



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)

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

In Confidence

Office of the Minister of Immigration
Cabinet Economic Development Committee

Cyclone Response – Immigration options

Proposal

- 1 This paper seeks your agreement to:
 - 1.1 close the Recovery Visa to new applications;
 - 1.2 implement a short extension for current holders of Recovery visas who are in New Zealand; and
 - 1.3 add a small number of occupations to the Construction Sector Agreement to support the rebuild.

Relation to government priorities

- 2 This paper supports the Government's response, recovery and rebuild objectives for the northern and eastern parts of the North Island, following a declaration of a National State of Emergency on 14 February 2023.

Executive Summary

- 3 In response to the weather events in February 2023, Cabinet agreed to establish an extreme weather event recovery visa [DEV-23-MIN-0014] to provide a streamlined pathway for employers to access labour urgently needed to support the immediate response and clean up.
- 4 The Recovery Visa provided a quick pathway for employers to get the labour they urgently needed to deal with the immediate aftermath of the extreme weather events. However, as we move beyond the initial response phase of the recovery, it is important to consider the best use of the immigration system to support our labour needs.
- 5 Since the Recovery Visa was implemented, uptake for the visa has exceeded expectations. However, originally agreed funding to provide refunds to successful applicants has been exhausted, applications for the visa have focussed on lower skilled roles; and there is evidence of fraud and exploitation. While we are still building a clear picture of rebuild projects and their associated workforce needs, we are able to better assess how other immigration settings can be used to meet any emerging labour shortfalls over the longer-term.
- 6 In that context, I am proposing to make three changes to immigration settings to support the government's ongoing cyclone response: closing the Recovery Visa to new applications immediately after decisions in this paper are

announced; implementing a short extension for current holders of Recovery visas to support those who want to stay transitioning to longer-term work visas; and adding a small number of occupations to the Construction and Infrastructure Sector Agreement to support the recovery.

- 7 Additions to the Sector Agreement will allow more roles to be paid a minimum of \$26.69 per hour, which enables employers to access migrants in lower skilled or entry-level roles paid below the median wage of \$29.66 (one of the requirements under the Accredited Employer Work Visa (AEWV)).
- 8 Civil Contractors New Zealand (CCNZ) recommended a list of roles to be added to the Sector Agreement, generated by sector input. However, feedback received both by unions and agencies consulted on this work opposed the addition of any roles. To strike a balance between facilitating and supporting any recovery related workforce needs and responding to the views received, I am recommending that a short list of occupations is added to the Sector Agreement.

Background

- 9 Between 12 and 16 February 2023, Cyclone Gabrielle caused significant damage to northern and eastern parts of the North Island. These impacts came after some regions were already in states of emergency due to flooding and have since been compounded by further rain across the affected regions.
- 10 In response to these weather events, Cabinet agreed to establish an extreme weather event recovery visa [DEV-23-MIN-0014]. The Recovery Visa was subsequently announced and went live on 24 February 2023 to provide a streamlined pathway for employers to access migrant labour urgently needed to support the immediate response and clean up.
- 11 The Recovery Visa has enabled employers to meet urgent and evolving labour needs in response to the extreme weather events. There has been extensive uptake of the visa, with the majority of visa holders applying for roles as building labourers, general labourers, carpenters, or cleaners. These are the sort of roles we expected to be needed for the immediate recovery. However, as we transition to the longer-term rebuild, it is important to assess whether the Recovery Visa remains the best vehicle to support our labour needs.
- 12 Our understanding of rebuild labour needs is improving, though gaps remain, and we can assess how other immigration settings can be used to meet any labour shortfall (including existing work visa settings). We expect the rebuild to drive new activity and create new labour demands and an initial demand pipeline for prospective rebuild projects has been compiled by Te Waihanga with support from the Construction Sector Accord. However, funding, prioritisation and sequencing decisions on individual projects will drive actual demand for skills and labour. Subject to these decisions, we expect there to be ongoing labour market needs for construction in affected regions.

I am proposing to make three changes to immigration settings to support the government's cyclone response

- 13 There are multiple factors prompting consideration of the best approach to supporting the response and recovery at this time:
- 13.1 Uptake for the Recovery Visa has exceeded expectations: Since the Recovery Visa opened, Immigration New Zealand (INZ) has received 2,586 applications in total, with 1,446 approved, 1,113 declined/withdrawn and 27 awaiting processing¹. These volumes have been significantly higher than anticipated.
 - 13.2 Agreed funding for refunds has been exhausted: In part due to the higher-than-expected application volumes, the Crown funding which was secured to cover refunds for successful applications for the first 1,000 successful applicants has now been exceeded. In response, INZ has identified Crown revenue underspend to continue funding applications to date.
 - 13.3 Uptake for the visa has focussed on lower skilled roles and there is evidence of fraud and exploitation across the category: Throughout April, there was growing evidence that the Recovery Visa was being deliberately used by organised operations to target vulnerable potential migrants not normally able to obtain a work visa. People have been paying and turning up for non-existent jobs, and INZ is currently declining over 80 percent of new applications received. These migrants are also unlikely to meet requirements to stay in New Zealand longer-term, including as part of the rebuild workforce.
 - 13.4 A clear picture of rebuild projects and their associated workforce needs is still emerging: An understanding of the recovery workforce requirements will continue to evolve over time and will need to take account of regional recovery plans, government decisions regarding investments and prioritisation of key projects, and how to sequence projects to reduce bottlenecks of workforce supply. While updates on potential workforce demand are developing, domestic workforce and other supply factors will take time to clarify and there is no evidence to date of clear barriers to recruitment.
- 14 Due to the considerations noted above, I am proposing to:
- 14.1 close the Recovery Visa to new applications;
 - 14.2 implement a short extension for current holders of Recovery visas who are in New Zealand, to support their transition to other work visas, should they choose to stay; and

¹ As at 5 August 2023.

- 14.3 add a small number of occupations to the Construction and Infrastructure Sector Agreement to support the ongoing response and recovery efforts.

Now is the right time to close the recovery visa to new applications

- 15 The Recovery Visa has served its purpose – providing certainty for employers in the immediate clean up stage that they would be able to access labour and a quick pathway for recruitment. However, this initial phase of the recovery is ending, and until we know more about specific recovery future workforce needs, workers can be recruited on an AEWV.
- 16 Based on current and available information, the current AEWV settings (and residence pathways) remain fit for purpose for the next phase of the response. Workers needed for roles for anywhere between one and five years can obtain an AEWV². Specialists coming in for short-term projects (for example, insurance assessors, engineers, or major machinery operators) can continue to use the existing Specific Purpose Visa pathway (as was occurring before the Recovery visa was introduced). If evidence of barriers to recruiting essential workers emerge, I propose that a targeted solution (using immigration or another lever) could be developed at that point.
- 17 On that basis, I recommend closing the Recovery Visa to new roles immediately after decisions in this paper are announced.

I consider it appropriate to provide a short visa extension to current Recovery Visa holders in New Zealand

- 18 In order to streamline the transition to longer-term work visas, I propose that a short visa extension is made available for those currently onshore and holding a Recovery Visa. This is intended to provide current visa holders sufficient time and notice to complete the necessary steps for an AEWV application, should they intend to stay and continue working in New Zealand.
- 19 The duration of the extension will be three months. This is the likely amount of time needed for an employer to apply for accreditation under the AEWV system, complete a job check to demonstrate the role they want to fill cannot be filled by a New Zealander, and request a migrant worker to apply for a visa.
- 20 While any visa extension risks allowing people with undisclosed health or character issues to remain in New Zealand for longer, these will be checked at the AEWV application point, should an individual choose to stay and continue working here. This extension is primarily intended to support the transition of people on a Recovery Visa to longer-term work visas, maintaining the current workforce where labour demand remains.
- 21 While the Ministry for Primary Industries agrees that an endpoint for the Recovery Visa is necessary, it notes that a longer period than three months may be required to support those looking to transition to an AEWV. I consider

² Subject to meeting visa conditions including the relevant wage threshold.

that three months strikes the right balance between supporting those who want to stay and work in New Zealand and mitigating any risks associated with this cohort remaining onshore with no job check or medical checks undertaken.

- 22 Eligibility for a visa extension would apply to current Recovery Visa holders, who:
 - 22.1 are in New Zealand at the date of announcement; and
 - 22.2 hold a current job or job offer in a cyclone recovery related role.
- 23 These eligibility conditions are designed to prevent a potential influx of visa holders arriving in New Zealand principally motivated to secure more time on their visa and enable INZ to check that the applicant is in employment, ensuring that they will be able to make the transition to an AEWV in due course (should they choose to).
- 24 I am proposing that the visa extensions are processed at no cost to successful applicants, which will require a manual refund issuing process. This supports the intent of facilitation for this extension, with anyone who goes on to stay and work here needing to meet the full costs of an AEWV application (costing \$750). People who are declined an extension because their work is fraudulent or they do not meet the eligibility criteria will not have their application refunded. Officials advise that the cost of processing extensions can be met by 2022/23 Crown revenue underspends (provided not everyone who currently holds a visa applies for the extension). More detail on this is included in the financial implications section of this paper.
- 25 Officials recommend that this extension is facilitated by a change to immigration instructions, enabling eligible visa holders to apply for the extension. They have also advised that there is a processing burden associated with facilitating these extensions, however with the main visa closed, this would most likely be resourced by that existing resource.

Operational implications for the visa extension

- 26 Officials propose re-purposing the existing online form for the Specific Purpose Recovery Visa for the 3-month extensions. Using the existing form is efficient; however, it will mean that applicants who are applying from outside New Zealand will not receive any warning messages to inform them that the pathway has closed to new applicants and is now only available as a 3-month extension when they are making their application. As a result, there may be a number of applications received from people who are ineligible³. Officials recommend managing this risk through targeted communications, including updates to the website, emails to current visa holders and relevant forms.
- 27 Furthermore, the online application form will require applicants to upload a copy of their Tuberculosis screening documents. This can be managed by a

³ However, if any additional changes were required to the form, it could not be done in the required timeframe to implement these changes.

workaround, wherein INZ requests (via communications) that when making an application, applicants instead upload a letter confirming they are applying for an extension of their Recovery Visa and therefore the Tuberculosis requirement does not apply.

Adding roles to the Construction and Infrastructure Sector Agreement

- 28 As part of the Immigration Rebalance, the Government robustly considered the construction and infrastructure sector's workforce needs. The sector was selected for an immigration sector agreement because of the need to ensure New Zealand's key infrastructure projects, as well as the ongoing work to increase housing stock in New Zealand can continue, to the benefit of all New Zealanders. On that basis, the Sector Agreement already provides an exemption to the median wage (allows occupations to be paid \$26.69, instead of \$29.66) for 23 key roles (e.g. Builder's Labourer, Carpenter, Brick Layer).
- 29 However, since the rebalance was implemented in 2022, the context has shifted. Ahead of establishing the full picture of workforce needs and with the closure of the recovery visa, expanding the roles covered by the Construction and Infrastructure Sector Agreement will continue to support the flow of labour on key infrastructure projects and cyclone recovery, by giving employers access to workers in more occupations at lower wage thresholds, meaning they can recruit for a wider (and lower) skill range than at present.
- 30 A list of 24 occupations has been provided by CCNZ. To establish the list, they conducted high level engagement with their members and requested nominations for occupations that employers expected to see high (cyclone recovery and rebuild related) demand for in the coming months. As part of their submission, CCNZ also provided a shortened list of nine roles they considered most essential to be added.

Agency and sector consultation

- 31 The Amalgamated Workers Union New Zealand (AWU) Free and frank opinions oppose adding occupations to the Sector Agreement to reduce the required wage rate. Free and frank opinions
- 32 The Treasury and Ministry of Social Development (MSD) also do not support further occupations being added to the Sector Agreement at this time. They note that there are significant risks moving forward with policy changes based on anecdotal information and consider that robust data on the demand pipeline (including volumes) is needed before any changes to immigration settings are pursued. MSD already has programmes and partnerships in place to support New Zealanders into many of these roles and considers that New Zealanders should be prioritised where possible. The Treasury notes that skills need assessments should be considered as part of a longer-term plan, such as the Immigration Government Policy Statement work currently

underway, and the wider Cyclone Recovery work programme including Regional Recovery Plans and the National Resilience Plan.

Proposed list of occupations to include

- 33 On balance, I consider that the short list of occupations should be added to the Sector Agreement. This facilitates and supports the ongoing recovery related workforce needs, introduces limited risk compared to keeping the existing recovery visa open, and balances the views of the sector, unions and agencies. It also represents a “least regrets” approach by taking some steps to ensure the appropriate supply of labour before a full picture of needs emerges (at which point it might be too late). I note there is a review of the Sector Agreement planned for the final quarter of 2023, which provides a further opportunity to make changes if concerns around displacement, wages and migrant vulnerability are borne out.
- 34 I propose to add to the Construction and Infrastructure Sector Agreement the short list proposed by CCNZ, with two minor changes. I have removed ‘Drainage, Sewerage and Stormwater Labourer’ as it is already on the Sector Agreement, and ‘Labourer not elsewhere classified’ as this description covers a lot of roles outside the construction and infrastructure sector⁴.
- 35 The roles to be added are:
 - Driller’s Assistant (821912)
 - Earthmoving Labourer (821113)
 - Earthmoving Plant Operator (General) (721211)
 - Linemarker (721912)
 - Machine Operators n.e.c (711999)
 - Mechanic’s Assistant (899916)
 - Road Traffic Controller (899923)
- 36 Like the existing roles on the Construction and Infrastructure Sector Agreement, workers in these roles will not be restricted geographically. Therefore, these additions will provide a below median wage pathway to all workers coming to New Zealand to work in these occupations. The risk of high volumes of workers arriving in New Zealand to work on unrelated projects as a result of these changes is mitigated by the established need for migrant labour need in this sector, beyond the response to and recovery from, extreme weather events.

Implementation timeframes for adding occupations

- 37 Officials estimate these roles can be added to the sector agreement by November, provided the only change is the addition of the above ANZSCO codes to the existing Sector Agreement. If any further supporting changes are required, it will take longer to implement.

⁴ By comparison, ‘machine operator n.e.c’ is a more narrowly focused ‘n.e.c’ role and migrants recruited under this ANZSCO code are more likely to be in roles within the construction and infrastructure sector.

Financial Implications

- 38 As noted above (paragraph 21), I am recommending that successful applicants are refunded the cost of their Recovery Visa extension application. Based on high level requirements, INZ estimates that implementation costs associated with the changes proposed in this paper are \$680,610⁵. INZ note there may be fluctuations in the number of people onshore between now and the announcement, which impacts the estimated overall costings.
- 39 Cabinet previously approved \$750,000 to be allocated for initial refunds of the Recovery Visa (covering 1000 refunds) as part of the 2023 Vote Labour Market Budget Package and INZ has subsequently identified a further \$1-1.179 million available from 2022/23 underspends for the Recovery Visa. I am therefore proposing that Cabinet authorises the use of this underspend to fund the projected refund costs related to issuing extensions for the Recovery Visa. While I note that repurposing underspends is most appropriately confirmed either before or as close as possible to the financial year-end, this paper has been subject to unforeseen delays. The former Minister of Immigration intended to seek decisions in May 2023 and the proposals in the paper are unchanged.
- 40 I am not recommending these costs are met by applications fees because refunding successful visa extension applications is consistent with the original policy intent of the Recovery Visa – to facilitate a streamlined pathway for labour urgently needed to support the immediate response and clean up. I propose that up to \$1m is available to transfer to allow for higher-than-expected successful extension application volumes.

Legislative Implications

- 41 There are no legislative implications of these proposals. However, the proposals in this paper require amendments to immigration instructions.
- 42 Immigration instructions are the rules and criteria for the grant of visas and entry permission to New Zealand and are set out in the Immigration New Zealand Operational Manual. Section 22 of the Immigration Act 2009 authorises the Minister of Immigration to certify immigration instructions. Subject to Cabinet's agreement, I will certify new immigration instructions in line with the decisions taken.

Impact Analysis

Regulatory Impact Statement

- 43 This paper does not require a Regulatory Impact Assessment as it has no direct legislative implications.

⁵ This estimate assumes there will be 1,158 people onshore with the Recovery Visa at the time of announcement (expected to be in late June), with application charges at \$735 per application and an expected 80 percent approval rate processed.

Climate Implications of Policy Assessment

44 There are no direct climate implications of these proposals.

Population Implications

45 The proposals in this paper are intended to supplement employers looking to the domestic labour market in the first instance, and training and developing the existing workforce where possible, to minimise displacement.

Human Rights

46 Officials consider that this paper is consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Consultation

47 The following agencies were consulted on this paper: Ministry of Social Development, Ministry for Primary Industries, the Department of Prime Minister and Cabinet (Policy Advisory Group), and the Treasury. The Construction Sector Accord, the Infrastructure Commission, Civil Contractors New Zealand, the Council of Trade Unions, and the Amalgamated Workers New Zealand were consulted on specific proposals included in this paper.

Communications

48 I intend to announce these changes soon after decisions are taken. Prompt communications out to current visa holders will be important, so that they have clarity about the remaining length of their visa and next steps should they wish to stay and continue working in New Zealand. Information for employers and businesses will also be publicly available on the INZ website, and relevant forms will be updated to reflect the changes.

Proactive Release

49 This paper will be proactively released in line with the Cabinet Office circular Proactive Release of Cabinet Material: Updated Requirements [CO (18) 4].

Recommendations

The Minister of Immigration recommends that the Committee:

- 1 Note in response to the weather events in February 2023, Cabinet agreed to establish an extreme weather event recovery visa [DEV-23-MIN-0014]
- 2 Note that a clear picture of rebuild projects and their associated workforce needs is still emerging, making longer term decisions about workforce needs and the Government levers to support them difficult at this time
- 3 Note since the Recovery Visa was implemented; uptake for the visa has exceeded expectations and has enabled employers to meet urgent and evolving labour needs in response to the extreme weather events
- 4 Agree to close the Recovery Visa to new applicants immediately after decisions in this paper are announced (or at a date set by the Minister of Immigration)
- 5 Agree that a visa extension of three months for those currently holding a Recovery Visa will be implemented, to streamline the transition to longer-term work visas
- 6 Agree that eligibility for a visa extension would apply to current Recovery Visa holders, who:
 - 6.1 are already in New Zealand at the date of announcement; and
 - 6.2 hold a current job or genuine job offer in a cyclone recovery related role
- 7 Agree that visa extensions will be processed at no cost to successful applicants, which will require a manual refund issuing process
- 8 Note that while this visa extension risks allowing people with undisclosed health or character issues to remain in New Zealand for longer, these will be checked at the AEWV application point, should an individual choose to stay and continue working here beyond the visa extension
- 9 Agree that the standard Tuberculosis screening will not apply and that a workaround will be implemented where applicants can upload a letter confirming they are applying for an extension of their Recovery Visa and therefore the Tuberculosis requirement does not apply
- 10 Note that as part of the Immigration Rebalance, the Construction and Infrastructure sector was selected for an immigration Sector Agreement, already providing an exemption to the median wage for 23 key roles
- 11 Note Civil Contractors New Zealand provided two lists of suggested occupations to be added to the Sector Agreement but feedback received both by unions and agencies consulted opposed the addition of any roles to the Sector Agreement

- 12 Agree that the following occupations are added to the sector agreement:
 - Driller's Assistant (821912)
 - Earthmoving Labourer (821113)
 - Earthmoving Plant Operator (General) (721211)
 - Linemarker (721912)
 - Machine Operators n.e.c (711999)
 - Mechanic's Assistant (899916)
 - Road Traffic Controller (899923)
- 13 Note that the Minister of Immigration will certify new immigration instructions under Section 22 of the Immigration Act 2009 to give effect to the decisions in this paper
- 14 Note officials estimate that implementation costs associated with the changes proposed in this paper are \$680,610
- 15 Note that MBIE has identified departmental output expense Crown Revenue underspends in 2022/23, that could be used to meet these implementation costs in 2023/24
- 16 Agree to an in-principle expense transfer in the Assessment and Processing category of the Immigration Services MCA in Vote Labour Market of up to \$1.000 million from the 2022/23 financial year to the 2023/24 financial year to meet the implementation costs of the Recovery Visa extensions proposed in this paper
- 17 Authorise the Minister of Finance and Minister of Immigration jointly to increase the Assessment and Processing category (departmental output expense) within the Immigration Services MCA in Vote Labour Market for 2023/24 by up to \$1.000 million, following completion of the 2022/23 audited financial statements, with no impact on the operating balance and net debt across the forecast period.

Authorised for lodgement

Hon Andrew Little

Minister of Immigration



COVERSHEET

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