

In Confidence

Office of the Minister of Immigration

Chair, Cabinet Economic Development Committee

## Immigration settings to support KiwiBuild

### Proposal

- 1 This paper asks you to note the package of changes that I intend to make to the immigration system in order to support the Government's KiwiBuild Programme and promote growth in housing supply. I also seek your agreement to consult with construction sector stakeholders and others on this proposed package.

### Executive Summary

- 2 Well-managed immigration is essential to our economic and social success as a country. My key immigration priorities are to:
  - 2.1 Better match the skills New Zealand needs with the skills New Zealand gets in order to improve the contribution of immigration to the labour market outcomes of New Zealanders
  - 2.2 Tackle the exploitation of migrants
  - 2.3 Review New Zealand's approach to Pacific migration issues
  - 2.4 Increase New Zealand's refugee intake
  - 2.5 Make immigration system improvements and contribute to the security of New Zealand's borders.
- 3 Annex One provides a summary of the upcoming papers I intend to take to Cabinet for the immigration portfolio. The summary outlines how they align with my portfolio priorities and the Government's wider economic, labour market, foreign relations and security objectives.
- 4 Current immigration system settings are fairly enabling for migrant workers to work in New Zealand's construction sector, where there is a shortage. Migrants already make an important contribution to the sector's workforce.
- 5 The immigration system has an important role to play in delivering the government's KiwiBuild Programme.
- 6 I want to ensure that immigration settings are calibrated to supplement the domestic labour market for construction, support the specific requirements of KiwiBuild and drive better labour market outcomes from the construction sector. The settings also need to:
  - 6.1 ensure that New Zealand workers are able to realise the benefits of stronger construction demand and are considered first for employment and training opportunities, and

- 6.2 minimise the risk of poor outcomes, such as displacement of New Zealand workers, lower wages and exploitation of migrants.
- 7 To achieve these aims, it will be important to ensure that immigration settings move in sync with procurement decisions on KiwiBuild and also the wider Construction Skills Strategy, which aims to improve the capability and capacity of the construction workforce in the medium to long term. Immigration settings need to supplement the sector in the short term, until we see the impacts from domestic activity, and be flexible enough to be adapted to meet changing needs and requirements over time.
- 8 As a first step, I have asked officials to develop the following time-limited package of changes:
- 8.1 **A KiwiBuild Skills Shortage List** to provide an expedited process to fill specific roles in which we know demand exceeds domestic supply
- 8.2 **An employer accreditation or alternative pre-approval model for the construction sector** to provide certainty and flexibility for employers who exhibit good practices to recruit overseas workers and allow for simplicity and speed of processing visa applications, and
- 8.3 **Specific requirements for labour hire companies** to manage the risk of exploitation of migrant workers.
- 9 I intend to consult on this package of proposed changes with the construction sector and other stakeholders. Where appropriate, this consultation will be part of the targeted consultation on the Action Plan to deliver the Construction Skills Strategy (the Action Plan), to ensure consistency and coherency.
- 10 Following this, I intend to work with my colleagues on the Ministerial Construction Workforce Group and the Future of Work Ministerial Group and bring key decisions back to this Committee for agreement.

## Background

- 11 Significant numbers of migrants already come to New Zealand to take up work opportunities in construction. Migrant workers have made a significant contribution to the Canterbury rebuild effort in particular. Construction is considered a high-demand sector by Immigration New Zealand, meaning that considerable effort is put into marketing the opportunities in New Zealand to offshore markets.
- 12 Visa approvals show Essential Skills (temporary work visas) is the dominant category for workers coming into New Zealand in construction-related occupations. Residence approvals confirm that people are also transitioning to residence from temporary visas for construction-related occupations.
- 13 In 2017/2018, approximately 11,277 Essential Skills visa holders (a temporary work visa) and Skilled Migrant Category resident visa holders were working in 'construction related occupations' based on ANZSCO1 classifications. This does not count other visa holders where no occupation is recorded (such as Working Holiday makers or partners of New Zealanders) working in construction and, given that it counts the number of workers in New Zealand on a given day, it misses those who are out of the country temporarily.

---

<sup>1</sup> The Australian and New Zealand Standard Classification of Occupations (ANZSCO) provides information used by INZ to check the skill levels of jobs, and the qualifications and/or experience needed to work in those jobs.

- 14 The United Kingdom and South Africa are the main source countries for migrants filling highly-skilled roles in the sector and the Philippines, China and Fiji for tradespeople, middle and lower-skilled roles.

## Comment

### *The role of the immigration system in supporting the KiwiBuild Programme*

- 15 KiwiBuild provides a unique opportunity for the construction sector to invest in innovation and skills development for the longer term, by increasing confidence in the future level of demand and investment in residential construction. To support the transformation of the sector, and its approach to workforce development, the Ministerial Group on the Construction Workforce has developed a Construction Skills Strategy and an Action Plan. The Action Plan sets out initiatives to address labour and skills shortages in the sector, drawing on education and welfare levers and the role of industry.
- 16 Migrant workers will continue to be needed to deliver on the KiwiBuild Programme, which is a priority for this Government, which requires a step up in the scale and pace of residential development.
- 17 Increasing demand for new housing and infrastructure has exposed shortfalls across all skill levels in construction. The Ministry of Business, Innovation and Employment (MBIE) in late 2017 indicated a shortfall of about 30,000 workers. Occupations that are expected to experience the largest growth in demand for employment from 2016 to 2022 include trades such as plumbers (15 per cent over the period), electricians (14 per cent), project builders (12 per cent), and professional occupations such as civil engineers and construction project managers (both 12 per cent).
- 18 These projections are based on occupational data from the 2013 Census, and assume the continued use of current methods of construction. Given that we expect to see greater uptake of modular housing using prefabrication as part of KiwiBuild, there remains some uncertainty about what response is needed from the immigration system to meet demand for workers.
- 19 Historically, the construction sector has tapped into workers not employed in the construction sector to help to meet peaks of demand. This is unlikely to be sufficient to meet demand for both KiwiBuild development and other forecast construction activity and is not a sustainable solution. Overseas workers are going to be needed to meet the shortfall, at least in the short term.
- 20 The objectives I have set for the immigration system to support KiwiBuild and skill and workforce development in the construction sector are to:
- 20.1 provide employers with easy access to offshore skills to support KiwiBuild, when these are not available locally
  - 20.2 provide guaranteed labour in the short term, where this is needed
  - 20.3 provide a mechanism to improve labour market outcomes, such as increased productivity and a higher wage economy, for example by incentivising firms and the sector to invest in workforce development, and
  - 20.4 achieve these objectives in a way which manages risks to labour market outcomes, including displacement of New Zealand workers, lower pay and exploitation of migrants.

*The proposed package of immigration changes*

- 21 The proposals that best meet these objectives are:
- 21.1 **A KiwiBuild Skills Shortage List** to provide an expedited process to fill specific occupations in which we know demand exceeds domestic supply
  - 21.2 **An employer accreditation or alternative pre-approval model for the construction sector** to provide certainty and flexibility for employers who exhibit good practices to recruit overseas workers and allow for simplicity and speed of processing visa applications, and
  - 21.3 **Specific requirements for labour hire companies** to manage the risk of exploitation of workers.
- 22 I have directed officials to work through the detail needed to progress this package of changes and will bring back the specific details to Cabinet for agreement.
- 23 Immigration settings will need to keep pace with KiwiBuild procurement decisions and be in sync with the construction skills strategy, so that they are responsive to changes in demand and supply in the construction sector workforce. I intend for the package of changes to be time-limited, so that it does not create a dependency on migrant workers and signals a requirement for employers and industry to plan for the future workforce.
- 24 The package will need to be flexible enough to be adapted to specific needs and requirements over time. I will ensure its operation is monitored closely to ascertain when further changes are warranted.
- 25 Construction is considered a high-demand sector by Immigration New Zealand (INZ), meaning that considerable effort is already being put into marketing opportunities in offshore markets by INZ. It is likely that announcements regarding the KiwiBuild package will be favourably received by overseas media, generating an increase in interest from potential KiwiBuild employees. A programme of activity, including public relations, search and social media, co-ordinated by INZ could be used to increase to existing pool of candidates. INZ would then work with employers to engage with this pool.

*A KiwiBuild Skills Shortage List*

- 26 Most construction workers come into New Zealand on an Essential Skills temporary work visa. Before granting an Essential Skills work visa INZ will conduct a 'labour market test' (LMT). The Immigration Officer must be satisfied that the employer has made a genuine attempt to attract and recruit New Zealand citizens or residence class visa holders and that there are no New Zealanders available.
- 27 An LMT is not required for occupations listed on the Essential Skills in Demand (ESID) lists. These lists are valued by the construction sector, particularly the Immediate Skills Shortage List (ISSL) and the Canterbury Skills Shortage List (CSSL), as they provide certainty and reduce cost and delay for both employers and migrants. Seven construction-related occupations were added to the ISSL in February 2018.

28 A dedicated KiwiBuild Skills Shortage List, which signals regional shortages, will provide two distinct advantages over the current system:

28.1 It allows successful innovations from the CSSL to be adopted nationwide. [REDACTED]

s 9(2)(f)(iv)

s 9(2)(f)(iv)

28.2 It provides a mechanism to boost overseas interest in work opportunities in New Zealand.

29 The CSSL is a tool aimed at supporting the Canterbury rebuild effort. My intention is to replace this with the KiwiBuild Skills Shortage List.

*An employer accreditation or alternative pre-approval model for the construction sector*

30 I have a review underway, at the system level, to assess how well immigration policies are incentivising good employment practices, initially focussed on the Accredited Employer Policy (AEP). I am concerned that current settings for the AEP, in particular, are not delivering the outcomes sought and present risks to the integrity of the immigration system. The review will help to identify specific settings to apply to the construction sector, or parts thereof as appropriate. I am expecting to bring a paper to Cabinet s 9(2)(f)(iv) seeking agreement to publically consult on this issue.

31 I also want to offer a premium product specifically for good employers in the construction sector. This will provide them with certainty and flexibility regarding their ability to hire overseas workers and therefore the ability to plan their workforce. The pre-approval of employers will allow for INZ to offer simplicity and speed of processing visa applications which benefits both employers and migrants.

32 There will be a high bar for accreditation for the construction sector. The definition of a good employer might include adhering to certain standards in the areas of: health and safety; employment conditions and pay; training; pastoral care; and robust business practices.

33 I am considering incentivising employers to achieve these higher standards by offering a higher value proposition than existing settings. s 9(2)(f)(iv)

34 In this way, I intend to use immigration settings to support the improved labour market outcomes sought by this Government. I will be discussing with my colleagues across both the building and construction and employment-related portfolios which obligations the immigration system should place on employers.

35 The scale of the KiwiBuild Programme provides opportunities beyond the immigration system to drive the sector to transform and invest capital in innovation and skills development for the longer term. I note, for example, that the KiwiBuild “Invitation to Participate” for the “buying off the plans” initiative will include skills and training as part of the evaluation criteria. I will explore with my colleagues the most appropriate overall system settings.

#### *Specific requirements for labour hire companies*

36 Labour hire companies are employers who employ and outsource workers for short- or long-term positions to third parties with whom the employer has a contractual relationship to supply labour. They are a prominent feature of New Zealand’s construction sector, managing the sector’s short-term demand for labour and taking on the risk and uncertainty regarding the future demand for work. Many recruit migrant workers.

37 Mandatory accreditation of labour hire companies operating within Canterbury and in the construction sector was introduced in July 2016 to reduce the exploitation of migrants and the associated undercutting of wages and conditions of New Zealand workers. There has been an ‘opt-in’ accreditation policy in place nationwide since July 2015.

38 INZ will rescind a labour hire company’s accreditation where the company does not comply with specified conditions and obligations, including paying at least the market rate for the occupation, offering employment terms and conditions equivalent to those of workers directly employed by the company with whom the worker is placed, meeting all upfront and ongoing costs of the recruitment of a worker under the Essential Skills instructions and ensuring that any third party to whom they hire out a migrant worker has good workplace practices.

39 There are advantages to labour hire companies being accredited: workers can get a 3-year work visa for all roles, which benefits, in particular, those in lower-skilled roles that normally only receive 12-month Essential Skills visas.

40 Given that risks of exploitation can be anticipated in the KiwiBuild Programme, I am considering broadening the current labour hire accreditation policy for Canterbury to cover all construction sector roles, nationwide.

#### *Next steps*

41 Officials are continuing to work on the details of the package outlined in this paper.

42 I propose that, where appropriate, the package of immigration changes outlined in this paper is part of the targeted consultation with construction sector stakeholders on the Action Plan to deliver the Construction Skills Strategy, to ensure consistency and coherency.

#### **Consultation**

43 The following Departments have been consulted on this paper: Te Puni Kōkiri, Ministry of Social Development, Ministry of Education, Ministry for Pacific Peoples, Ministry for Women, Tertiary Education Commission, the Treasury and the Department of Prime Minister and Cabinet.

#### **Financial Implications**

44 There are no financial implications arising directly from this paper.

## Human Rights

- 45 There are no inconsistencies between the proposals in this paper and the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993.

## Legislative Implications

- 46 There are no legislative or regulatory implications associated with the proposals in this paper.

## Publicity

- 47 I intend to make a press release announcing the proposed immigration package to support KiwiBuild with a view to this being included as part of the consultation on the Action Plan to deliver the Construction Skills Strategy.

## Recommendations

The Minister of Immigration recommends that the Committee:

- 1 **note** the objectives which I have set for immigration system to support the KiwiBuild Programme:
  - 1.1 To provide employers with easy access to offshore skills to support KiwiBuild, when these are not available locally,
  - 1.2 To provide guaranteed labour in the short-term, where this is needed,
  - 1.3 To provide a mechanism to improve labour market outcomes, such as increased productivity and a higher wage economy, for example by incentivising firms and the sector to invest in workforce development, and
  - 1.4 To achieve these objectives in a way which manages risks to labour market outcomes, including displacement of New Zealand workers, lower pay and exploitation of migrants.
- 2 **note** that the key elements of the package that best deliver on these objectives will be:
  - 2.1 **A KiwiBuild Skills Shortage List** to provide an expedited process to fill specific roles in which we know demand exceeds domestic supply;
  - 2.2 **An employer accreditation or alternative pre-approval model for the construction sector** to provide certainty and flexibility for employers who exhibit good practices to recruit overseas workers and allow for simplicity and speed of processing visa applications; and
  - 2.3 **Specific requirements for labour hire companies** to manage the risk of exploitation of workers.
- 3 **note** that the package will be flexible to accommodate the emerging KiwiBuild Programme and the Construction Skills Strategy and also time-limited, so that it does not create a dependency on migrant workers and signals a requirement for employers and industry to plan for the future workforce.

- 4 **agree** that the package of changes to immigration settings outlined in this paper is included as part of the targeted consultation with construction sector stakeholders on the Action Plan to deliver the Construction Skills Strategy.
- 5 **note** that following the consultation I will work with the Ministerial Group on the Construction Workforce, and the Future of Work Ministerial Group to refine the package as necessary and bring key decisions back to this Committee for agreement.

Authorised for lodgement

Hon Iain Lees-Galloway

Minister of Immigration

RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982