



COVERSHEET

Minister	Hon Andrew Little	Portfolio	Immigration
Title of Cabinet paper	Cyclone Response: Immigration options	Date to be published	10 November 2023

List of documents that have been proactively released		
Date	Title	Author
August 2023	Cyclone Response: Immigration options	Office of the Minister of Immigration
16 August 2023	Cyclone Response: Immigration options DEV-23-MIN-0171 Minute	Cabinet Office
17 February 2023	Cyclone Response Workforce Demands and Potential Immigration Responses	Ministry for Business, Innovation and Employment
17 February 2023	Immigration response to Cyclone Gabrielle – supporting A3	Ministry for Business, Innovation and Employment
21 February 2023	Immigration options to support the response to the early 2023 extreme weather events	Ministry for Business, Innovation and Employment
24 March 2023	Aide Memoire - Recovery Visa	Ministry for Business, Innovation and Employment
20 April 2023	Next steps for the Recovery Visa	Ministry for Business, Innovation and Employment
5 May 2023	Update on Cyclone Response Immigration Options	Ministry for Business, Innovation and Employment
31 May 2023	Draft Cabinet paper: Cyclone Response – Immigration options	Ministry for Business, Innovation and Employment
9 August 2023	Material to support your item at Economic Development Committee on 16 August: Cyclone response – Immigration options	Ministry for Business, Innovation and Employment

Information redacted

YES / NO (please select)

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld to maintain the privacy of natural persons and to protect the free and frank expression of opinions.



BRIEFING

Next steps for the Recovery Visa

Date:	20 April 2023	Priority:	High
Security classification:	In Confidence	Tracking number:	2223-2852

Action sought		
	Action sought	Deadline
Hon Michael Wood Minister of Immigration	Agree to conclude the operation of the Recovery Visa Agree to forward this briefing with your decisions to other EWR Ministers	24 April 2023

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Andrew Craig	Manager, Immigration Policy – Skills and Residence	04 901 1245	Privacy of natural persons	✓
Rachel Carruthers	Senior Policy Advisor	04 830 7379		
Ella Pearce	Graduate Policy Advisor	04 896 5760		

The following departments/agencies have been consulted

Minister's office to complete:

Approved

Noted

Seen

See Minister's Notes

Declined

Needs change

Overtaken by Events

Withdrawn

Comments



BRIEFING

Next steps for the Recovery Visa

Date:	20 April 2023	Priority:	High
Security classification:	In Confidence	Tracking number:	2223-2852

Purpose

To provide advice on:

- closing the Recovery Visa
- ending the refund of fees and levies for the Recovery Visa, and
- analysis of options for a streamlined pathway for existing Recovery Visa holder to access the Accredited Employer Work Visa

Executive summary

On closing the Recovery Visa

The Ministry of Business, Innovation and Employment (MBIE) recommends you close the Recovery Visa as soon as practicable. This visa was set up when labour market demand for the rebuild was uncertain, and priority was placed on getting urgent response workers into New Zealand for short-term roles.

No end date was made for the Recovery Visa, and it was agreed that successful applicants would receive a fee and levy refund.

The reasons for closing the Recovery Visa as soon as practicable are:

- The extreme weather recovery is shifting from urgent response to longer-term recovery and rebuild, and the need for a surge of urgent workers to assist with clean-up is declining (and the short-term workforce is secured);
- There is a risk that a continued influx of migrants for roles that have not been tested against the labour market will have a displacement effect on New Zealanders;
- These settings undermine the Accredited Employer Work Visa (AEWV) and wider Rebalance settings, and there is increasing evidence that this visa is being fraudulently used to avoid the more stringent AEWV; and
- The funding secured to cover refunds has now been exceeded and any future refunds are to be met from Immigration New Zealand (INZ) baselines.

INZ has been increasing their verification activity in the face of the increasing volumes of fraudulent claims. The decline rate is currently around 20 per cent and is expected to rise further still.

The Specific Purpose Visa (SPV) will remain a channel for highly-skilled roles coming to New Zealand to do critical short-term work (like engineers and insurance assessors). If you would like to leave the visa open, there are some adjustments to Recovery Visa settings that could be made to help mitigate the risks noted above:

- Require applicants to be taking up a role with an accredited employer (recommended): this would provide more compliance options if fraudulent activity is detected;

- Introduce a median wage threshold: to align with existing immigration settings. However, this would be resource intensive and effectively duplicates the AEWV with fewer benefits.

Settings for future workforce needs

You have asked for advice on settings to facilitate access to longer-term visas for existing Recovery Visa holders and new applicants coming to New Zealand to support future phases of the recovery and rebuild.

This question is dependent on the pace and scale of the rebuild, which is still being considered, and the impacts on the domestic workforce. It does not require a quick workforce response. Workforce Plans are being developed across agencies. Our advice is that, ahead of decisions being taken on these Plans, the current immigration settings (under AEWV and SPV) are appropriate to enable the recruitment of skilled workers to support the rebuild. Some 'not recommended' options that could be progressed now are outlined in this paper.

Recommended action

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

a **Note** that:

- a) There has been higher-than expected demand for the Recovery Visa with more than 1,750 applications received,
- b) More than 1,000 applications have been approved, and Crown funding for the refund of successful application fees has been exceeded, and
- c) The risk of fraudulent or otherwise non-genuine applications for the Recovery Visa has grown, as identified by Immigration New Zealand

Noted

- b **Note** that a Workforce Plan is being developed to support Ministers as they work through labour supply issues as part of the response to severe weather events, and further advice will be provided to you about bespoke immigration settings to support specific workforce needs, if there is evidence that normal Accredited Employer Work Visa settings are not sufficiently facilitative

Noted

Recovery Visa next steps

c **Agree** to:

EITHER

- a) the immediate closure of the Recovery Visa and refunds for successful applications, meaning future recruitment of workers for the rebuild will be done via the Accredited Employer Work Visa (**MBIE's recommendation**)

Agree / Disagree

OR

b) a suite of settings to implement from the below table:

<i>Options for future of the Recovery Visa</i>	<i>Options to transition existing Recovery Visa holders</i>	<i>Options to facilitate longer-term migrant workforce for the rebuild</i>
One of:	Some of:	Any of:
Immediate closure of the Recovery Visa and refunds (recommended)	EITHER Require Recovery Visa holders to apply for the Accredited Employer Work Visa if they wish to remain (recommended)	Use Accredited Employer Work Visa or existing residence pathways
Yes / No	Yes / No	Yes / No
Immediate end to the refunds and close the Recovery Visa on announcement of additional rebuild support	OR Use the Order in Council to extend Recovery Visas by three months (not recommended)	Remove Accredited Employer Work Visa advertising requirements for key roles covered by the Recovery Visa
Yes / No	Yes / No	Yes / No
Close the Recovery Visa and refunds on the announcement of additional rebuild support (not recommended)	OR Adapt the Recovery Visa into a three-year work visa with further requirements (not recommended)	Remove Accredited Employer Work Visa advertising requirements for roles covered under the Construction and Infrastructure Sector Agreement
	Yes / No	Yes / No
	Fee waiver for Accredited Employer Work Visa migrant applications from existing Recovery Visa holders seeking to continue in the same role	Expand the roles covered by the Construction and Infrastructure Sector Agreement
Yes / No	Yes / No	Yes / No
		Reduce and/or freeze the wage threshold for Construction and Infrastructure Sector Agreement roles
		Yes / No

- d **Agree** that Immigration New Zealand will meet further refunds for successful Recovery Visa applications from Crown revenue underspend for the 2022/23 financial year, and will redirect up to \$1.179 million for this purpose, if necessary, and report back for a decision on other funding options (Crown or fees and levies) as this limit is approached

Agree / Disagree

- e **Agree** to forward this briefing to Extreme Weather Recovery Ministers for their comment after you have taken decisions

Agree / Disagree

Privacy of natural persons



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

Hon Michael Wood
Minister of Immigration

20 / 04 / 2023

..... / /

Context

1. The Recovery Visa was announced and went live on 24 February 2023 and was to provide a very quick pathway for employers to access labour urgently needed to support the immediate response to Cyclone Gabrielle and the Auckland floods. Priority was placed on getting extra workforce here quickly when the short-term and ongoing needs were still uncertain. To enable fast processing, a high trust model with very few checks and no wage threshold was established. The risks of this approach included people using this pathway to bypass Accredited Employer Work Visa (AEWV)/Rebalance settings. To manage these risks, you agreed that the Recovery Visa would have a six-month duration only, limiting the time people would be onshore without an assessment of their skills, character, and health.
2. Application fees would be refunded for successful applicants. These refunds were and are to be met by Crown funding and funds were initially sought to cover 1,000 refunds. This was a high-level estimate of the applications to be received based on inflows seen immediately after other extreme weather events and natural disasters. No end date for the visa or refunds was agreed.
3. The Recovery Visa was established to support the recovery at the early stages where there was very limited information on labour market needs. Since then, further work has been put in place to identify workforce needs and issues (i.e., the Workforce Plan commissioned by EET Ministers). We suggest additional visa settings in response to rebuild-associated labour market demands are best discussed in this cross-agency context. The Workforce Plan will be discussed by EET Ministers on 4 May. We are moving into a phase of the response where there is less urgency in bringing people in from overseas in emergency situations and employers can be expected to better plan for their workforce needs. There is a risk that continuing with the Recovery Visa may result in an influx of migrants that do not meet our longer-term labour market needs.

Uptake for the Recovery Visa has exceeded expectations, and has focused on lower-skilled roles

4. Since the Recovery Visa opened and as at 18 April 2023, Immigration New Zealand (INZ) has received 1,751 applications in total, with 1,071 approved, 265 declined/withdrawn and 412 are awaiting processing. This is significantly higher than anticipated – based on observations following Christchurch and Kaikoura earthquakes, officials tentatively estimated that we would only receive up to 1,000 applications.
5. From the applications received, the majority of applicants are one of three nationalities: India with 624 applications (36 per cent), China with 521 applications (30 per cent), and Vietnam with 332 applications (19 per cent). Very few applicants have been from the Pacific (less than 40 applications). The top three occupations applied for are builder's labourer with 574 applications (33 per cent), commercial cleaners with 140 applications (8 per cent), and labourers not elsewhere classified with 127 applications (7 per cent).
6. Of the applications received, 1,040 (59 per cent) are from accredited employers and 709 are from non-accredited employers (41 per cent). Of the applications already approved, 676 were from accredited employers and 393 applications were from non-accredited employers.

Agreed funding for refunds has been exhausted and there are growing risks of fraud and exploitation across the category

7. Crown funding has been secured to cover refunds for the first 1,000 successful applicants, which has now been exceeded. INZ is obligated to keep refunding fees and levies for successful applicants until either there are no more Recovery Visa approvals (because the category has closed) or until you revoke the Special Direction on refunds you previously issued. INZ is currently forecasting a Crown revenue underspend of \$5.8 million for the 2022/23 financial year and has agreed that \$1.179 million will be redirected to meeting further refunds if necessary. This would cover an additional 1,600 refunds.

8. Throughout April, there has been growing evidence that the Recovery Visa is being deliberately used by organised operations to target vulnerable potential migrants not normally able to obtain a work visa. These migrants are also unlikely to meet requirements to stay in New Zealand longer-term, including as part of the rebuild workforce.
9. In response to this changing risk profile, INZ has increased verification activities for Recovery Visa applications, resulting in steadily increasing decline rates. In the first few weeks of operation there were no declines, but these have grown to 18 per cent of applications processed to date. The decline rate for the week ending 16 April had reached 20 per cent. This is much higher than the two per cent standard for other types of Specific Purpose Work Visas (SPV). There are also increasing rates of visas being cancelled before travel where fraud is detected after a visa is granted. Where INZ has detected patterns of fraud and started declining visa applications or cancelling visas, the market has quickly adjusted to using different types of fraud that are more resource-intensive to detect. This makes it increasingly difficult to process applications within the seven-day processing timeframe.
10. INZ has evidence that there are 'hidden agents' actively promoting the visa in high-risk markets as a quick and easy way to obtain a work visa without having to meet AEWV requirements. There are reports of job offers being sold for large sums of money (up to \$33,000), a factor that puts migrants at much higher risk of exploitation as they need to pay back debts incurred. Reporting also shows the Recovery Visa being discussed as a potential gateway to New Zealand for asylum claims. These issues appear widespread throughout the main source countries for the Recovery Visa. They have been identified through monitoring of publicly available social media and discussion forums, reports from partner countries and from interviews with applicants themselves.
11. Fraud and exploitation risks are most present for people seeking visas for lower-skilled, lower-paid roles. Applicants who have skills and better paying jobs are more likely to have other visa options available and are generally not subject to the same push factors that motivate low-skilled workers to seek to enter New Zealand. INZ provided you a breakdown of occupation and pay level showing a high proportion of lower-paid, lower-skilled jobs [2223-3085 refers]. The risk is the same across accredited and non-accredited employers.
12. Should the visa category remain open, it is likely these issues will continue to grow as there is a high global demand for what is seen as an 'open' New Zealand work visa (not linked to a particular employer). Low-skilled workers who arrive on this pathway are vulnerable to exploitation as they lack legitimate pathways to remain working in New Zealand. This is especially true of those who have incurred significant home-country debt to pay for the job offer and visa facilitation.

We recommend closing the Recovery Visa

13. When designing the Recovery Visa, the expectation was that this visa would support recruitment of migrants needed in the immediate clean-up phase only. Other visa products, which support both long term and temporary pathways, are more appropriate for those looking to stay to support the longer-term rebuild, which could take years. However, as it was unclear at that time when efforts may shift from immediate response and clean-up to longer term rebuild, no end date was put on the Recovery Visa.
14. We recommend closing the Recovery Visa as soon as practicable. Based on current intelligence and insights, there has been no reports of an increased demand or shortage of clean-up phase workers. There has also been a slight but noticeable increase in Jobseeker – Work Ready numbers in the most affected regions. This suggests that there are low-skilled workers who are readily available for clean-up related roles. Additionally, continuing operation of the Recovery Visa can undermine the integrity of the AEWV and the Rebalance objectives. This is demonstrated by the cases identified by INZ, where the Recovery Visa is being advertised as a way to avoid the AEWV requirements.

15. You could choose to close the Recovery Visa as further rebuild support is announced, which could align immigration decisions with the Workforce Plan (currently scoping rebuild labour needs). Assuming an announcement as part of Budget '23, this could see the category closed in late May/early June. Note the Recovery Visa could be closed operationally within one week of decision.
16. However, as the labour need is shifting, there is a funding shortfall, and concerns about the misuse of the pathway and misalignment with wider immigration settings, we recommend a shorter timeframe. The following options are available:
 - a. The immediate closure of the Recovery Visa category (RECOMMENDED): this approach will most quickly and completely address the concerns about the misuse of the pathway and misalignment with AEWV and wider immigration settings. We recommend the closure of the category take effect from the time of the announcement. Any lag between announcement and the category closure will likely lead to a spike in applications, with a heightened risk that many may be fraudulent.

This approach minimises the financial burden for INZ and will not materially impact the supply of workers for clean-up, recovery, and rebuild roles. There are alternative visas available that will enable employers to recruit migrants for recovery and rebuild roles, including the general SPV and the AEWV. These visa categories all have more requirements that applicants need to meet, which will help mitigate against the risks and negative effects seen with the Recovery Visa.
 - b. Immediate end to refunds and close the visa in May/June: this approach minimises the financial burden for INZ and maintains rebuild-aligned approach but does not address concerns about future workforce needs, the misuse of the pathway and alignment with wider immigration settings.
 - c. Keep the Recovery Visa open and continue to issue refunds until June (NOT RECOMMENDED): this approach retains the greatest risk of non-genuine use of the pathway which could lead to exploitation of the migrants recruited and of the immigration system. Further, there are known risks that those who enter New Zealand on this visa will not be able to qualify for future work visas under the AEWV and may seek asylum. This also represents the greatest financial burden to INZ. The vast majority of people entering on the Recovery Visa are coming for low-skilled roles (builders' labourer and domestic cleaners), which could potentially be filled by people on Jobseeker – Work Ready or other benefits if this group increases.
17. Regardless of when the category is closed, we will need to fund further refunds from INZ baselines, as we have already exceeded 1,000 approved applications. We are seeking your agreement to approve an additional 1,600 refunds. As this limit is approached, we will report back to seek a decision on either: ceasing refunds, providing additional Crown funding, or agreeing that further will be covered by other fees and levies.

Should you choose to delay closing the Recovery Visa, we recommend imposing further visa requirements to mitigate immigration system risks

18. The options we have identified below could, in part, mitigate immigration system risks, however, we consider that these are resource intensive changes, and the risks would be better managed by directing applicants to the AEWV. You could:
 - a. Require applicants to have a role with an accredited employer: we do not think that requiring accreditation will reduce the risk of fraudulent applications (INZ have identified concerns with accredited employers already), but it does provide more compliance actions when fraudulent applications are detected.
 - b. Impose a median wage threshold: this would better align with existing immigration settings but would be resource intensive and effectively duplicates the AEWV with

fewer benefits. Additionally, this would not necessarily address the concerning behaviour, as non-genuine applicants could provide fraudulent information, and could increase the risk of migrant exploitation.

Streamlining the transition to longer-term visas for existing Recovery Visa holders

19. You have also sought advice on options for streamlining transitions to longer-term visas for existing Recovery Visa holders, who will have received visas of up to six months duration at most. We have provided options transitioning existing Recovery Visa holders and also for facilitating access for new applicants to longer-term visas (Table One overleaf).
20. We have assumed further streamlining of the transition of existing Recovery Visa holders to longer-term visas should:
 - a. support rebuild labour demand,
 - b. ensure available jobs are first offered to New Zealanders (especially those who have been displaced by the recent extreme weather events),
 - c. support the integrity of the immigration system (including the AEWV/Rebalance principles and settings), and
 - d. minimise the financial impact and processing burden for INZ.
21. INZ will send proactive communications to existing Recovery Visa holders as their visa nears expiry informing them of their visa options if they wish to remain in New Zealand longer-term.
22. The majority of the options outlined in the table below carry risks and have resource implications which are not outweighed by the potential benefits. The Recovery Visa was intended to be a short-term visa for those needed for the immediate clean-up efforts, and there is evidence that the labour market need is shifting to align with rebuild efforts. The skills required in the longer-term recovery may differ from the short-term needs, and so it is prudent to require existing visa holders to complete the full AEWV application process until the rebuild skills needed becomes clearer.
23. Even though information on labour market need is still emerging, officials' view remains that for migrants seeking to work on the rebuild longer-term the AEWV and SPV settings are fit for purpose in the medium and long term. Approximately 60 per cent of employers who have utilised the Recovery Visa already hold accreditation and we consider that it is feasible for non-accredited employers to become accredited in order retain Recovery Visa holders long term. The average AEWV processing time frames (from accreditation to work visa) is 29 days. Given all Recovery Visa holders will have at least four months remaining on their visas, this is sufficient time for both employers and migrants to prepare AEWV applications. In other cases where jobs do not meet AEWV requirements, the SPV can fill the gap to ensure key recovery roles are being filled to meet the labour market demand.

Table One: options to facilitate access to longer-term work visas for both existing Recovery Visa holders and new applicants

Option	Delivery against objectives	Benefits	Risks	Implementation considerations
Use Order-in-Council (OIC) to extend existing Recovery Visas	xx	Limited impact on INZ processing. Extends existing clean-up workforce, enabling them to meet early recovery/rebuild needs.	Extends period visa holders are onshore with no job check or medical check (noting that the top three nationalities for Recovery Visa holders are from tuberculosis risk countries). Involved process and long timeframes to implement.	Requires work from ICT vendors to automatically extend visas. It may require re-prioritisation of other scheduled work such as system changes required to implement the partnership changes agreed to as part of the immigration rebalance.
Remove AEWV advertising requirements for key roles covered by the Recovery Visa (cleaning and construction roles)	x	Speeds up AEWV process for employers and applicants.	Potential displacement of New Zealanders whose jobs have been displaced due to the cyclone. Long timeframes to implement and reprioritisation of ADEPT changes will be needed.	This would require a system change to ADEPT. It may require re-prioritisation of other planned ADEPT changes such as those required to implement recent changes to the AEWV agreed to as part of the Skilled Migrant Category review. Would be applied to roles nationally, and so could be used for non-rebuild purposes.
Remove AEWV advertising requirements for roles covered under the Construction and Infrastructure Sector Agreement	•	Speeds up AEWV process for employers and applicants. Unlikely to displace New Zealanders, because of known longer-term demand (outside of rebuild) for these skillsets across all skill levels.	Long timeframes to implement and reprioritisation of ADEPT changes will be needed.	This would require a system change to ADEPT. It may require re-prioritisation of other planned ADEPT changes such as those required to implement recent changes to the AEWV agreed to as part of the Skilled Migrant Category review. Would be applied to roles nationally, and so could be used for non-rebuild purposes.
Expanding the roles covered by the Construction and Infrastructure Sector Agreement	✓	Allows us to better cater to rebuild-linked labour demand when aligned with the Workforce Plan. Gives employers access to workers at lower wage thresholds, meaning they can recruit for a wider skill range.	Progress will be demand until clearer picture of workforce need emerges. Long timeframes to implement and reprioritisation of ADEPT changes will be needed.	This would require a system change to ADEPT. It may require re-prioritisation of other planned ADEPT changes such as those required to implement recent changes to the AEWV agreed to as part of the Skilled Migrant Category review. Would be applied to roles nationally, and so could be used for non-rebuild purposes.
Reduce and/or freeze the wage threshold for Construction and	✓	Easier for businesses to access migrants for lower-skilled roles (demand for this	Potential migrant wellbeing concerns, due to rising cost of living.	Would be applied to roles nationally, and so could be used for non-rebuild purposes.

Infrastructure Sector Agreement (e.g., return to 2022 rate of \$25 per hour)		has increased with rebuild efforts).		
AEWV fee waiver for migrant work visa applications from existing Recovery Visa holders seeking to continue working in the same role	•	Supports retention of existing clean-up workforce, enabling them to meet early recovery/rebuild needs.	Most visa holders are in lower skilled roles, so likely to be low uptake. Further Crown funding would need to be secured (indicatively between \$1-2 million).	Possible to implement without any system changes, however, would place additional resource demands on either within the Immigration Contact Centre or visa process to support it. As a result, there would be operational impacts on the performance of these areas.
Adapt the current Recovery Visa to allow current holders to re-apply with more requirements than the current visa (including a wage threshold) and offer for a longer visa length	x	Increased restrictions may address some key concerns with current Recovery Visa.	Unlikely to achieve different outcomes to the AEWV. Most holders of the visa are unlikely to meet additional restrictions given low rates of pay and skill level.	Would require continued visa processing resource dedicate to Recovery Visa processing. Would be more resource intensive than current settings because more requirements increase the amount of visa assessment needed.

Next steps

24. We are of the view that it is in your power to close the Recovery Visa and end refunds without seeking Cabinet agreement, as Cabinet only noted your intent to establish the category. However, we recommend consulting with your EWR Ministerial colleagues.
25. The Recovery Visa category can be closed within one week of your decision, and we recommend closure from the time of announcement. However, should you wish to provide public notice of the closure of the category, we recommend any notice period be as short as possible to minimise a spike in potentially fraudulent Recovery Visa applications.
26. Subject to any decisions on the options to facilitate access to longer-term work visas for both existing Recovery Visa holders and new applicants, we will provide a further briefing with the implementation advice.
27. We will continue to monitor workforce needs associated with the response as part of the Workforce Plan being developed by EET Ministers and provide you with advice on immigration levers to support the response. We are unable to provide further analysis of the merits of any options ahead of decisions about the rebuild pace, workforce needs, and evidence of any immigration challenges (e.g., if employers engaged in the rebuild cannot afford to hire builders' labourers at \$28 per hour).