



COVERSHEET

Minister	Hon lain Lees-Galloway	Portfolio	Immigration
Title of Cabinet paper	Establishment of a Special Permanent Resident Visa Category	Date to be published	27 May 2019 / 28 May 2019 after 2pm

List of documents that have been proactively released						
Date	Title	Author				
28/05/2019	Establishment of a Permanent Resident Visa Category	Office of the Minister of Immigration				
28/05/2019	CAB-19-MIN-0121 Special category of visa for New Zealand-based families	Cabinet Office				

Information redacted

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Sensitive

Office of the Minister of Immigration

Establishment of a special permanent resident visa category for New Zealand-based families affected by the Christchurch terrorist attacks

Purpose

This paper seeks Cabinet's agreement to make establish a special resident visa category for New Zealand-based individuals and families who have been directly affected by the terrorist attacks on the Masjid Al-Noor and Linwood mosques on 15 March 2019.

Executive Summary

- The terrorist attacks of 15 March 2019 have impacted the visa situations of a number of people living in New Zealand on temporary visas. As a result of injuries, or the death of a primary visa holder, the ongoing ability of a number of individuals and families to remain in New Zealand is now uncertain.
- I wish to remove that uncertainty and provide assurance to those living in New Zealand who were affected that they are welcome and will have the ability to remain here.
- To enable this, I propose establishing a streamlined, time-limited, event-specific special permanent residence visa category that is available to those directly affected who were normally living in New Zealand at the time of the attacks. This visa will make available permanent residence to eligible individuals and their immediate family already living in New Zealand. A new visa category is required because there are no current visa options that respond to the specific circumstances we are currently facing.
- 5 Making this visa available will ensure:
 - 5.1. certainty of immigration status for family members in situations where the death or injury of a family member means their own eligibility for permanent residence is affected:
 - 5.2. that those who were on a pathway to permanent residence prior to the attacks are assured of their residence;
 - 5.3. that those affected who may have been living in New Zealand on a temporary visa without a clear pathway to permanent residence are offered the opportunity to live here permanently should they wish to do so.

- I propose making permanent residence available to those already living in New Zealand who are:
 - 6.1. the members of families in which an immediate family member died;
 - 6.2. individuals who were physically injured requiring immediate hospital treatment at the time of the attacks and their immediate families;
 - 6.3. those physically present at one of the mosques at the time of the attacks, or who were travelling to the mosques **and** witnessed the attacks, and their immediate families.
- It is estimated that between and and individuals in total could be eligible for permanent resident status under this policy, depending on the definition of family that is used. As all of these people are already living in New Zealand there would be no additional demand placed on community or physical infrastructure.
- Those who will be eligible to access this visa are already here on a temporary visa and will have already met a number of health and security requirements.
- The security check and identity verification requirements will be set at the same level as is required for applicants for residence under the Skilled Migrant residence category. In line with a streamlined visa with a humanitarian focus, I propose to set the health and financial support requirements for this visa at the same level as is required for applicants who are the partners or children of New Zealand citizens or residents.
- I propose to waive fees and levies for applicants and to meet the costs of these (and medical assessments) by the Crown.

Background

- On 15 March 2019, 50 people died and were seriously injured in an attack on the Masjid Al-Noor and Linwood mosques in Christchurch. Up to people could have been present at the mosques at the time of the attacks.
- Immigration New Zealand (INZ) is currently responding to a number of visa-related enquiries and applications in relation to this event. Applications for overseas family members seeking to attend funerals or to support family in New Zealand have been expedited and New Zealand based visa holders with issues such as visas close to expiry or applications in process are being proactively supported.
- I am advised by INZ that, where an individual or family affected by the Christchurch attacks has already applied for any form of visa and has an active application onhand with INZ, this application will be processed as a priority.
- Officials are providing me with further advice on options to enable certainty of longterm family support for those most directly affected by the attacks, including the option of visas for those family members currently based offshore, and I will report back to Cabinet on the basis of that advice.

¹ Police figures shows that people were hospitalised with gunshot wounds following the attacks.

Proposal

- A number of people affected by this event were living in New Zealand on temporary visa categories in the period leading up to the attacks. As a result of injuries, or the death of the primary visa holder, the ongoing ability of a number of these individuals and family members to lawfully remain in New Zealand is now uncertain. I wish to remove that uncertainty and provide assurance to those affected that they are welcome in New Zealand and that we will ensure their ability to remain in the country they have chosen to make their home.
- 16 Certainty for the affected New Zealand-based individuals and families who may be concerned about their immigration status can be provided by making available a permanent resident visa to specific groups affected by the attacks. This will enable families and individuals to focus on rebuilding and maintaining their lives in New Zealand.
- A permanent resident visa enables the holder to permanently live in New Zealand and, unlike a resident visa, does not require the holder to meet certain travel conditions that may result in the holder inadvertently causing the visa to expire². Making available a permanent resident visa is a concrete demonstration that New Zealand welcomes those affected as a permanent part of our communities and this nation.
- Permanent residents are able to access publicly-funded healthcare and, after two years of being normally resident in New Zealand, the social security system. Emergency financial support is available on a discretionary basis to people who have not yet met the two-year requirement.
- There is no current visa setting designed to respond to families that have been affected by the type of event experienced on 15 March 2019. In order to fill this gap and facilitate a fast streamlined process, I propose a time-limited, event-specific visa category under the humanitarian stream of the New Zealand Residence programme.

Making permanent residence available to individuals and families already living in New Zealand will provide long-term certainty of immigration status to those who have decided to make New Zealand their home

- I acknowledge that those affected represent a diversity of households and experience ranging from families that trace their history in New Zealand by generations to recent migrants still establishing their lives here. The majority of worshippers at Prayer when the attacks occurred are New Zealand citizens or residents.
- 21 I recommend that permanent residence be made available to three distinct groups of people living in New Zealand on 15 March 2019³:
 - 21.1. the members of families in which an immediate family member died;
- 2 A Permanent resident visa allows the holder to travel in and out of New Zealand indefinitely. A resident visa has travel conditions that expire after 2, 5 or 10 years (depending on the category). If the resident visa holder is out of New Zealand when their travel conditions expire, their resident visa expires as well.
- 3 This is defined as New Zealand being their primary place of established residence as at 15 March 2019.

- 21.2. individuals who were injured and required immediate hospital treatment at the time of the attacks and their immediate families; and
- 21.3. individuals who were physically present at one of the mosques at the time of the attacks and their immediate families⁴ (i.e. individuals who were physically in one of the mosques at the time of the attacks or were travelling to one of the mosques **and** personally witnessed the attacks).
- 22 It is not a requirement that a person who is a member of the groups identified in paragraph 21 identifies as Muslim in order for this policy to apply to their situation.⁵
- My proposal makes available permanent residence to people who are already in New Zealand on temporary or resident visas, ensuring that it provides increased stability to affected people and their communities without adding pressure to community and physical infrastructures. It also enables people to maintain their networks of support and have certainty that the support is durable.
- I do not intend this visa category to be available to those in New Zealand on a shortterm temporary basis such as tourists, visiting sportspersons, those on a working holiday visa or persons on a business trip. This policy is not intended to capture people acting in response to the attack such as first responders, bystanders, or others in the general community who rendered assistance.
- 25 This visa category will ensure:
 - 25.1. certainty of immigration status for family members in situations where the death or injury of a family member means their own eligibility for residence is affected (for instance the death of a primary visa holder or injury from the attack meaning that an individual can no longer meet the conditions of their work or student visa):
 - 25.2. that those who were on a pathway to residence prior to the attacks are assured of their residence (for instance a temporary worker on a work to residence pathway); and
 - 25.3. that those affected who may have been living in New Zealand on a temporary visa without a clear pathway to residence have the opportunity to live here permanently should they wish to do so.
- Making the visa category available to all who were present at the mosques or who directly witnessed the attacks recognises the significance of the impacts of this unique and horrific event. People who did not experience physical injury in the attack may still be affected in other ways including grief and trauma that it is appropriate to recognise, respect and respond to in a way that supports them to maintain their choice to live as a New Zealander.

The permanent resident visa category should be made to immediate family members who normally live in New Zealand, with options of extending this further

⁴ Possible definitions of immediate families are explored in paragraphs 29 to 33.

⁵ For absolute clarity this policy does not apply to any person at, or in the vicinity of, either mosque for the purpose of undertaking or assisting the attacks or their family members.

- For the purpose of my proposal it is necessary to determine which New Zealand-based family members are included in the visa category. I am conscious of the different understanding of 'family' across individual families and cultures. The range of potential family grouping affected by the tragedy is not catered for in the current visa policy settings.
- At a minimum, I propose to adopt the definition normally used by INZ and to extend this to include parents in order to ensure the long term ability of family groups in New Zealand to remain together. I consider it appropriate to account for this in the Government's response to those affected.
- 29 For an adult, immediate family is defined as:
 - 29.1. the adult;
 - 29.2. their married or de facto partner;
 - 29.3. their dependent children; and
 - 29.4. the dependent children of their partner
- For a dependent child, immediate family is defined as:
 - 30.1. the dependent child;
 - 30.2. their siblings who are also dependent children; and
 - 30.3. their parents.
- 31 Including parents in this definition would add:
 - 31.1. for an adult their parents and their partner's parents; and
 - 31.2. for a dependent child –their parent's parents.
- Cabinet may wish to give consideration to further expanding the visa's definition of 'immediate family' for the purpose of this visa category. This would enable the policy to capture family situations in which other New Zealand-based family provide support but for whom there is no current residence path available through a family connection.
- 33 The two circumstances for Cabinet consideration are:
 - 33.1. non-dependent children (and their partners and dependent children); and/or
 - 33.2. adult siblings (and their partners and dependent children).
- Including these two relationships in the definition would expand the family group that is included in the permanent resident visa category. However, it would prevent unintended situations in which an individual family member is unable to remain with their family on a permanent basis because they do not meet the criteria for inclusion in one of the three groups included in the visa category (for instance the adult sister of a dependent child, or the only adult child of a family group).
- I do not propose extending this visa category to individuals living in New Zealand whose immigration status is currently unlawful. There may be people whose

temporary visas have expired or who are no longer meeting the conditions of their temporary visa. In these cases I expect that those affected will normalise their visa status through the normal mechanisms⁶ before they become eligible for permanent residence under this policy. No-one will be able to change directly from an unlawful status to permanent residence as a result of this policy.

Estimate of the number of visas granted under this policy

- Officials have estimated that setting the policy to cover all people present at the mosque attacks and their partners, dependent children and parents would result in around people who become eligible for permanent residence under the policy. There are approximately people present at or around the mosque, as compared to those who have died or critically injured, resulting in the former grouping being a significant driver of the estimated impact of the policy.
- If Cabinet agrees to extend the policy to non-dependent children and adult siblings (and their families), officials estimate it would increase the number of those eligible to around
- Information on the official number of people present at the mosques, or the number of immediate or extended family members is currently limited. Officials have estimated the numbers based on information about the residence status of individuals when known, and some general assumptions about family size and presence in New Zealand (Annex One provides further details about officials' estimates and assumptions).
- The figures provided are likely to be conservative and will likely overestimate actual family numbers covered by the policy. The estimated impacts remain largely unknowable at this stage.

I propose to establish a time-limited, event-specific visa category

- There is no current visa option that enables permanent residence under the policy I am proposing. For this reason, it is necessary to establish a one-off, time limited visa category which I propose is made under the humanitarian stream of the New Zealand Residence Programme.
- This visa will enable an eligible applicant and their immediate family group to apply for permanent residence and each will be granted a permanent resident visa in their own right.
- I intend this visa to be as streamlined and to make the minimum reasonable demand on applicants as possible, while ensuring that risks continue to be managed. To achieve this I propose relaxing the medical and financial requirements for this visa while retaining the high threshold for security checking and identity verification. All who are eligible for this visa category would already be in New Zealand on a temporary basis and so would have passed a level of security checks: these checks will be the additional checks usually applied for applications for permanent residence.

6 A person can seek to normalise their status by making a request for a visa to a delegated immigration officer

This will achieve the humanitarian objectives of this policy while maintaining appropriate controls over the security settings for permanent residence. Table 1 sets out a summary of the proposed requirements to be met.

Table 1: Proposed visa requirements using the Skilled Migrant Residence Visa Category as benchmark

Requirement	Proposal
Security and	Retain equivalent residence visa requirements:
identity	No difference from existing policies. Use existing processes on a
	case-by-case basis to approve and issue travel documents.
Character	Retain equivalent residence visa requirements:
	No difference from existing policies.
Health	Relax equivalent residence visa requirement:
	 Applicants will be required to meet the requirements for partners and
	children of New Zealand citizens and residents.
	Individuals who would not meet this requirement because of injuries
	sustained in the attacks will not be denied residence on that basis
	alone.
Evidence of	Relax equivalent residence visa requirements:
ability to	No requirements proposed.
support	This would operate in a similar way to the existing partnership and
self/family in	humanitarian categories, which do not require applicants or their
New Zealand	supporting partners to demonstrate that they are able to support
	themselves or their family members in New Zealand.

The category will be time-limited in that applications must be submitted to INZ within two years of the opening of the category, after which time the category will permanently close to new applications.

Financial Implications

- I propose to exercise my power to grant a special direction under section 395(2) and 399(A) of the Immigration Act 2009 to waive the requirement for applicants to pay fees and levies for applications made under this visa category. Officials anticipate that the normal cost of an application would be \$1,480, which is the cost of an application for a partner or dependent child resident visa. An application can only include immediate family members so parents of adults, non-dependent children and adult siblings would submit separate applications. Officials estimate the number of applications to be between and services.
- I also propose that any medical certificates and tests required by applicants to show they meet the requirements of this policy are paid for by the Crown, at a cost of approximately per person.
- Officials have estimated that setting the policy to cover all people present at the mosque attacks and their immediate families partners, dependent children and parents would result in up to approximately eligible people.

- If Cabinet agrees to extend the policy to non-dependent children and adult siblings (and their families), the estimated number of new residents would increase to approximately
- Combining the range of people eligible for the new visa and the costs, the cost to the Crown is estimated to be from \$430,000 and \$700,000.

Implementation

- Immigration Instructions to effect of this policy can be confirmed and certified within 24 hours of a Cabinet decision. Once instructions are certified, the category can be open to receive applications from 1 April 2019. This time will to enable Immigration New Zealand to update IT infrastructure and systems and prepare application forms.
- Immigration New Zealand are positioned to respond to queries from individuals at the time a post-cabinet announcement is made: website material and collateral for contact centre and frontline immigration staff can be deployed within two hours of a Cabinet decision (providing no significant changes are made to the recommendations contained in this paper). Fact sheets on the visa category will be available in six languages within 24 hours of a Cabinet decision.
- Immigration New Zealand note that the demand placed on processing staff as a result of the opening of this visa category is likely to cause a lengthening of processing times for other visa types.

Consultation

[The Department of Internal Affairs (Office of Ethnic Communities), the Department of the Prime Minister and Cabinet, New Zealand Police, the Ministry of Foreign Affairs and Trade, and the New Zealand Security Intelligence Service have been informed of this paper].

Legislative Implications

There are no legislative implications associated with this paper. Subject to Cabinet agreement, Immigration New Zealand will prepare new Immigration Instructions establishing the policy and setting out the criteria for my certifications. The Minister of Immigration is authorised to make such clarifications as may be required to enable the enactment of this policy within its intent.

Human Rights

The proposal is consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Publicity

The new policy will be announced following Cabinet agreement. This will provide certainty to those affected as quickly as possible. Officials will work with my office to develop a communications strategy, which will also include communicating the new policy directly to those affected through the most appropriate channels.

Communications will also be developed to signal the further work on options for non-New Zealand based family but that no decisions have yet been made.

Proactive Release

The Ministry of Business, Innovation and Employment intends to proactively release this Cabinet paper on its website within 30 business days of a decision being made by Cabinet. Proactive release will be subject to redaction as appropriate under the Official Information Act 1982.

Recommendations

The Minister of Immigration recommends that Cabinet:

- **1 Agree** to make available a special permanent resident visa category to the following people if they were normally living in New Zealand at the time of the Christchurch terrorist attacks of 15 March 2019:
 - 1.1. the immediate family of any individual who died in the terrorist attacks;
 - 1.2. individuals injured and requiring immediate hospital treatment at the times of the terrorist attacks and their immediate family normally residing in New Zealand; and
 - 1.3. individuals who were physically present at the mosque at the time of the terrorist attacks and their immediate family normally residing in New Zealand;
- **2** Agree that those included in the scope of 'family' for the purpose of eligibility for this visa includes:
 - 2.1. Group A: the individual and
 - (i) (for adults) their married or de facto partner, and any dependent children of the individual or their partner;
 - (ii) (for a dependent child) their parents and other dependent siblings;
 - 2.2. *Group B*: the parents of the individual or of their partner and (for a dependent child) their grandparents;
- **3 Confirm** whether Cabinet wishes the scope of 'family' for the purpose of this visa to include the following groups (in addition to the groups outlined in recommendation 2 above):
 - 3.1. *Group C:* the individual's (or their partner's) non-dependent children and the children's partners and all dependent children;

AND / OR

3.2. Group D: adult siblings of the individual and their partner and all dependent children;

- **4 Agree** that the new visa category (as agreed in recommendations 1-3) be specified under the humanitarian stream of the New Zealand Residence programme and open for applications for the next 2 years (to March 2021);
- **5 Agree** to relax the medical and financial requirements for this visa, while retaining the high threshold for security checking and identity verification required for New Zealand permanent residence;
- **6 Note** that no fees or levies will be charged for permanent residence applications under this category
- **7 Agree** that costs for fees and medical checks, estimated as between \$430,000 and \$690,000, be met by the Crown;
- 8 Approve either:
 - 8.1. The following changes to appropriations to give effect to the policy decisions in recommendations 1 and 2 above, with a corresponding impact on the operating balance:

	\$m - increase/(decrease)					
Vote Immigration Minister of Immigration	2018/19	2019/2 0	2020/21	2021/22	2023/23 & Outyear s	
Multi-Category Expenses and Capital Expenditure: Immigration services MCA Departmental Output Expense: Assessment and Processing Services	0.430	-	-	-	-	

OR

8.2. The following changes to appropriations to give effect to the policy decisions in recommendations 1, 2 and 3 above, with a corresponding impact on the operating balance:

	\$m – increase/(decrease)					
Vote Immigration Minister of Immigration	2018/19	2019/2 0	2020/21	2021/22	2023/23 & Outyear s	

Multi-Category Expenses and Capital Expenditure:	0.700	-	-	-	-
Immigration services MCA Departmental Output Expense:					
Assessment and Processing Services					

- 9 Agree that the proposed change to appropriations for 2018/19 above be included in the 2018/19 Supplementary Estimates and that, in the interim, the increase be met from Imprest Supply;
- **10 Agree** that the expenses incurred under recommendation 8 above be charged against the between-Budget contingency established as part of Budget 2018
- **11 Note** that there is uncertainty about the timing of uptake of this policy, which may require the in-principle transfer of up to the following maximum amount of operating from 2018/19 to 2019/20 of either:
 - 11.1. If Cabinet agrees to recommendation 8.1:

OR

		\$m – ir	ncrease/(de	ecrease)	
Vote [Name] Minister of/for Portfolio	2018/19	2019/20	2020/21	2021/22	2022/23 & Outyears
Multi-Category Expenses and Capital Expenditure: Immigration services MCA Departmental Output Expense: Assessment and Processing Services	(0.430)	0.430	-	-	-

11.2. If Cabinet agrees to recommendation 8.2:

	\$m – increase/(decrease)				
Vote [Name]	2018/19	2019/20	2020/21	2021/22	2022/23

Minister of/for Portfolio					& Outyears
Multi-Category Expenses and Capital Expenditure:	(0.700)	0.700	_	_	-
Immigration services	, ,				
MCA Departmental Output					
Expense:					
Assessment and Processing					
Services				a B	200

- **12 Authorise** the Minister of Finance and the Minister of Immigration to agree jointly to the final amount to be transferred, following completion of the 2018/19 audited financial statements, with no impact on the operating balance across the forecast period.
- **13 Authorise** the Minister of Immigration to take decisions on the visa category design and conditions to achieve the policy intent;
- **14 Note** that the Minister of Immigration will certify Immigration Instructions to give effect to this permanent resident visa category.

Authorised for lodgement

Hon lain Lees-Galloway

Minister of Immigration

Annex One: Estimate of impacts

The number of people likely to be eligible for a Permanent Resident visa as a result of this visa category is unknown. Officials have used the best information available while also relying on a number of assumptions.

Table A.1: Indicative numbers of those likely to be offered permanent residence

			Scope of vict	im definition	
	Indicative numbers of those offered permanent residence who are currently on temporary visas	1. Those who died	2. Those who were seriously injured (hospitalised with gunshot wounds)	3. Those who were present at the mosques but did not die or become physically injured)	Total people present at mosques (1+2+3)
	Individuals	50	Mainte	Maintenanc	Maintenar
	A. Individuals and their immediate families	Mainte	Mainte	Mantena	Maintenai
tion	B. Their immediate families' adult parents	Mainte	Mainte	Mainte	Mainté
of family definition	A+B	Mainte	Mainte	Maintenai	Maintenai
lily	A+B costs	Maintenance of the la	Maintenance of the la	Maintenance of the law	Maintenance of the law
Scope of far	C. Non-dependent children of A and their immediate families	Mainte	Mainte	Maintenai	Maintenai
Š	D. Adult siblings of A and their immediate families	Mainte	Mainte	Maintena	Maintenai
	A+B+C+D	Mainte	Maintenar	Maintena	Maintenar
~	A+B+C+D costs	Maintenance of the k	Maintenance of the la	Maintenance of the law	Maintenance of the law

In calculating the number of individuals affected and people in their families, officials have assumed that:

- 50 people died, physically were injured, and a total of were in the mosques at the time of attacks (based on Police data and media reports)
- none of the people in the mosques were of the same immediate family (we know this is not accurate and will overstate the final figures)
- per cent of the people in the mosques and their immediate family members are currently in New Zealand on temporary visas (based on Police and INZ data)

7 As at 21 March, Police have established there were at least people present at the mosques but did not die or become physically injured.

- The average family size is individuals (based upon the average size of families in other visa applications, including the Refugee Quota Programme and the Refugee Family Support Category)
- on average, the individuals affected have adult parents, and parents are currently in New Zealand on temporary visas (those parents would have to currently be on their own temporary work or student visa separate from their adult children, and officials estimate the likelihood of this to be low given the generally lower numbers of older people on those visa types)
- on average, the individuals affected have mon-dependent child and that person has immediate family member, and that person per cent of those families are currently in New Zealand on temporary visas
- on average, the individuals affected have adult sibling and that person has immediate family member, and that person has per cent of those families are currently in New Zealand on temporary visas.

In calculating the costs, officials have assumed that:

- the cost of the applications would otherwise be the same as other family stream applications, which is
- each application can hold only immediate family members, and therefore family members under Groups B, C and D, would have to submit separate visa applications
- the approximate number of people on a visa application would be Maintenant
- the cost of providing medical assessments would be Maintenance of per person.

Privacy of natural persons	

Table A.2: Indicative visa status of those within the mosque

	Unknown	Visitor	Temporary (student)	Temporar y (work)	Resident	Permanent Resident	Citizen	Total
Those who died	Ma	Ma	Ма	Ma	Ma	Ma	Mainte	Mainti
Those who were critically injured	Ма	Mä	Ма	Ма	Ма	Mainte	Ма	Mainti
Total	Ma	Ma	Ma	Ma	Mainte	Mainte	Mainte	Mainte
% of total	Mainten	Mainten	Mainten	Maintenan	Maintenan	Maintenan	Maintenan	Maintenance
% of total excluding unknown		Mainten	Mainten	Maintenan	Maintenan	Maintenan	Maintenan	