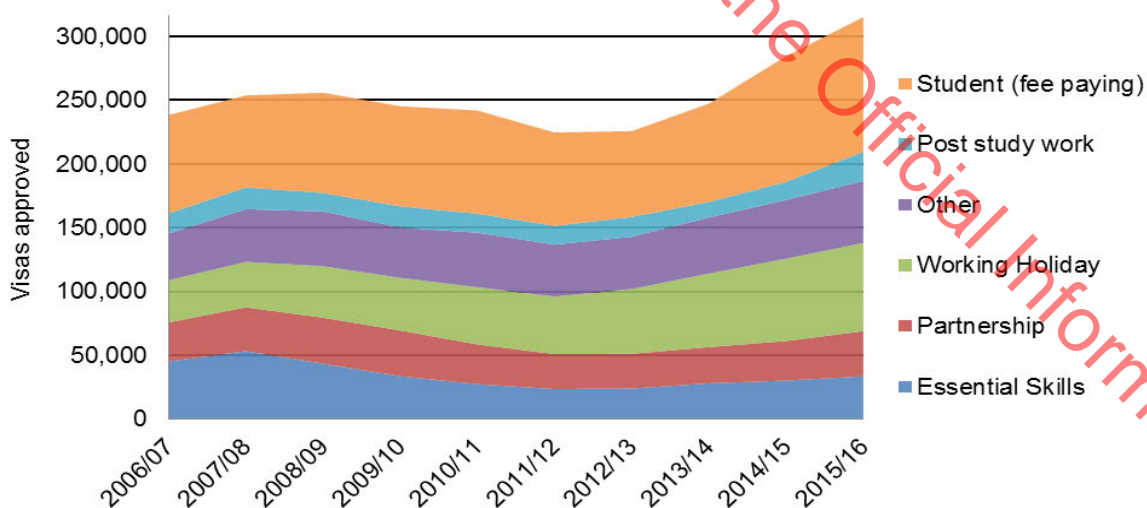
*Cabinet has made further changes to the SMC policy to target the best candidates*

23. On 13 March 2017 Cabinet agreed to a package of immigration policy decisions to:
  - a. introduce remuneration thresholds for migrants under the SMC and noting changes to the points system for SMC applications [CAB-17-MIN-0087 refers], and
  - b. implement a pathway to residence for long-term temporary migrant workers in the South Island [EGI-17-MIN-0014 refers].
24. The SMC changes ensure that the points system prioritises high quality applications, while managing the quantity of applications within the planning ranges agreed by Cabinet. The introduction of remuneration thresholds for skilled employment, which will be implemented in August 2017, ensure that employment will now only be considered skilled (and recognised for the award of points) if it is paid above the required remuneration thresholds.
25. There are two SMC remuneration thresholds: one set at the New Zealand median full-time equivalent income from a main job; and one at 1.5 times this median. The remuneration thresholds will be updated annually after the Labour Market Statistics (Income) data on the median income for the June quarter is published in October each year.
26. Temporary workers, including those on Essential Skills visas, will only have a pathway to residence under the SMC if their employment is considered skilled under SMC criteria. Over recent years, with no restriction on the number of times a worker can be granted an Essential Skills visa, workers whose employment does not meet SMC criteria have become well-settled in New Zealand.

*In recent years the number of temporary visas granted that allow work have increased*

27. Figure One below shows that the number of people granted visas allowing work have increased almost 50 per cent in the last ten years. While labour market tested visa numbers are still considerably lower than ten years ago, between 2014/15 and 2015/16 Essential Skills visa approvals increased 11 per cent.<sup>1</sup> We have also seen increases in international students (many of whom can work, but generally only for up to 20 hours per week during term time), working holiday makers and partnership visa holders. On a per capita basis our temporary migrant inflows are the highest in the OECD.<sup>2</sup>

**Figure One: Visas granted allowing work by category<sup>3</sup>**



1 Essential Skills has been the primary labour market-tested category since its introduction in 2008 (the previous visa was known as General Skills). Other labour market-tested visas include RSE and Work-to-Residence visas.

2 *Recruiting Immigrant Workers: New Zealand*, OECD 2014.

3 Not all students will have work rights (depending on their age and duration of study). Migrants in some categories (particularly student, partnership, and working holiday schemes) may only work part-time or not at all. This data is based on visa approvals and may overestimate working holiday visas (as not all enter New Zealand) and underestimate the stock of Essential Skills visas as they can be granted for up to one, three or five years.

*There has been an increasing proportion of lower-skilled temporary migration, though most Essential Skills visa holders remain on these visas for less than three years*

28. Concurrent with this increase in numbers, the proportion of Essential Skills workers filling roles at lower-skill levels has increased and remuneration has fallen. This has corresponded with cohorts of Essential Skills visa holders remaining in New Zealand for longer periods, as their lower-skilled employment does not provide a pathway to residence. As long as a labour market test is met and they continue to be employed, such temporary workers have been able to apply for visas year after year.
29. Further data regarding Essentials Skills visa holders is included in Annex Two. This includes the number of Essential Skills visa holders in New Zealand (as at May 2017) and a breakdown by region and occupation.

*Cabinet recently introduced the South Island Contribution policy, as part of resetting expectations of temporary visa holders*

30. The recently opened South Island Contribution Work-to-Residence visa recognises that enabling lower-skilled temporary workers to apply for Essential Skills visas without a maximum duration has led to families becoming well-settled in New Zealand without the same rights or access to amenities as residents. This visa provides a pathway to residence for long-term temporary migrants in the South Island who are meeting genuine regional labour market needs and had no existing pathway to residence.
31. This one-off programme is the first step in resetting the expectations of temporary visa holders. Having addressed the issue of lower-skilled temporary workers who have become settled, it is essential to ensure that temporary work policies now reinforce that temporary workers cannot remain in New Zealand indefinitely unless they are likely to transition to residence under the SMC through skilled employment.

*Cabinet agreed in principle to a package of changes to temporary work visa settings, subject to consultation*

32. On 13 March 2017, Cabinet noted that there would be a review of immigration temporary work visa settings, split into the following two phases [CAB-17-MIN-0086 refers]:
  - a. *Phase one*: focuses on ensuring that cohorts of lower-skilled temporary migrants who do not have a pathway to residence cannot stay here indefinitely, and
  - b. *Phase two*: will focus on using the opportunities the immigration system provides to incentivise and reward good employer behaviour.
33. Cabinet agreed in principle, subject to the result of consultation to the following proposals for phase one of the review:
  - a. *Proposal one*: introduce remuneration bands to determine the skill level of an Essential Skills visa holder (and their associated visa conditions), based on salary or income information,
  - b. *Proposal two*: introduce a maximum duration of three years for lower-skilled Essential Skills visa holders, after which there will be a one year stand down period before they can apply for another lower-skilled Essential Skills visa,
  - c. *Proposal three*: restrict the ability of lower-skilled Essential Skills visa holders to bring their children and partners, except on visas in their own right, and
  - d. *Proposal four*: reinforce that Essential Skills visas may only be granted for the period for which the employment is offered, including making explicit what seasonal occupations this applies to.

*The expected effect of the proposed changes to the Essential Skills visa policy on existing visa holders*

34. Currently the Australian and New Zealand Standard Classification of Occupations (ANZSCO) determines the skill level and visa lengths for an Essential Skills visa holder. ANZSCO categorises occupations into five skill levels, with skill level 1 as the highest-

skilled (with training commensurate with a bachelor degree or higher qualification) and skill level 5 as the lowest-skilled (requiring no or on-the-job training).

35. As at 13 May 2017 there were 38,482 Essential Skills visa holders in New Zealand. Most of these visa holders (25,822) were in occupations at skill levels 1-3, with less than a third (11,214) in occupations at skill levels 4 and 5.<sup>4</sup>
36. The proposed changes will introduce remuneration thresholds to complement ANZSCO to categorise job offers into three skill bands: lower-, mid- and higher-skilled. Remuneration levels will replace ANZSCO as the primary determinant of the skill level of an Essential Skills visa holder and associated visa conditions. A more detailed description of the proposals is included in Annex One.
37. In March 2017 when Cabinet agreed in principle to review Essential Skills setting, I proposed to test through consultation the proposal to align the Essential Skills remuneration thresholds with the SMC thresholds. Based on 2012/2013 tax data from the Integrated Data Infrastructure (IDI), previous advice to Cabinet estimated that around half of Essential Skills applications would be defined as lower-skilled under the new definitions.
38. However, updated data from recent sampling of live applications indicated that the mid-skilled remuneration threshold consulted on would mean that between 70 to 80 per cent of Essential Skills applications could have been defined as lower-skilled. Of these applications, 16,600-18,700 Essential Skills visa holders in ANZSCO 1, 2 or 3 occupations would be reclassified as lower-skilled under the proposals that were consulted on. Feedback received through the consultation process confirmed that many Essential Skills workers in skill level 1-3 jobs may fall slightly below the SMC threshold.

### **Consultation on phase one proposals**

39. On 19 April 2017, I announced the package of immigration policy changes and a consultation document on the phase one proposals was released on MBIE's website. Consultation was open for formal submissions until 21 May 2017.
40. The consultation generated broad interest across sectors and regions. I met with a wide range of stakeholders, while MBIE hosted or attended around fifteen consultation meetings. I consider that the consultation process achieved its objectives in ensuring that submitters were informed on the proposals and their rationale, and were able to provide the information that was sought through the submissions process. Some submitters appeared to misunderstand that the proposals will not directly limit access to lower-skilled temporary work visas; rather the conditions of those visas now reinforce that temporary means temporary. This misconception will need to be addressed in publicity on the decisions from this review.
41. MBIE received around 170 unique written submissions on the proposed changes. Submissions were received from industry associations, unions, individual employers, regional development agencies, academic researchers, immigration advisors and migrant workers. Many of the submitters represented large groups of employers or workers (for example Business New Zealand, the Council of Trade Unions, and a number of large industry associations). Submissions were also made by individual large employers, including Progressive Enterprises (Countdown) and McDonalds Restaurants New Zealand. Annex Three contains a detailed summary of submissions by sector.

### **Submissions related to proposal one and response**

42. Submissions regarding proposal one – introducing remuneration bands to determine skill level – raised some consistent themes. Feedback in submissions on this proposal fell into four groups, submissions which:

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<sup>4</sup> There were a further 1,446 workers whose occupation could not be matched to ANZSCO without further analysis. This data is from the SPELLS dataset which has been shown to have some minor errors. The dataset is currently going through a Quality Assurance Process, and updated figures are not available. However, data is unlikely to change by a substantial amount.

- described the expected impacts of the proposals on industries or employers, and included proposed alternative approaches to mitigate those impacts,
- highlighted the difference between the temporary work force gaining experience on Essential Skills visas and the established, skilled workers who qualified for residence under the SMC,
- identified issues to be prioritised in phase two of the review, and
- raised points of detail for the implementation of the proposals.

43. Submissions which described the expected impacts of proposal one included the following themes:

- salary is not a tight proxy for skill level, and the required remuneration levels are too high, and
- some jobs could become stigmatised as low-wage migrant work.

44. Alternatives to the proposals raised included:

- lower the remuneration thresholds and review how they apply to lower-skilled or shortage occupations,
- improve the use of qualifications and training as an indicator of skill level, rather than using remuneration, and
- extend the mid-skilled classification to those in skill levels 4 and 5.

45. This feedback and alternative proposals did not raise issues I consider to be unexpected as they described the expected impacts of proposals. However, the extent of the impact on sectors was larger than anticipated, which has been supported by updated data from sampling of live visa applications.

46. Submissions also raised matters which I consider should be prioritised in phase two of the review, in order to address the impact on sectors most affected by the proposals. These matters are also described below.

*I recommend the mid-skilled remuneration threshold be set below the SMC threshold*

47. These submissions, combined with other feedback received through consultation, has led me to reconsider the level of the mid-skilled remuneration threshold for Essential Skills. I propose that the mid-skilled Essential Skills remuneration threshold is set below the SMC threshold. This will have an impact on the number of Essential Skills visa holders that are defined as lower-skilled because they are paid below the mid-skilled threshold and those that are defined as mid-skilled because they are paid above the mid skilled threshold.

48. I am presenting two options for where to set the mid-skilled remuneration threshold, at either 85 per cent or 88 per cent of the New Zealand median full-time equivalent earnings.

49. In May 2017, there was a stock of just over 38,000 Essential Skills visa holders in New Zealand. Of those, around 25,800 were at ANZSCO skill level 1-3. The figures below are based on this stock figure.

**Table One: Proportions of ANZSCO Skill Level 1-3 Essential Skills visa holders earning above and below salary levels<sup>5</sup>**

<sup>5</sup> This data comes from the SPELLS dataset which has been shown to include some minor errors. This dataset is currently going through a Quality Assurance process and updated figures are not available. However, this data is unlikely to change by a substantial amount.

% of the NZ median wage	Hourly earnings (Annual earnings <sup>6</sup> )	Proportion earning below the threshold	Number earning below the threshold	Proportion earning above the threshold	Number earning above the threshold	Approx. increase migrants with in mid-skilled visa conditions (compared to consultation)
85%	\$19.97 (\$41,538)	38%-46%	9,700-11,800	54%-62%	14,000-16,100	6,900
88%	\$20.67 (\$42,994)	47%-55%	12,100-14,200	45%-53%	11,600-13,700	4,500
<b>NZ median</b>	\$23.49 (\$48,859)	64%-72%	16,600-18,700	28%-36%	7,100-9,200	Option used in consultation

50. Setting the mid-skilled Essential Skills threshold below the SMC threshold will:

- a. recognise that these workers are filling genuine shortages and are likely to meet the remuneration threshold required for SMC with further skills acquisition or work experience,
- b. retain New Zealand's attractiveness to migrants that are likely to come to develop their career and subsequently transition to SMC, and
- c. enable employers to access the workers they need and allow them to retain the skilled workers that they have invested in developing.

51. There is a risk that not aligning the Essential Skills and SMC remuneration thresholds will mean that some temporary workers that meet the Essential Skills mid-skilled threshold (and get the associated visa conditions that encourage them to become well-settled) will never sufficiently progress to meet the requirements of SMC and gain residence. I consider the benefit to employers of retaining skilled workers and the additional benefit to those Essential Skills workers most likely to transition to residence under the SMC, outweigh the risks.

52. Setting the mid-skilled Essential Skills remuneration threshold at **85 per cent of the New Zealand median full-time equivalent earnings** (currently the equivalent of \$19.97 per hour and \$41,538 per annum<sup>7</sup>) would mean:

- employers have access to more migrants with the more generous visa conditions associated with a mid-skilled Essential Skills visa, when compared with the consultation proposal (slightly more than the alternative of a threshold set at 88 per cent), and
- approximately 6,900 Essential Skills visa holders will meet the mid-skilled Essential Skills threshold but earn below the SMC threshold. This slightly increases the risk that some of these workers are unlikely to progress to residence, even if given more time in New Zealand, than the alternative of a threshold set at 88 per cent.

53. Setting the mid-skilled Essential Skills remuneration threshold at **88 per cent of the New Zealand median full-time equivalent earnings** (currently the equivalent of \$20.67 per hour and \$42,994 per annum<sup>8</sup>) would mean:

- employers have access to more migrants with the more generous visa conditions associated with a mid-skilled Essential Skills visa, when compared with the consultation proposal (though slightly less than the alternative of a threshold set at 85 per cent), and
- a slightly smaller number of approximately 4,500 Essential Skills visa holders will meet the mid-skilled Essential Skills threshold but earn below the SMC threshold. These Essential Skills visa holders may be slightly more likely to progress to

<sup>6</sup> Based on a 40 hour week.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

residence if given more time in New Zealand (than migrants under the alternative of a threshold set at 85 per cent).

54. The risks of both options can be mitigated by the following:
- a. It is likely that many Essential Skills migrants earning between the mid-skilled Essential Skills remuneration threshold and the SMC remuneration threshold will leave New Zealand before they become well-settled. Under current settings, on average 40 per cent of Essential Skills visa holders leave New Zealand within three years of being granted their first work visa.
  - b. A reasonable proportion of the Essential Skills migrants earning between the mid-skilled Essential Skills remuneration threshold and the SMC remuneration threshold should be eligible for SMC, if their pay increases sufficiently as they gain skills or work experience.
  - c. The settlement expectations of temporary work visa holders will be managed by other changes to the Essential Skills visa settings that signal that temporary means temporary.
  - d. The changes to Essential Skills visas will be monitored and reported on regularly to measure progress against the objective of improving the contribution of immigration to the labour market. This can include monitoring of the cohort of Essential Skills migrants that earn between the mid-skilled Essential Skills remuneration threshold and the SMC remuneration threshold.

*Implementing proposal one is needed to ensure a more robust assessment of skill level*

55. Remuneration will be used to complement, rather than to replace ANZSCO as a framework for determining skill level. I recognise that in some cases remuneration level, like ANZSCO classification, is not a tight proxy for skill level. Some sectors will be disproportionately impacted by the introduction of remuneration as an indicator of skill level, and I propose that this is addressed as a priority action in phase two (as detailed below).
56. Employer groups have called for a means by which workers in ANZSCO skill level 4 and 5 workers could be considered mid-skilled. Under the proposals, there is no mid-skilled classification option for these workers. They are classified as higher-skilled if they earn above 1.5 times the median income (currently \$35.24 per hour), and otherwise they are classified as lower-skilled. These groups argue that if salary is the best proxy for skill, it should be the only proxy, and workers at skill levels 4 and 5 should be considered mid-skilled if they earn above the mid-skilled remuneration threshold.
57. I do not consider that this alternative is feasible, as this would diverge from the agreed thresholds for ANZSCO 4 and 5 workers under the SMC. It would be much harder for ANZSCO level 4 and 5 Essential Skills visa holders to transition from a mid-skilled Essential Skills visa to SMC as their employment must meet the 'higher skilled' remuneration threshold to be eligible for points under SMC. This would therefore result in a significant pool of temporary migrant workers staying in New Zealand long-term without a likely pathway to residence.
58. Some employers were concerned that the requirement for lower-skilled workers to apply for a visa every twelve months is costly and will impact on workforce planning. Lower-skilled workers are currently eligible for visas of up to twelve months, while mid-skilled workers are eligible for visas of up to three years.
59. Under the proposed changes, some workers currently eligible for three-year visas will be reclassified as lower-skilled because they are low-paid, and required to apply for a visa every year (until they meet the maximum duration). This creates additional work and cost for both migrants and employers. This additional cost may be identified as a factor in surveys measuring the Government's progress in Better Public Services Result 9 Better for Business target to reduce business effort in dealing with government. The changes are not currently accounted for in the Better for Business roadmap, and could therefore influence the target. However, I do not consider that this will be a material increase in cost compared



to savings being sought by the Better for Business programme. Phase two of the review will focus on making it easier for firms to recruit higher-skilled and higher-paid migrant workers, and for those migrants to remain as long as is necessary or appropriate.

60. As I am proposing a lower remuneration threshold for the mid-skilled band than that consulted on, fewer workers will be reclassified as lower-skilled. This will mitigate the concerns described above.
61. Even though there will be more lower-skilled Essential Skills visa holders than under the previous definition, I consider the 12 month visa length for lower-skilled Essential Skills visa holders is necessary to ensure the labour market test continues to be met for lower paid positions. I also expect that requiring more frequent labour market tests for a greater proportion of Essential Skills visa holders will increase the attractiveness of New Zealand workers over migrant workers. The Ministry of Social Development (MSD) and Immigration New Zealand (INZ) implementation plans will ensure that these processes and implemented as efficiently as possible (as discussed in paragraphs 120 and 121 below).
62. Annex Two provides information on the occupations, regions and nationalities expected to be most affected by the reclassification of skill levels.

*Sector- and region-specific work should be prioritised for phase two of the review, which needs to complement existing Government programmes*

63. Submissions raised a number of points related to sector-specific issues:
  - a. national income thresholds disadvantage regions and sectors where both incomes and the cost of living are below the national median,
  - b. ANZSCO is not a complete description of all the roles and levels of experience within the labour market, and
  - c. increased turnover will impact on vulnerable consumers in the care sector.
64. Submitters across some industries have asked for the phase one work to be deferred until the phase two framework for addressing sector- and region-specific concerns has been developed. I do not agree with this proposal. It is important that the Essential Skills requirements are aligned with the SMC changes implemented in August 2017 to ensure a cohesive immigration system. The agreed transitional arrangements discussed in this paper allow workers and their families to remain in New Zealand on further visas where there are no New Zealanders available, so disruption for these employers in the short-term will be minimal.
65. Regional and sectoral issues were scheduled to be considered during phase two of the review, and submissions have reinforced the importance of addressing these issues as a priority. Some sectors raised concerns about their potential ongoing need for migrant labour, and their ability to continue to safely operate if they have difficulty recruiting. The transitional arrangements have been designed to minimise the disruption to employers (refer to paragraphs 114 to 116 below). It will take three years for the first Essential Skills visa holders being reclassified as lower-skilled to reach the maximum duration, meaning that there is sufficient time for these issues to be worked through as part of phase two of the review.
66. In response to issues raised in consultation I propose that MBIE develop a framework that sets clear principles for responding to sector-specific issues raised in consultation. The framework should:
  - a. include an expectation that sectors will contribute to responding to sector-specific issues – that is access to temporary migration could be part of the response, but not the only response to these issues, and
  - b. strike an appropriate balance between the objectives of the review and responding to sector-specific issues.

67. Utilising that framework, MBIE, in conjunction with the Ministry of Social Development (MSD), the Ministry for Primary Industries (MPI) and the Ministry of Health (MoH), should engage with stakeholders from the primary industry, aged care, tourism and hospitality sectors, to present proposals for sector-specific responses for Ministers to make decisions on by December 2017. These proposals could include targeted approaches to lower-skilled occupations such as halal slaughterer, aged care worker and dairy farm worker.
68. I also propose that officials work with sectors to address the concern raised by primary industries that the current ANZSCO lacks classifications for some roles and thereby disadvantages workers whose occupations are classed at a lower-level by default. Officials will ensure that New Zealand recognises the skill levels of workers in a fair and consistent manner, through reference to other countries such as Canada and Australia who also recruit skilled migrant workers in primary industries.
69. There are overlaps between this proposed engagement and work currently underway in the Sector Workforce Engagement Programme (SWEP). Priority phase two engagement should be complementary and part of SWEP, or take place through an alternative industry group if a non-SWEP industry raises issues. Proposals to Ministers for targeted immigration approaches should identify where shorter-term actions are needed and how this will support actions being undertaken or planned through the SWEP partnership between industry and government.

*Immigration operational policy and guidance already responds to minor issues raised in submissions and can be clarified*

70. A number of submissions noted that remuneration is more than salary alone and often includes additional benefits such as accommodation, food, and performance-based bonuses. These submissions proposed that a range of other elements be taken into account as remuneration in order to determine what classification of Essential Skills visa a temporary migrant should be eligible for.
71. I propose that an applicant's remuneration be determined by their guaranteed minimum pre-deduction salary or wage. In this way, additional components of a remuneration package could be factored in if they are fairly valued and deducted from the salary or wage rate.
72. Immigration operational policy and guidance already allows for employers and employees to agree to deduct reasonable values for accommodation. In assessing if a remuneration threshold has been met, the pre-deduction amount is used. Immigration operational policy currently excludes employment-related allowances from being included in calculating that an income threshold is met. In assessing if a remuneration threshold has been met, the pre-allowance amount is used.
73. Communications about the proposed changes and their implementation (including Immigration Instructions) will need to be clear regarding what can be taken into consideration when calculating whether remuneration meets the threshold. Employers will need to ensure that tax implications are addressed. INZ must be satisfied that employment agreements comply with employment law, including that any deductions are reasonable. Further assistance could be sought from the Labour Inspectorate to confirm employment law is being met. This requirement will help guard against exploitation and ensure that the policy objectives associated with using remuneration as part of determining visa conditions are not undermined.

### **Submissions related to proposal two and response**

74. Submissions regarding proposal two, introducing a maximum duration of three years for lower-skilled Essential Skills visa holders, raised the same some consistent themes as proposal one.

*Submissions which described the expected impacts of proposal two*

75. These submissions included the following themes:

- changes will increase costs on employers (through an increase in recruitment and training costs and a reduction in productivity and quality of service), which could be transferred to consumers,
- three years is not sufficient to upskill workers to a mid- or higher-skilled role,
- the stand down is too long and would be disruptive,
- there are not enough New Zealanders available and the changes will make it harder to recruit migrants, and
- international examples indicate that this will create a 'guest worker' system with negative outcomes for migrants and for residents.

76. Alternatives to the proposals raised included:

- increase the maximum duration and/or reduce the stand-down period, or consider exemptions for those who are upskilling in shortage areas,
- prioritise workers who have returned from their stand-down, to capitalise on skills, and
- issue longer visas for lower-skilled workers (e.g. a three year visa).

77. These submission themes and alternative proposals did not raise issues I consider to be unexpected, or provide evidence that the changes would materially constrain labour supply. They described the expected impacts of proposals two and many submissions call for conditions which would preserve the status quo in terms of access to temporary migrant labour.

*It is necessary to implement proposal two to ensure that temporary means temporary*

78. I consider that to achieve the objective of ensuring that temporary means temporary, the maximum duration and stand-down period must be implemented. This is the most effective way to largely ensure only workers with the potential to transition to residence become well settled in New Zealand, while preserving access to the temporary migrant labour necessary for New Zealand's continued economic growth. The maximum duration would also increase the incentives for employers to train New Zealanders by increasing some costs on employers, including an element of increased turnover of migrant workers.

79. The three year maximum duration provides an opportunity for lower-skilled Essential Skills visa holders that are likely to gain skills and progress to the mid-skilled salary threshold. For others, if they are unable to move up to the mid-skilled Essential Skills threshold (which is set lower than the SMC threshold) within three years it is unlikely that they would ever transition to residence through meeting the skilled employment requirements for SMC. The maximum duration targets this second group and ensures they do not become well-settled.

80. The stand-down period prevents migrants transitioning to another type of visa before applying for a further lower-skilled Essential Skills visa. A 12 month stand-down period was chosen as it is long enough to discourage employers from holding a position open for a migrant in the hope that they return after the stand-down. I do not consider a shorter stand-down period, proposed by some submitters, will be sufficient to reinforce the policy intent.

81. As the proposals preserve the ability of employers to access temporary migrants when necessary, I consider it incorrect to say that these changes restrict labour supply. There will be some situations where an employer needs to replace an existing temporary migrant who has reached the maximum duration with another temporary migrant, if there remains no New Zealander available. Such an employer would face some costs associated with recruiting a new temporary migrant, but would not be prevented from doing so.

82. Some stakeholders expressed concerns that the maximum duration would deter lower-skilled migrant workers from choosing to come to New Zealand, and therefore restrict the available supply of lower-skilled migrant labour. The introduction of a maximum duration could influence individuals' decisions to migrate, but this is not expected to impact on the

overall supply of lower-skilled migrant labour. There are a range of reasons why temporary migrants choose to work in New Zealand, including the favourable lifestyle and employment opportunities.

83. There is no evidence that employers will not be able to attract a temporary migrant under the proposed visa conditions. I expect that New Zealand will remain an attractive destination for lower-skilled migrant workers. Comparisons of the proposed changes with international policy settings are outlined in Annex Four.
84. The extent to which migrant workers will be deterred by the proposed changes is expected to vary by sector due to the demographic of each workforce. For example, the aged care sector could be more affected because the workforce tends to be older and more likely to intend to stay longer-term and bring their families. The tourism, hospitality and construction sectors, while also dependent on migrant labour, could be less affected because their workforces tends to be younger, more transient, and less likely to bring family. Data on the profile of current Essential Skills visa holders is contained in Annex Two.
85. Some stakeholders expressed concern that the proposals appear to be aimed at addressing urban issues and therefore should not apply to rural areas. This reflects a misunderstanding of the objective of the proposals, which aim to reinforce the temporary nature of lower-skilled Essential Skills visas to largely ensure that only workers with the potential to transition to residence become well-settled.
86. A submission by a group of academic researchers on migration issues stated that the proposed changes will result in a 'guest worker' system with negative outcomes for migrants and for residents, and some lower-skilled jobs will become stigmatised as low wage migrant work. I consider that the proposed changes will actually work to prevent this happening, as settlement expectations will be made clear migrant workers without a pathway to residence will no longer be able to remain in New Zealand long-term.

### Submissions related to proposal three and response

87. Proposal three was split into two, with feedback sought on the impact of removing the ability of lower-skilled Essential Skills visa holders to bring (i) their children and (ii) their partners to New Zealand as dependants. Children and partners could, however, qualify for a visa in their own right.
88. Some submitters expressed support for labour market testing partners before granting them work rights, to ensure that New Zealanders were always considered first for employment. However, the majority were concerned that restricting the right to bring partners and children would make it more difficult to attract migrant workers and would negatively affect the wellbeing of the migrants themselves.
89. Submission points on proposal three included:
  - partners on open work visas are an important source of part-time labour which will be lost because partners of lower-skilled Essential Skills workers will be required to work full-time in order to be eligible for their own Essential Skills visa,
  - workers who have family here are more mature, reliable and productive, and there is concern that the restrictions will deter the type of migrant workers that employers seek,
  - lower-skilled workers will be unable to afford international student fees for their dependent children, and
  - workers are less likely to integrate effectively if they do not have their family here, and this may have a negative impact on their wellbeing and on communities.
90. Alternative proposals raised related to these submissions included:
  - if the migrant can financially support their family they should be able to bring them
  - focus on making visa holders aware of the maximum duration of visas rather than restricting ability to bring family,

- require that partners get a visa in their own right across all skill levels (not just for partners of lower-skilled workers), and
  - allow workers to bring their partners, but with restricted conditions (for example remove automatic work rights for partners, restrict the industries that partners are allowed to work in, or allow them a six month visitor visa to find work that fulfils the requirements of an Essential Skills visa).
91. The objective of proposal three is to reinforce that temporary means temporary for lower-skilled migrants by making the conditions of their temporary visa clear in relation to their ability to bring their children and partners to New Zealand. This will reduce the likelihood that lower-skilled temporary migrants will lose links to their home country.
92. These submissions challenge whether proposal three is necessary alongside proposal two to achieve this objective. I consider that this proposal is necessary to align the ability to bring family with the ability to transition to residence, and reinforces the temporary nature of the visa.
93. Some submitters expressed concern that the restrictions on bringing family will deter lower-skilled workers from choosing to come to New Zealand, and therefore restrict the supply of migrant labour. While the change could influence individuals' decisions to migrate, this is not expected to impact on the supply of lower-skilled migrant labour. I consider that New Zealand will remain an attractive destination for these workers. There may, however, be some changes in the composition of lower-skilled Essential Skills visa holders, for example there are likely to be more single migrants without dependants. Annex Five provides international comparisons of visa conditions for workers.
94. These submissions did not raise significant unexpected impacts and therefore I recommend that proposal three proceed.

### **Submissions related to proposal four and response**

95. Submissions on proposal four were limited and indicated that seasonal industries largely supported the development of a seasonal policy. However, several submitters opposed the idea of visas granted strictly for the period of employment because they found Essential Skills visa holders, such as ski-field workers, were helpful across other industries in the off-season. These submissions indicate that workers are taking up employment which is outside the conditions of their visa, and support the need to reinforce that Essential Skills visas may only be granted for the period for which the employment is offered.
96. Other themes regarding seasonal work were:
- concern from industries that if seasons were defined in immigration requirements, this could restrict access to workers if a season peaked early or late or was extended due to weather conditions, and
  - retaining workers in the off-season, for example, by granting visitor visas or multiple entry visas to enable work over several seasons without having to reapply for a visa.
97. Consultation did not provide sufficient information to make final decisions on proposal four. Further work is needed to design a seasonal policy which will allow seasonal employers access to the skills and labour they need over periods when sufficient workers cannot be found locally, while ensuring seasonal visas reflect seasonal work. Officials will consider how any new seasonal policy will complement the approach to seasonal work which has its own visa category or policy, for example the Recognised Seasonal Employer or Supplementary Seasonal Employment.
98. I propose that substantive work in response to proposal four be deferred to phase two.

### **Additional issues raised in submissions**

All workers who have been on an Essential Skills visa for five years or more should be eligible for residence

99. A number of submitters requested that the recently introduced South Island Contribution visa be extended nationally. This request was made by unions (including CTU), immigration advisers, visa holders, small business owners and individuals in the dairy, manufacturing, care and hospitality sectors. The South Island Contribution visa was designed to reflect the fact that, in general, South Island regions have lower unemployment rates than North Island regions [CAB-17-MIN-0089 refers].

100. Figure Two below outlines the current stock of Essential Skills visa holders across regions.

**Figure Two: Regional information for Essential Skills visa holders in New Zealand for five years or more<sup>9</sup>**

Auckland	730	Canterbury	649
Bay of Plenty	78	Marlborough	76
Gisborne	16	Nelson	24
Hawkes Bay	32	Otago	293
Manawatu Wanganui	46	Southland	214
Northland	32	West Coast	23
Taranaki	53	<b>South Island Total</b>	<b>1,279</b>
Waikato	134		
Wellington	119	<b>Unknown<sup>10</sup></b>	<b>170</b>
<b>North Island Total</b>	<b>1,240</b>		
<b>National Total</b>			<b>2,689</b>

*Extending the transitional provisions to the partners and children of other work visa holders*

101. The transitional arrangements agreed in March 2017 only allow for the partners and children of workers currently on Essential Skills visas to remain in New Zealand as dependants when a further Essential skills visa is granted. However, workers on other visas, such as the Silver Fern Work Experience or post-study work visa, may also have partners and children in New Zealand. These partners and children will be affected if the work visa holder applies for an Essential Skills visa, because their employment does not qualify them for enough points under the new SMC settings.

102. It is anticipated that the largest affected group would be the partners and children of former students on post-study work visas. While only a limited number of students are able to bring partners while they are studying, all former students on post-study work visas can support visa applications for their partner and dependent children. Former students who qualify for post-study work visas are not subject to a labour market test for their first post-study work visa.

103. Former students currently on post-study work visas, working in roles which will be considered lower-skilled under the new income criteria, have made submissions asking that they be considered under the criteria in place at the time they came to New Zealand. Their concern is that their partners and children will not be able to remain if they take up an Essential Skills visa.

104. Prior to changes to SMC, a proportion of post-study work visa holders would have transitioned to residence under the SMC. Some of these post-study work visa holders will no longer be eligible for residence under the new SMC settings, and are therefore likely to transition to Essential Skills visas in order to remain in New Zealand.

<sup>9</sup> This data comes from the SPELLS dataset which has been shown to have some minor errors. This dataset is currently going through a Quality Assurance process updated figures are not available. However, data is unlikely to change by a substantial amount.

<sup>10</sup> Information about the region of employment was not entered into the database in a way that could be collated.

105. Unless this cohort of workers had the right to support partners and children to come to New Zealand while studying, I do not consider that they should be provided with a transitional right. This cohort will have had up to three years to gain sufficient experience to meet the remuneration threshold to be classified as mid or higher-skilled, where they are eligible to support partners and children to be in New Zealand. I consider that this timeframe is reasonable for this cohort to have gained that experience. While this may mean that the partners or children of this cohort will need to leave New Zealand, if they are not eligible for a visa in their own right, I do not consider that this is unreasonable.
106. I have directed officials to review whether changes should be made to the ability of this cohort to support their partners and children to stay in New Zealand when they are on other temporary work visas, unless they have that right when they are a student.

### **Priorities for phase two of the review**

107. The first phase of this review has focused on supporting recent changes to the SMC, ensuring that temporary means temporary for lower-skilled migrants by limiting the duration of their temporary visas, while preserving the access to temporary migrant labour necessary for continued economic growth. Making this adjustment to settings now will help ensure the Government's long-term labour market strategy continues to achieve its objectives, by:
- a. increasing the relative attractiveness to employers of New Zealanders, including beneficiaries and school leavers
  - b. incentivising employers to invest more in training and/or offering better wages and/or terms and conditions, and
  - c. increasing incentives to shift to potentially more productive business models, and avoid the embedding of business models reliant on lower-skilled temporary workers.
108. The second phase of this review will also focus on the objectives above, as well as using the immigration system to incentivise and reward good employer behaviour. This phase will contribute to achieving the Government's strategic objectives for the labour market, including building the skill level of the workforce and filling skill shortages, while ensuring that New Zealanders are the first in line for job opportunities. The potential scope of phase two previously noted by Cabinet [CAB-17-MIN-0086 refers] included undertaking further work on:
- a. adjusting the avenues available to access Essential Skills workers to incentivise more employers to become accredited
  - b. exploring options for further targeting of immigration settings by regions or sectors, including where there are persistent localised labour shortages
  - c. expanding the existing Accredited Employer (Labour Hire) programme nationwide
  - d. strengthening the existing Essential Skills requirements to train and recruit local workers
  - e. reviewing the process for occupations being added to and remaining on the Essential Skills in Demand lists, and
  - f. exploring whether further changes should be made to requirements for Essential Skills visas for seasonal workers and their employers
109. As noted above, I propose prioritising developing a framework for further targeting of immigration settings by sectors in response to issues raised in consultation. MBIE and other agencies will report back to Ministers on proposals for sector specific responses by December 2017.
110. I will also direct officials to report back to Ministers on the remaining proposal from phase one by December 2017; that is the outcome of further work to design a seasonal policy which will allow seasonal employers access to the skills and labour they need over periods

when sufficient workers cannot be found locally, while ensuring seasonal visas reflect seasonal work.

111. I also propose to prioritise work on further targeting of immigration settings by regions in phase two of the review, and I will direct officials to report back to me and other relevant Ministers in mid-2018. This timeframe reflects the strong support that submitters showed for the consideration of regional issues in the phase two, and also allows sufficient time to develop and test any proposals appropriately.
112. I propose that the remaining proposals in phase two be progressed over the medium term. There has been general strong support for phase two through the consultation process and I consider it is essential that adequate time be allowed to develop the resulting proposals including allowing for engagement with stakeholders, which may also identify alternative proposals. I therefore recommend that MBIE, in consultation with MSD, MPI, MoH, MoE, MPP and other interested agencies, report back to Ministers on proposals by December 2018. This allows sufficient time to monitor the outcomes of phase one and the associated impacts of the changes to the SMC, before making final recommendations about the implementation of phase two.
113. I propose that MBIE should also include in these report backs any operational improvements required to achieve or support the objectives of the review, for example improvements to the existing Accredited Employer, Approval in Principle or Skills Match Report processes.

## **Implementation of phase one**

### *Transitional arrangements*

114. As I indicated in March, the new maximum duration setting will apply to all new lower-skilled Essential Skills applicants. For existing Essential Skills visa holders, the change will not be applied retrospectively. The three year maximum duration will begin from the date their next lower-skilled Essential Skills visa commences.
115. The new settings restricting the access of children and partners will only be applied to new Essential Skills visa applicants, and not to children or partners of Essential Skills visa holders who already hold temporary visas. This means the partners and children of lower-skilled Essential Skills visa holders will be able to remain with the principal applicant in New Zealand until they have reached the maximum duration of their visa.
116. Unions and individual workers suggested that the proposed restrictions for lower-skilled visa holders should not apply to those who are already in New Zealand either on student or work visas. I consider that this would undermine the objective of setting clear settlement expectations and managing the settlement expectations of those temporary migrant workers in New Zealand without a pathway to residence.

### *Verification of salaries and ensuring employers meet their commitments*

117. The introduction of remuneration thresholds as a determinative factor in eligibility for a mid- or higher-skilled Essential Skills visa places more importance on income or salary information. Immigration New Zealand is currently able to request tax records and information on employers' ability to pay any salaries offered which helps to ensure that the offer of employment is genuine. However, INZ will need to have targeted mechanisms in place to ensure that migrants granted mid- or higher-skilled Essential Skills visas are paid at or above the salary threshold for the duration of their visa. This will include requesting tax data from employers. This will require additional, risk-based verification of the rate of remuneration during the validity of a visa on a case-by-case basis.
118. Currently, employers wishing to employ non-New Zealand citizen or residence class visa holders to work in New Zealand must be compliant with all relevant employment and immigration law in force in New Zealand. This includes adhering to the written employment contract which has been provided to INZ at the time the visa was issued, and informing Immigration New Zealand if there are changes to the migrant's employment.



119. Where an employer is found to have falsified the salary offer in a previous Essential Skills visa application, INZ will ensure that their access further migrant labour is restricted as instructions currently allow. This will complement recent changes implemented from 1 April 2017, which mean employers that have incurred a penalty for a breach of employment standards will face a set stand-down period preventing them from recruiting migrant labour for six months, one year, 18 months or two years, depending on the severity of the breach.

#### *Labour market testing for lower-skilled roles*

120. Employers recruiting for lower-skilled roles must provide a Skills Match Report in addition to providing sufficient evidence to satisfy an immigration officer that they have made genuine attempts to recruit or train a New Zealander. A Skills Match Report is issued by Work and Income after they have determined there are no jobseekers suitable or trainable to take up the employment, or when an employer has not found the available jobseekers to be suitable for the employment. Under the previous definition of lower-skilled, only skill level 4 and 5 roles were referred to Work and Income.
121. The proposed change to the definition of lower-skilled expands the scope of jobs which could be referred to Work and Income (as discussed in paragraph 61 above). Officials are working together to ensure that referrals to MSD are well targeted to the pool of job seekers they have available. This work will determine how to best use the Skills Match Report process to ensure that employers consider beneficiaries where appropriate.

#### *Evaluation*

122. The changes to Essential Skills visas will be monitored and reported on regularly to measure progress against the objective of improving the contribution of immigration to the labour market. There will be a review of the labour market impact after twelve months, particularly to respond to any emerging labour supply issues. This will identify whether any further sector- or region-specific issues have arisen, as well as assessing the impacts on small and medium-sized enterprises and different population groups amongst Essential Skills visa holders. An evaluation and monitoring framework will be developed to determine the scope of the evaluation, what information is required, and how the information will be collected.
123. Officials will report back to me on the findings of the evaluation. This will inform me how well the changes have been implemented, whether they are achieving intended objectives, and will also inform further reviews of the policies.

#### *Next steps*

124. Following Cabinet decisions, INZ will provide me with instructions to certify giving effect to the changes. I am seeking authorisation to make minor decisions, necessary for instructions to be finalised, consistent with the decisions sought in this paper.
125. Guidance and training will be provided to front-line staff to ensure consistency and understanding of the new requirements.

#### **Consultation**

126. Extensive public consultation was carried out from 19 April until 21 May 2017. The consultation generated broad interest across sectors and regions. I met with a wide range of stakeholders, while MBIE hosted or attended around fifteen consultation meetings. The Ministry received around 170 unique written submissions on the proposed changes.
127. The following Government agencies were consulted on this paper: the Treasury, the Ministries of Social Development, Education, Health and Foreign Affairs and Trade, the Ministries for Primary Industries and Pacific Peoples, the Department of Internal Affairs, and the Office of Ethnic Communities. The Department of Prime Minister and Cabinet was informed.
128. At this stage I am seeking agreement for further work to be undertaken on phase two, and I intend to take the same approach to Government agency and public consultation as we

have taken for phase one. However, the consultation on the phase two proposals will be of longer duration to ensure that the interactions with the SMC changes and phase one implementation are considered and well understood.

## Financial Implications

129. Any change in third party fees and levies would roughly be offset by the corresponding change in work volumes. Changes to visa settings would have implementation costs, including systems changes. These can be met from existing baselines. Additional funding for remuneration verification may be sought through the 2017/18 Immigration Fee and Levy Review if it cannot be met from current baselines.

## Human Rights, Legislative, and Regulatory Implications

130. The proposals in this paper are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act of 1993. There are no legislative implications.

## Publicity

131. Consideration is needed as to when the changes are announced and when they come into force. If there is a gap between the announcement and the implementation date there is a risk that there will be an increase in applications as migrants and their employers want their visas to be issued prior to the rules changing.
132. As implementation is planned for August 2017, I intend to make a public announcement about the outcome of the review as soon as practicable to give employers and migrants sufficient time to understand the new settings in order to ensure a smooth transition.
133. I intend to proactively release this Cabinet paper as part of those announcements.

## Recommendations

134. The Minister of Immigration recommends that the Cabinet Economic Growth and Infrastructure Committee:
1. **Note** that on 13 March 2017, Cabinet agreed in principle, subject to the result of consultation, to the following proposals which form phase one of the review of Temporary Visa Work Visa Settings [CAB-17-MIN-0086]:
    - a. Proposal one: introducing remuneration bands to determine the skill level of the employment of an Essential Skills visa holder (and the associated visa conditions), to align with the Skilled Migrant Category (SMC) bands, to ensure that only workers who have a pathway to residence are able to remain in New Zealand long-term
    - b. Proposal two: introducing a maximum duration of three years for lower-skilled Essential Skills visa holders, after which there will be a one year stand down period before they can apply for another lower-skilled Essential Skills visa
    - c. Proposal three: restricting the ability of lower-skilled Essential Skills visa holders to bring their children and partners, and
    - d. Proposal four: reinforcing that Essential Skills visas may only be granted for the period for which the employment is offered, including making explicit how this applies to seasonal work
  2. **Note** that the above proposals were the subject of public consultation from 19 April 2017 to 21 May 2017, with issues and alternative proposals raised as summarised in this paper
  3. **Note** that the public consultation process:

- a. did not raise any significant new issues but revealed larger than expected impacts in relation to proposal one, which is supported by further analysis of data
- b. did not raise any significant new issues or unexpected impacts in relation to proposals two and three
- c. raised a range of matters which should be prioritised in phase two of the review
- d. did not provide sufficient information to make final decisions on proposal four, meaning further work is needed as part of the priority actions in phase two of the review

*Proposal one: minimum remuneration thresholds*

4. **Agree** to introduce remuneration bands to help determine the skill level of the employment of an Essential Skills visa holder (and the associated visa conditions), including:
  - a. Setting the definition of **higher-skilled** as Essential Skills visa holders earning above 1.5 times the New Zealand median full-time equivalent earnings, and working in an occupation at any ANZSCO level
  - b. Setting the definition of **mid-skilled** as **EITHER**:
    - i. Essential Skills visa holders earning above 85 per cent of the New Zealand median full-time equivalent earnings, and working in an occupation at ANZSCO levels 1 to 3  
**OR**
    - ii. Essential Skills visa holders earning above 88 per cent of the New Zealand median full-time equivalent earnings, and working in an occupation at ANZSCO levels 1 to 3
  - c. Setting the definition of **lower skilled** as:
    - i. Essential Skills visa holders earning below the chosen mid-skilled remuneration threshold in recommendation 4b above, and working in an occupation at ANZSCO levels 1 to 3
    - ii. Essential Skills visa holders earning below 1.5 times the New Zealand median full-time equivalent earnings, and working in an occupation at ANZSCO levels 4 and 5
5. **Note** that the minimum remuneration threshold referred to in recommendation 4.a and 4.c.ii above is currently the equivalent of \$35.24 per hour, or \$73,299 per annum based on a 40-hour week
6. **Note** that the minimum remuneration thresholds referred to in recommendation 4.b above are currently the equivalent of:
  - i. \$19.97 per hour, or \$41,538 per annum based on a 40-hour week (recommendation 4.b.i), and
  - ii. \$20.67 per hour, or \$42,994 per annum based on a 40-hour week (recommendation 4.b.ii)
7. **Note** that the minimum remuneration thresholds referred to in recommendation 5 and 6 above will be updated annually after the Labour Market Statistics (Income) data on the median income for the June quarter is published in October each year
8. **Note** that setting the mid-skilled Essential Skills remuneration threshold below the SMC threshold reflects that mid-skilled workers are filling genuine shortages and are likely to meet the remuneration threshold required for SMC with further skills acquisition or work experience

*Proposals two and three: changes to conditions for lower-skilled Essential Skills visa holders*

9. **Agree** to introduce a maximum duration of three years for lower-skilled Essential Skills visa holders (as defined in recommendation 4c above), after which there will be a minimum one year stand down period, which they must spend out of New Zealand, before they can be granted another lower-skilled Essential Skills visa
10. **Agree** to the following changes to remove the ability of lower-skilled Essential Skills visa holders (as defined in recommendation 4c above) to support the visa applications of their family:
  - i. partners of lower-skilled Essential Skills visa holders will no longer be eligible for either a family-based work visa or visitor visa based on their relationship
  - ii. primary and secondary school age children of lower-skilled Essential Skills visa holders will no longer be eligible for a student visa with conditions containing 'Domestic Student' based on their parent's Essential Skills visa
11. **Note** that partners and children of lower-skilled Essential Skills visa holders would still be able to come to New Zealand if they met the requirements for a visa in their own right, or as a short-term visitor
12. **Agree** that transitional provisions will provide that:
  - i. the conditions referred to in recommendation 9 above will apply to the first Essential Skills visa applied for after these conditions come into effect (in August 2017) and will not take into account time previously spent on an Essential Skills visa
  - ii. partners and children of Essential Skills visa holder defined as lower-skilled under recommendation 4c above, who are legally in New Zealand when these conditions come into effect (in August 2017), will be eligible to remain on existing visa conditions so long as the Essential Skills visa holder is eligible to remain in New Zealand
13. **Agree** that, if the holder of a post study work visa transfers to an Essential Skills visa that is defined as lower-skilled under recommendation 4c above after August 2017, then they should not be entitled to support their partner or children to stay in New Zealand, unless they were entitled to support their partner or children while they were studying
14. **Note** that restricting the rights of holders of other temporary work visas to support partners and children to stay in New Zealand (under recommendation 10) will mean that partners or children who are legally in New Zealand may need to leave New Zealand, unless they are eligible for another visa in their own right
15. **Note** that the Minister of Immigration has directed officials to review whether changes should be made to the ability of holders of post study work visa to support their partners and children to come to New Zealand, unless they had the right to support partners and children to come to New Zealand while studying

*Proposal four: reinforce seasonal visa durations*

16. **Note** that submissions provided some support for the development of a seasonal policy for workers in seasonal occupations who spend a significant period outside New Zealand every year
17. **Note** that further engagement is needed with sectors that employ workers in seasonal occupations on how this proposal could be implemented, and this work has been incorporated into the priority work in phase two of the review, referred to in recommendation 20

*Other matters raised in submissions*

18. **Note** that during public consultation a number of submitters proposed expanding the South Island Contribution visa to apply nationally

*Phase two of the Temporary Visa Work Visa Settings Review*

19. **Agree** to further work on the following proposals as part of phase two of the review:
- i. adjusting the avenues available to access Essential Skills workers to incentivise more employers to become accredited
  - ii. exploring options for further targeting of immigration settings by regions or sectors, including where there are persistent localised labour shortages
  - iii. expanding the existing Accredited Employer (Labour Hire) programme nationwide
  - iv. strengthening the existing Essential Skills requirements to train and recruit local workers
  - v. reviewing the process for occupations being added to and remaining on the Essential Skills in Demand lists, and
  - vi. exploring whether further changes should be made to requirements for Essential Skills visas for seasonal workers and their employers.
20. **Agree** to prioritise exploring options for further targeting of immigration settings by regions or sectors as part of phase two in response to issues raised in consultation
21. **Direct** officials to report back to the Minister of Immigration and other relevant Ministers on the sectoral issues in recommendation 20 by December 2017
22. **Direct** officials to report back to the Minister of Immigration and other relevant Ministers on the regional issues in recommendation 20 by mid-2018
23. **Direct** officials to report back to the Minister of Immigration and other relevant Ministers on the remaining issues in recommendation 19 by December 2018

*Implementation, monitoring and publicity*

24. **Authorise** the Minister of Immigration to certify any immigration instructions required to implement these decisions and make minor policy decisions as necessary in line with the intent of these decisions
25. **Note** that, where appropriate, Immigration New Zealand Instructions may impose conditions, under section 49 of the Immigration Act 2009, on visa holders to give effect to these policy changes
26. **Note** that any change in third party fees and levies would roughly be offset by the corresponding change in work volumes and Immigration New Zealand will meet the costs of implementing the changes to Essential Skills visa policy settings, including additional verification activity, through current baselines, but that these costs will be reviewed as part of the Immigration Fee and Levy Review being undertaken in 2017/18
27. **Note** that officials will monitor the changes to the Essential Skills visa settings and report to the Minister of Immigration on the evaluation of the impacts of these changes after 12 months after they have been implemented
28. **Note** that I intend to announce the results of the *Temporary Visa Work Visa Settings Review* including agreement to progress the phase two proposals following Cabinet decisions
29. **Note** that I intend to proactively release this Cabinet paper as part of those announcements.

Authorised for lodgement

Hon Michael Woodhouse  
Minister of Immigration

Proactively released consistent with the Official Information Act

## Annex One: Detailed description of proposals for phase one

Table One: Summary of Proposals One and Two

Skill level	Proposal one: introduce remuneration bands to determine the skill level of an Essential Skills visa holder		Proposal two: introduce a maximum duration for holders of Essential Skills visas granted for lower- skilled jobs	
	Current	Proposed	Current	Proposed
Higher-skilled	ANZSCO skill level 1 and earning \$55,000 or more	Any ANZSCO skill level <b>AND</b> Earning above 1.5 times the NZ median (currently \$35.24 per hour).	Up to five years but can only be granted once	Up to five years, no restriction on the number of times this can be granted
Mid-skilled	ANZSCO skill level 1 and earning less than NZ\$55,000 <b>OR</b> ANZSCO skill level 1 and earning \$55,000 or more, but previously held a five year visa <b>OR</b> ANZSCO skill level 2 or 3	ANZSCO skill level 1-3 <b>AND</b> Earning above 85 or 88% of the NZ median (currently \$19.97 / \$20.67 per hour)	Up to three years, no restriction on the number of times this can be granted.	No change
Lower-skilled	ANZSCO skill level 4 or 5	ANZSCO skill level 1-3 <b>AND</b> Earning less than the 85 or 88% of the NZ median (currently \$19.97 / \$20.67 per hour) <b>OR</b> ANZSCO skill level 4 or 5 <b>AND</b> Earning less than 1.5 times the NZ median (currently \$35.24 per hour)	Up to one year, no restriction on the number of times this can be granted.	Up to one year, but with a three year maximum duration, to be followed by a one year stand down period.  The migrant would be required to spend the stand down period outside New Zealand.

Proposal three: restrict the ability of lower-skilled Essential Skills visa holders to bring partners and children		
Skill level	Current	Proposed
Higher-skilled		No change
Mid-skilled	Partner is eligible for an open work visa, dependent children may be granted student visas for compulsory schooling which allow study as domestic students	No change
Lower-skilled		Partners and children must be eligible for a visa in their own right Partners may apply for their own Essential Skills visa Children may apply for a student visa as an international student and would pay international fees

## Annex Two: Additional data to support paper

In May 2017 there were 38,482 Essential Skills visa holders in New Zealand. The tables below show the distribution of visa holders by job type and region.

This data comes from the SPELLS dataset which has been shown to include some minor errors. This dataset is currently going through a Quality Assurance Process and updated figures are not available. However, this data is unlikely to change by a substantial amount.

Fig 1: Top 20 jobs of Essential Skills visa holders in New Zealand as at 13 May 2017

Job title	Number of people	% of total
Chef	2,993	8%
Carpenter	2,123	6%
Dairy Cattle Farmer	1,887	5%
Dairy Cattle Farm Worker	1,290	3%
Cafe or Restaurant Manager	1,130	3%
Aged or Disabled Carer	999	3%
Retail Manager (General)	983	3%
Retail Supervisor	887	2%
Cook	542	1%
Metal Fabricator	471	1%
Truck Driver (General)	468	1%
Motor Mechanic (General)	377	1%
Painting Trades Worker	374	1%
Personal Care Assistant	351	1%
Massage Therapist	342	1%
Commercial Housekeeper	338	1%
Resident Medical Officer	301	1%
Winery Cellar Hand	297	1%
Scaffolder	293	1%
Registered Nurse (Aged Care)	292	1%

Fig 2: Regional distribution of Essential Skills visa holders in New Zealand as at 13 May 2017

Region	Number of people	% of total
Auckland	13,177	34%
Bay of Plenty	1,175	3%
Canterbury	9,214	24%
Gisborne	127	0%
Hawkes Bay	487	1%
Manawatu-Wanganui	525	1%
Marlborough	617	2%
Nelson	345	1%
Northland	491	1%
Otago	3,801	10%
Southland	1,046	3%
Taranaki	345	1%
Waikato	1,914	5%
Wellington	2,488	6%
West Coast	236	1%
Region Unknown*	2,494	6%
North Island total	20,729	54%
South Island total	15,259	40%
All New Zealand	38,482	100%

\*INZ holds information about the region of employment of all Essential Skills visa holders, but a proportion was not in a reportable format.

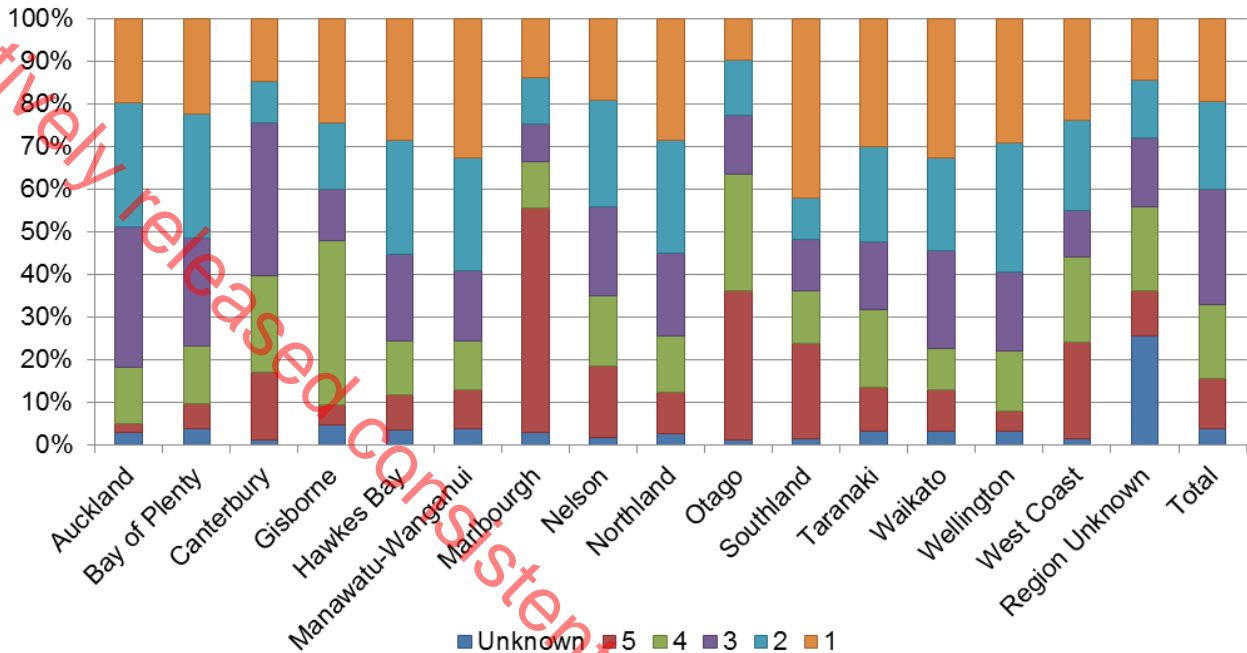
Fig 3: Top 5 Occupations by ANZSCO skill level of Essential Skills visa holders in New Zealand as at 13 May 2017

Skill Level 1	Dairy Cattle Farmer	Resident Medical Officer	Registered Nurse Aged Care	Sales/Marketing Manager	Marketing Specialist
Total 7,534	1,887	301	292	211	182
Skill Level 2	Chef	Café/Restaurant Manager	Retail Manager (General)	Massage Therapist	Office Manager
Total 7,892	2,993	1,130	983	342	237
Skill Level 3	Carpenter	Cook	Metal Fabricator	Motor Mechanic	Painting Trades Worker
Total 10,396	2,123	542	471	377	374
Skill Level 4	Aged or Disabled Carer	Retail Supervisor	Truck Driver	Personal Care Assistant	Scaffolder
Total 6,647	999	887	468	351	293
Skill Level 5	Dairy Cattle Farm Worker	Commercial Housekeeper	Winery Cellar Hand	Sales Assistant	Builder's Labourer
Total 4,567	1,290	338	297	269	195



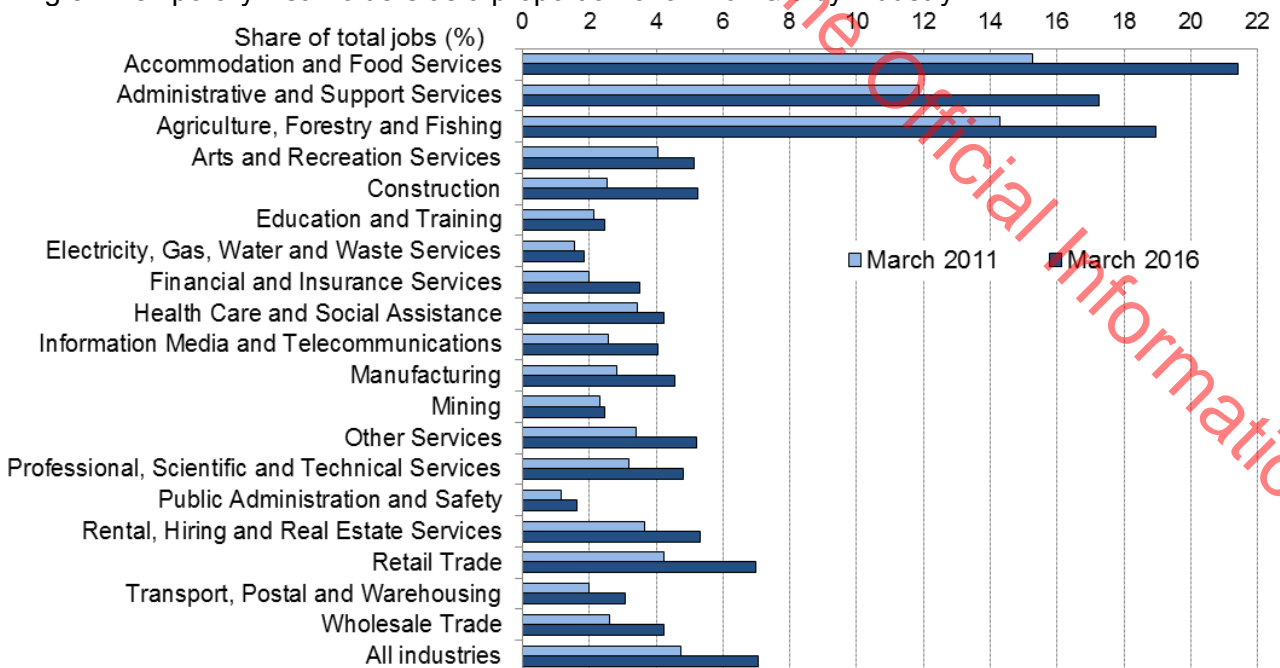
Occupations at ANZSCO skill level 4 and 5 are currently considered lower-skilled and only eligible for 12 month visas. Under the proposals in this paper, ANZSCO skill level 1-3 roles which are paid below the threshold of 85 per cent or 88 per cent of the New Zealand median full-time equivalent earnings (\$19.97 or \$20.67 per hour) will also be considered lower-skilled. Sampling indicates that the numbers of ANZSCO skill level 1-3 visa applicants paid below the threshold will differ across occupations and regions. The graph below shows the distribution of Essential Skills visa holder by ANZSCO level and region.

Fig 4: Essential Skills visa holders in New Zealand on 13 May 2017, by ANZSCO skill level 1-5



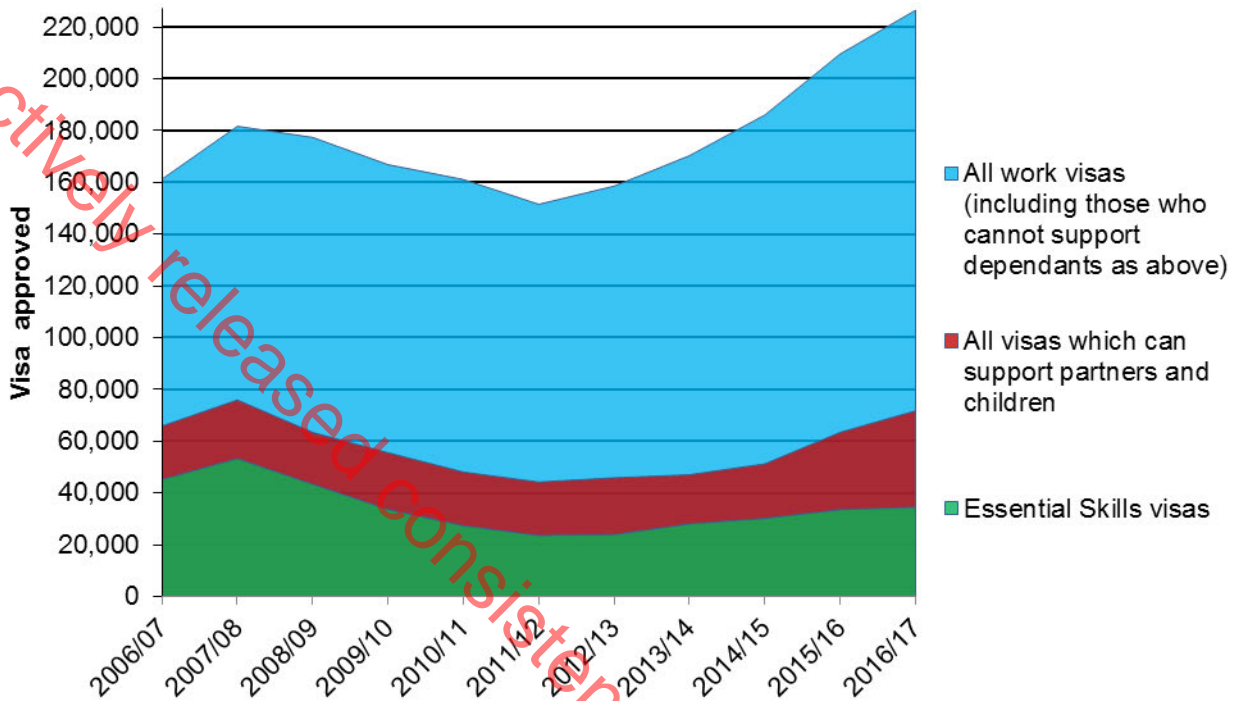
Essential Skills workers are a subset of all temporary workers. The graph below shows which industries temporary workers are employed in. This shows that the share of temporary workers has increased most in lower-wage and lower-productivity industries.

Fig 5: Temporary visa holders as a proportion of all workers by industry.



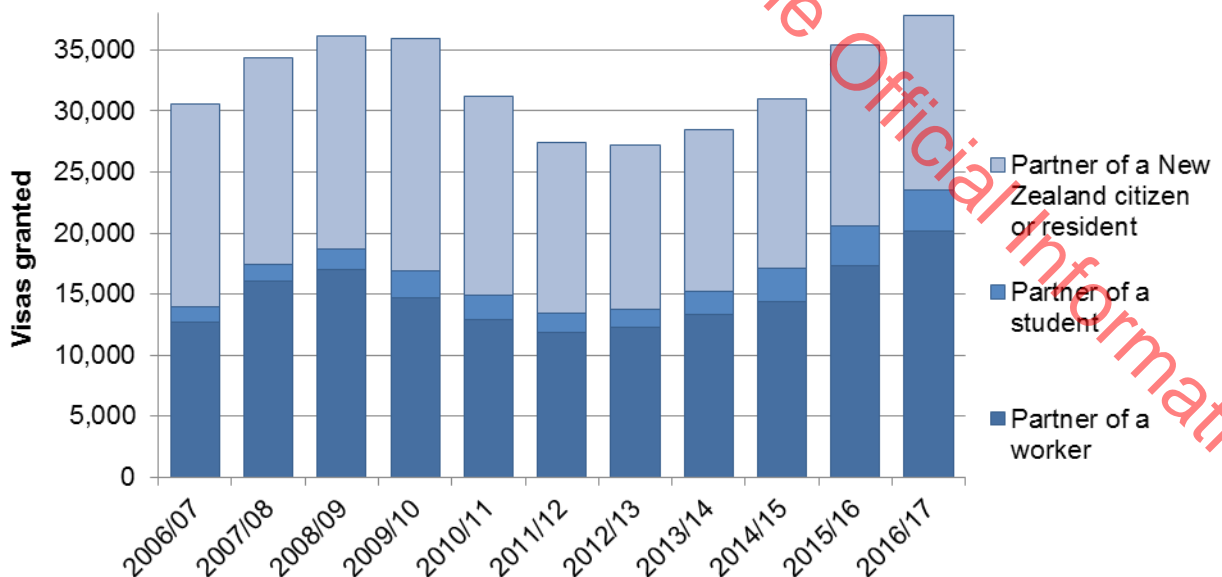
Under these proposals, lower-skilled visa holders would not be able to support work or student visas for their accompanying family members. There are currently a large number of work visa categories which cannot support dependant partners and/or children, such as working holiday visas, visas granted under the Recognised Seasonal Employment scheme, and visas granted for short period, such as the Specific Purpose visa.

Fig 6: Work visa granted, showing who can currently support a visa for their partner



In 2016/17 just under 38,000 partnership visas were approved. However, around half of these were for the partners of workers. These proposals will impact only the partners of lower skilled workers. The partners of New Zealand citizens or residents and the partners of student won't be affected

Fig 7: Partnership visas granted showing the status of the supporting partner



## **Annex Three: Detailed summary of submissions by sector**

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The Ministry of Business, Innovation and Employment received around 170 unique written submissions on the proposed changes. Submissions were received from industry associations, unions, individual employers, regional development agencies, researchers, immigration advisors and migrant workers. Many of the submitters were representing large groups of employers or workers (for example Business New Zealand, the Council of Trade Unions, and a number of large industry associations). Submissions were also made by large individual employers, including Progressive Enterprises (Countdown) and McDonalds Restaurants New Zealand.

Some broad contextual themes emerged consistently across sectors. Across the health, tourism, hospitality, construction and primary sectors, employer representatives indicated that there are serious labour shortages in particular regions and for particular occupations, and that these shortages will be exacerbated by the forecast growth in these industries. Reliable access to migrant labour is therefore seen as a critical factor in leveraging projected growth. These sectors noted that the proposed changes should be accompanied by a broader programme of work to encourage New Zealanders into shortage areas. Industry representatives have provided examples of their efforts to attract and retain New Zealand workers, but note that this has not been sufficient to meet growing labour needs.

A number of submitters proactively requested that the recently introduced South Island Contribution visa be extended to include Essential Skills workers in the North Island. This request was made by unions (including CTU), immigration advisors, visa holders, small business owners and individuals in the dairy, manufacturing, care and hospitality sectors.

While some general points were made consistently, submissions indicated that the proposed changes will have varying impacts across regions and sectors. This reflects a number of industry and regionally specific factors, including the demographic of each workforce, the labour intensity of the industry, and regional variation in living costs. The sector-specific impacts and challenges identified in the submissions are outlined below.

Responses to alternative proposals are included in italics below.

### **Business New Zealand**

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- Supports the proposal to introduce salary as an additional indicator of skill level, but has identified limitations with the remuneration threshold.
- Does not support aligning SMC and Essential Skills visas as the policies have different objectives.
- Supports the use of wage alongside ANZSCO, but note that the proposal will prevent some genuinely qualified, talented and motivated employees from being recognised as mid-skilled as they will fall below the median income.
- The use of national median incomes will disadvantage some regions and sectors and compound current skill shortages.
- There is potential for inflation of incomes and reduced numbers of international students.
- Supports the three year maximum duration and has no fixed view on the stand down period.
- Increased turnover increases business costs, and some may need to move operations overseas leading to fewer jobs for New Zealanders.
- Recommends that the administration processes must remain friendly to small businesses, and that the changes must be coordinated with programmes to enhance the labour market competitiveness of local marginal workers and those who are not in employment, education or training.
- Workers take visa conditions into account, so restrictions on bringing family could make New Zealand less desirable for temporary workers. However, the changes will reinforce the

temporary nature of visas, and New Zealand should continue to be seen as an attractive place to work given income differentials.

- BusinessNZ proposed the following:
  - decouple the Essential Skills thresholds from the Skilled Migrant Category thresholds and investigate a regional or occupational approach that reflects skill shortages extend mid-skilled option to ANZSCO skill level 4 and 5 occupations (the same way the high-skill level is open to skill levels 4 and 5), as this would be consistent with the stated intent and logic of the proposed changes

*Response: It is important that the Essential Skills thresholds align with SMC to prevent a pool of temporary migrants becoming well-settled here without a pathway to residence.*

- streamline the 'Approval in Principle' and 'Accredited Employer' schemes, and increase the use of existing 'Approved and Accredited employer' programmes
- review the 'Essential Skills in Demand' list and 'Labour Market Test' tools as they are administratively and compliance heavy

*Response: Enhancing these schemes will be explored as part of phase two.*

## Unions

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- Supportive of the intent, but consider that enhanced and robust labour market testing would better serve the sought result. The proposals do not address future workforce needs.
- The changes are unlikely to reduce employment disparities for vulnerable workers (such as migrant nurses in aged care).
- Concern that the proposed changes will deter migrants from coming to New Zealand, and that the proposed salary thresholds will result in fraud.
- The effect of family separation can be devastating for workers, their partners and their children
- The restrictions on bringing children are in breach of New Zealand's obligations under the International Convention on the Rights of the Child
- Concern for migrants whose eligibility for residency will change as a result of the proposal.
- Unions proposed the following alternatives:
  - set the lower-skilled threshold 50 cents above the minimum wage
  - use qualification level in place of a remuneration threshold
  - in general, unions recommended a more thorough classification of occupation than that which was proposed. These included:
    - a list of occupations by skill level should be developed and regularly reviewed in consultation with CTU, BusinessNZ and unions
    - a reference list of market wage rates for each occupation should be developed and regularly reviewed, and approval of Essential Skills visas should require on offer at or above the reference rate
    - robust and defensible labour market rates should be used to complement and not replace ANZCO classifications

*Response: It is important that the Essential Skills thresholds align with SMC to prevent a pool of temporary migrants becoming well-settled here without a pathway to residence.*

- all Essential Skills workers should be able to bring their families with them

*Response: The proposed change is necessary to align the ability to bring family with the ability to transition to residence, and reinforces the temporary nature of the visa.*

- retain the requirement to advertise with Work and Income and be issued with a skills match report and extend this requirement to all Essential Skills visas

*Response: Options to strengthen the existing requirements to train and recruit local workers will be explored in phase two.*

- the labour inspectorate should be increased substantially to address the exploitation of migrant workers

*Response: INZ and the Labour Inspectorate will continue to work to prevent exploitation of migrant workers*

- extend the South Island Contribution policy option to the North Island as well

*Response: This proposal has been noted in the Cabinet paper (refer paragraph 99)*

- the three year maximum should not be applied to migrants already in New Zealand

*Response: This would undermine the objective of making settlement expectations clear and preventing another pool of long-term temporary migrant workers in New Zealand without a pathway to residence.*

## Health (Aged Care)

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- The New Zealand Aged Care Association and the Home and Community Health Association strongly oppose the changes.
- The changes are expected to have a strong impact on the aged carer (ANZSCO level 4) workforce, exacerbating the existing workforce challenges, while there is no evidence of displacement of New Zealand workers.
- Three years is not sufficient for aged care workers to upskill (or gain an NZQA level four qualification). The increased turnover will therefore decrease the skill level of the workforce due to the high proportion on Essential Skills visas.
- There are major concerns that the three year maximum duration will result in discontinuity of care and this will have a negative impact on the wellbeing of elderly residents. The turnover will also be costly for providers.
- The restrictions on bringing family will make it more difficult to recruit migrant carers, as many bring family with them. The stress associated with the inability to bring family may compromise migrant carer's ability to provide quality care.
- The sector is concerned about the timing of these changes, given the current uncertainty about the workforce implications of the recent Pay Equity Settlement.
- The sector recommends the following:
  - increase the maximum duration to six years to enable aged care workers to upskill  
*Response: The maximum duration is not intended to be sufficient to allow enough time for all Essential Skills visa holders to gain skills and progress to the mid-skilled salary threshold, as this would put pressure on the NZRP.*
  - the stand down period should be no longer than three months, to ensure that qualified caregivers can return to the role without having lost skills  
*Response: This would undermine the policy objective of preventing temporary workers becoming well-settled without a pathway to residence.*
  - areas of greatest need of migrant caregivers (i.e. Auckland) should be exempt from labour market testing

- develop a formal pathway to residence should for aged care workers, which may be similar to the current Accredited Employer work-to-residence programme
- a comprehensive sector workforce engagement programme should be developed to help address existing shortages

*Response: Sectoral issues will be addressed as a priority action in phase two.*

## **Tourism and hospitality**

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- Does not support the use of remuneration as an indicator of skill level. The sector is concerned that it will be disproportionately affected by the changes due to the relatively low wage rates and challenges attracting New Zealanders to the sector.
- Three years is not sufficient for a worker to upskill, and this will impact on service levels and safety (especially in the adventure tourism space), while reducing the pool of talent from which to develop future leaders.
- This will have significant impact on workforce retention as the majority of workers in the tourism industry are earning below the lower threshold. Increased turnover costs are expected to be reflected in increased consumer prices.
- The sector is relatively less concerned about the restrictions on bringing family, due to the demographic of workforce, but note that workers who come with their family are generally more motivated to succeed.
- Additional administration required will take time away from training locals and migrants
- Concern regarding additional pressure on students to work longer than allowed
- Increase in price of goods/services may lead to more people consuming alcohol in unregulated environments
- There are concerns that the Labour Market Test process is not working well for the sector.
- Recommends that further consideration of regional and sector-specific labour requirements, incentives for employers and training pathways for New Zealanders (i.e. Phase Two work) takes place before these changes are implemented.
- Recommends that bonus payments are included in the assessment of the remuneration level.
- The following alternatives were proposed:
  - the median wage should apply to all skill levels (not just ANZSCO levels 1-3) use the level of training or recognised prior learning to determine skill (similar to the current use of ANZSCO), instead of using remuneration occupations on the skills shortage (ESID) lists should be exempt from the remuneration threshold  
*Response: It is important that the Essential Skills thresholds align with SMC to prevent a pool of temporary migrants becoming well-settled here without a pathway to residence.*
  - Increase the maximum duration from three to five years, and include special dispensation for workers undertaking training/upskilling that will enable them to meet the conditions for a mid- or higher-skilled visa  
*Response: The maximum duration is not intended to be sufficient to allow enough time for all Essential Skills visa holders to gain skills and progress to the mid-skilled salary threshold, as this would put pressure on the NZRP.*
  - after three years with the same employer, an Essential Skills worker should be able to stay in New Zealand  
*Response: This would undermine the policy objective of preventing temporary workers becoming well-settled without a pathway to residence.*
  - replace the stand-down period with a one year training pathway or student equivalent visa for those in training

*Response: This could result in unreasonable pressure on the NZRP as temporary workers seek to transition to SMC, and undermine the purpose of reinforcing that temporary means temporary for lower-skilled workers.*

- partners should be granted visas of six months to one year to find work that meets the requirements for an Essential Skills visa, as it is difficult for both partners to look for work at the same time

*Response: This will be managed through the development of immigration operational guidance.*

- consult further on the occupations that could be seasonal

*Response: This will be addressed in phase two.*

- introduce a specific visa for adventure tourism guides (as is the case for Japanese Interpreters)

*Response: Sector specific issues will be addressed as a priority action in phase two.*

## **Dairy and pork**

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- The changes are perceived to be addressing urban issues that are not relevant to regions.
- There is some support for using wages alongside ANZSCO to determine skill levels, but major concern about the lack of ANZSCO classification for Herd Managers and similar mid-skilled farm roles, which are misclassified as ANZSCO level 5.
- The maximum duration will result in a loss of trained staff and increased business and recruitment costs as despite best efforts there is a lack of New Zealand citizens and residents willing and able to work rurally.
- This will create health and safety issues with understaffing, staff turnover, and forcing people into roles they do not want.
- Firms will be unable to absorb newcomers from training programmes without the core of trained staff.
- The restrictions on bringing family will result in the erosion of rural areas as partners and children add to communities and support schools and services. This will create a pool of itinerant mostly male workers in rural areas, possible social issues and low integration.
- This will exacerbate mental health issues and related lack of staff retention in rural areas
- Firms will be unable to recruit migrant workers because countries like Canada offer more favourable terms and pathways to residence.
- The following proposals were recommended:
  - develop a way for Herd Managers and similar skilled rolls on farms to be considered mid-skilled (possibly through a review of ANZSCO)
  - place the role of Herd Manager on the skills shortage lists
  - consider regional variation of wages

*Response: ANZSCO, sector-specific and regional issues will be addressed as priority actions in phase two.*

  - consider that farming provides accommodation and provides non-wage benefits

*Response: Remuneration level will be determined by the guaranteed minimum pre-deduction salary or wage. In this way, additional components of a remuneration package could be factored in if they are fairly valued and deducted from the salary or wage rate.*

  - increase the maximum duration

*Response: The maximum duration is not intended to be sufficient to allow all Essential Skills visa holders to gain skills and progress to the mid-skilled salary threshold, as this would put pressure on the NZRP.*

  - allow workers to bring partners and children if they can afford to support them

*Response: This proposal is necessary to align the ability to bring family with the ability to transition to residence, and reinforces the temporary nature of the visa.*

### **Other primary industries (including the meat industry, forestry, fishing and wine)**

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- Other primary industry bodies were not supportive of the changes, noting similar concerns to the dairy sector.
- The industry noted that good monitoring and reporting on the impacts will be important to ensure that the changes are not restricting growth.
- New Zealand Wine noted that due to regional variations in wages, some regions may be more affected than others.
- The meat industry is concerned that there is no relevant mid-skilled ANZSCO role for halal slaughterers.
- The meat industry noted that seasonality differs across the country.
- It is important to distinguish between seasonal roles and seasonal tasks that fall within a full-time role. Seasonal roles are important for enabling access to a consistent source of time limited international skills.
- The following alternatives were proposed:
  - if a migrant has been contributing to New Zealand for more than five years they should be able to stay  
*Response: This would undermine the policy objective of preventing temporary workers becoming well-settled without a pathway to residence.*
  - a pathway to support upskilling existing lower-skilled stock people to mid-skilled people would mitigate the turnover costs.
  - forestry workers should be added to the skills shortage lists  
*Response: Sector specific issues will be addressed as a priority action for phase two.*

### **Manufacturing and engineering**

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- Overall, there is very mixed support for the proposals in the manufacturing and engineering sector.
- Some consider that using salary as an indicator of skill will allow migrant workers to gain more favourable visa conditions. Others, however, are concerned that pay levels are lower in certain industries and regions, deterring migrants and increasing turnover.
- Unable to increase staff wages because raising product prices will price them out of the market.
- Three year maximum duration strikes a reasonable balance between delivering skills and allowing workers to upskill.
- Turnover will increase recruitment costs (including flights) and training costs. It will also mean a loss of skills, knowledge and labour productivity. These workers will easily find work overseas.
- Maximum duration will negatively impact firms' ability to plan and disrupt team continuity, which is especially important on larger, longer term projects.
- All proposed changes will deter suitable migrant workers from choosing New Zealand; family restrictions will damage the health and wellbeing of migrant staff.
- Partners of Essential Skills visa holders may displace local workers.
- There is only anecdotal evidence that Essential Skills visa holders expect a pathway to residence.
- The following alternatives were proposed:
  - salary thresholds should be more nuanced to reflect regional/sectoral variations
  - consider special dispensations for regions/sectors with particularly tight labour markets or other constraints that limit remuneration rates



*Response: It is important that the Essential Skills thresholds align with SMC to prevent a pool of temporary migrants becoming well-settled here without a pathway to residence*

- lower-skilled workers who can prove that they have acquired skills in a shortage area, and are essential to the business operation, should be able to apply for a further visa for another three years, with no stand down period

*Response: This would undermine the policy objective of preventing temporary workers becoming well-settled without a pathway to residence. The maximum duration is not intended to be sufficient to allow a long enough time for all Essential Skills visa holders to gain skills and progress to the mid-skilled salary threshold, as this would put pressure on the NZRP.*

## Construction

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- The Registered Master Builders Association of New Zealand and the Building Industry Federation expressed some support for the use of wages alongside ANZSCO and the five year visa for higher-skilled workers.
- Many skilled construction roles will meet or exceed the proposed thresholds, but some mid-skilled occupations will now be considered lower-skilled (including carpenters).
- The requirement for lower-skilled workers to reapply for a new visa every twelve months will add to companies' compliance costs. This will disproportionately impact small to medium businesses where wages tend to be lower.
- The impacts of the three year maximum duration will depend on whether the current 'boom' business cycle in the industry continues.
- Source countries could shift to relatively low-wage countries, which will still see New Zealand as desirable.

## Retail

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- Retail New Zealand and other retail employers do not support the proposals.
- Salary threshold levels are seen as unreasonably high and will disproportionately impact some sectors.
- The maximum duration will lead to increased costs and recruitment difficulties, and will reduce the pool of overseas candidates, which could restrict economic growth.
- The restrictions on partners and children will make New Zealand a less attractive place for migrants.
- It is important that fair transitional arrangements are in place so employers and employees have the opportunity to manage impact, thereby protecting New Zealand's international reputation as a destination for global job seekers.
- The following alternatives were proposed:
  - salary thresholds should be set by the sector to enable a more realistic indicator of skills within industries
  - decrease the mid-skilled threshold (proposals include 80 per cent of median, \$21, \$22)
  - occupations on the skills shortage lists should be considered mid- or higher-skilled
  - Response: It is important that the Essential Skills thresholds align with SMC to prevent a pool of temporary migrants becoming well-settled here without a pathway to residence.*
  - consider whether regional or industry-specific exceptions are needed
  - Response: Regional- and sector-specific issues will be addressed as a priority action for phase two.*
  - allow migrants that show a commitment to upskilling and being productive, to have a pathway to residency, including for their partners and dependent children

*Response: The maximum duration is not intended to be sufficient to allow all Essential Skills visa holders to gain skills and progress to the mid-skilled salary threshold, as this would put pressure on the NZRP.*

## **Regional bodies (including chambers of commerce, regional development agencies and councils)**

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- There are significant concerns that there is no regional (or sectoral) variation to the salary thresholds. This will impact on ability of regions to compete with urban areas for migrant workers.
- There is some support for using salary as an indicator of skill level on the basis it may encourage employers to pay more (and therefore attract New Zealanders).
- The less favourable visa conditions will deter migrant workers, making New Zealand (and the regions in particular) less able to attract Essential Skills workers.
- Three years is not long enough for a lower-skilled worker to progress into a higher salary band. Progression to more senior roles often depends on availability of more senior roles (i.e. someone vacating a position).
- Business costs associated with recruitment and training will increase, and businesses will lose experienced, capable staff.
- The migrant turnover will be disruptive to local communities.
- Limiting the ability for an Essential Skills visa holder to bring their family will harm migrants and communities. Partners are also an important part of the regional labour market.
- Phase two of the review looking at persistent localised labour shortages will be critical.
- The following alternatives were proposed:

- salary thresholds should reflect regional (and sectoral) variations and living costs in different areas

*Response: It is important that the Essential Skills thresholds align with SMC to prevent a pool of temporary migrants becoming well-settled here without a pathway to residence.*

- increase the maximum duration to four or five years to support businesses where training may take longer than three years

*Response: The maximum duration is not intended to be sufficient to allow all Essential Skills visa holders to gain skills and progress to the mid-skilled salary threshold, as this would put pressure on the NZRP.*

- visa holders should be made more aware of the limitations of the visa rather than introduce new conditions that limit families.

*Response: This proposal is necessary to align the ability to bring family with the ability to transition to residence, and reinforces the temporary nature of the visa.*

- Labour market conditions of a specific area should determine visa conditions.

*Response: Regional- and sector-specific issues will be addressed as a priority action for phase two.*

- Changes should be monitored and feedback from businesses sought to assess impact.

*Response: An evaluation and monitoring framework will be developed to determine the scope of the evaluation, what information is required, and how the information will be collected.*

## Immigration advisors

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- Concern that sectors facing skill shortages will be adversely affected as workers will go elsewhere, costs of recruitment will increase and trained staff will be lost.
- The proposals will lead to a 'guest worker' scheme, which has negative connotations and would be unnecessarily harsh on migrant labour.
- Sectors most affected will be dairy, health, tourism, retail and hospitality.
- Small businesses likely to be most affected.
- The following alternatives were proposed:
  - consider the median wages by sectors and region instead of the national median
  - develop a pathway for people in ANZSCO skill levels 4 and 5 to be considered mid-skilled

*Response: It is important that the Essential Skills thresholds align with SMC to prevent a pool of temporary migrants becoming well-settled here without a pathway to residence.*

  - extend the South Island Contribution policy option to the North Island as well

*Response: This proposal has been noted in the Cabinet paper (refer paragraph 99)*

## Migration Researchers (Auckland University)

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- Do not support the proposed changes. Research shows that this type of programme creates a 'guest worker' system with negative outcomes for migrants and for residents. Canada, Singapore and South Korea have all observed greater inequality and social issues, alongside minimal integration from similar systems.
- Some jobs could become stigmatised as low wage migrant work.
- Brokers could become more involved in the market and profit from more complex rules.
- Workers have more dependence on employers, which makes people more vulnerable and subject to accept worse conditions.
- New Zealand could risk our reputation for enlightened global citizenship that provides New Zealand a better voice in international settings, could also affect our access to global markets
- Migrants should be able to make their own choices about whether they can support their family during time in New Zealand
- Transience in specific sectors like aged care and dairy will reduce the quality of services and productivity.
  - If people have worked for several years in an area where there is demonstrated ongoing need for migrant labour, regardless of income level, they should have a pathway to residence and not be forced into transience.

*Response: The maximum duration is not intended to be sufficient to allow enough time for all Essential Skills visa holders to gain skills and progress to the mid-skilled salary threshold, as this would put pressure on the NZRP.*

## Annex Four: International comparison

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United Kingdom	The UK has no specific route for lower-skilled migrant workers (and currently draws lower-skilled workers from the EU).
Australia	Employers can only hire lower-skilled workers through a labour hire agreement, and are generally required to pay the Temporary Skilled Migration Income Threshold (currently AUD53,900). However, Australia does recognise some skilled occupations that are not captured by ANZSCO; most notably senior dairy farm workers. The lack of ANZSCO classification for this role will be addressed as a priority action for Phase Two (refer paragraph 68).
Canada	Some provinces offer residence to lower-skilled workers across a range of industries. However, the lower-skilled stream of Canada's federal temporary work visa program requires that children pay international student rates to attend school, and spouses are not eligible for an open work permit unless they have first completed a labour market impact assessment (similar to our labour market test process).
United States	Employers may recruit migrant workers for lower-skilled labour where there are no US workers qualified and available for the job, but this must be for temporary work only (i.e. a seasonal, peak-load, intermittent, or one-time need). The maximum period of stay in this classification is three years. Family members may seek admission, but are not eligible for employment in the United States while on a dependent visa.