

Submission to New Zealand Productivity Commission on the preliminary finding and recommendations of the inquiry into immigration policy

This submission mainly focuses on the policy setting of SMC from an operative perspective, and also addresses other finding and recommendation briefly.

Finding 5. Large queues of applicants for residence visa; and Recommendation 6.

The preliminary report described the workflow for the selection of EOI for the SMC and mentioned this particular setting was in place since 2017. This submitter agrees that the current operation does not help to manage the flows and expectations of temporary migrants. However, this submitter must point out the fact that the change in 2017 to the policy setting into their current form was (one of the two parts of) the exact reason why it fails to manage flow and expectation.

“.....The Government’s management of the EOI pool, however, has not extended to ranking migrants once they reach a certain number of points (at the time of writing, applicants are invited to apply for the Skilled Migrant Category if they gain 160 points). This can lead to large queues of migrants awaiting their application to be processed or awaiting residency in the EOI pool with an identical number of points (160), as the system does not recognise points over that threshold.....”

The selection of EOI was a ranking system before the change made in 2017, and it was designed to be so in the first place. The minimum point was 100, and the guaranteed selection point was 140 (the point awarded from individual attribution has also been changed). A control (although not fixed) number of EOI was drawn from the pool. When there were less applications above 140 points, EOIs with 100-140 points were selected in a ranked manner. In that previous setting, the number of EOI selected did reflect the “planning range”.

The second part of the reason was that, after the 2017 general election, the new government approved a NZ residence programme with a much reduced “planning range” in 2018. At this point, after the change made in 2017, the selection from EOI has lost its flow control function since it became a simple 160-point cut-off instead of selection by ranking points. This led to a significantly higher number of EOI invited to apply for SMC than the new planning range. Meanwhile, Immigration NZ insisted that it can only approve applications and grant resident visa within the “planning range”.

Those two policy changes in combine results in the following consequences:

1. Figure 3.1 of the preliminary report showed an obvious increase in migrant holding work visa, while recent residence number shrinking.
2. A significant number of those holding work visa waiting in the large queue of SMC.
3. Immigration NZ then informally prioritises some applications, which was later found unreasonable by the Chief Ombudsman in 2021.
4. Because Immigration NZ can neither approve (due to “planning range” reached) nor decline those SMC application which substantially fulfil the objective criteria, the

burden lays on case officers to interpret the operation manual more harshly to reduce approval number, which then resulted in increased number of cases being overturned by the Immigration & Protection Tribunal.

Therefore, this submitter agrees with Recommendation 6 that selection of EOI should be a ranked, and flow control system, instead of passing-a-threshold system. This submitter wishes to emphasise that EOI system was designed in such way in the first place and was later changed otherwise.

However, this submitter does not agree with the part "...raise the minimum threshold on a regular basis to manage application volumes..." in R6. As previously illustrated, the minimum threshold is irrelevant to flow control in a ranked selection system.

Also, **speaking to Recommendation 1**, this submitter urges the commission to carefully dissect the policy changes made in 2017 and 2018 by subsequent governments and how these changes in combine resulted in a logical loophole and inoperable SMC policy. This submitter recommends the commission to advise in the final report that any future change of the Immigration Act should set up a framework clearly outlining which parameters of residence policy can be adjusted by government policy statement and what setting should not be changed (unless in a complete overhaul after proper consultation) for the consistency and operability of immigration policy.

Other matters

Finding 2.

Immigration NZ has expressed the view multiple times that ANZSCO skills framework does not reflect the true skill level of an applicant. This submitter believes that conclusion based on such statistics is unsound.

Finding 6.

In the statistic where the correlation between net migration and house price was drawn, the "net migration" included the migration of NZ citizens (which in fact made up a significant proportion). That factor is beyond the scope of this review.

Finding 8 and 9.

"The inability or unwillingness in the past to fund this infrastructure" does not have a direct correlation with the rate of inwards migration. This submitter believes that with the right policy setting, inwards migration can well facilitate infrastructure investment.

Finding 11.

Immigration NZ (which then under the Department of Labour) was merged into MBIE in 2012, for the purpose of better integration of immigration policy and other policy areas. This submitter thinks that it is ironic the commission found the immigration and other policy areas were disconnected.

Recommendation 5.

This submitter commends the recommendation which the volume of temporary visa with potential pathways to residence should be managed in a way which reflects future residence planning range.

Recommendation 7

This submitter commends this recommendation that a more data-informed and dynamic skills shortage lists should be developed.

Finding 13 and Question 5.

This submitter strongly opposes the suggestion to limit the right to return for permanent residents. New Zealand is a small country with abundance international connections. And the international connections contribute significantly to NZ's development. A NZPR can be doing significant volume of international trading with NZ while living in the trading destination country. And a NZ graduated migrant can pursue higher education such as PhD and post-doc research in a third country (which take a long period of time) and bring back those knowledge to NZ in a later stage (considering ...re-migration rates have been highest for residents aged under 30; residents without children; and former students...p.29).

A NZPR living offshore does not incur any financial burden for NZ government as social securities have residential requirement. The only argument for the suggestion is "Having large numbers of people offshore who can return at any point adds to future volatility risks". However, the number of people offshore who can return at any point are mainly consist of NZ citizens. NZPR is a small fraction of this group and are subject to the same factors as NZ citizen in term of returning to NZ.

Question 6.

This submitter generally accepts the idea to encourage learning Te reo Maori. However, were the SMC policy design to attract talents or high skill workers directly from oversea (offshore applications), there is practical constrain for those potential migrant to learn Te reo from their home country. And this will create bias between onshore and offshore applicants. If this were to be introduced in the permanent residence approval process, the level of requirement should not exceed that for a NZ born citizen high school graduate.

Recommendation 8.

This submitter agrees with the commission and strongly commends the removal of visa conditions that tie temporary migrant to a specific employer. Even without any exploitation, under the current work visa system, the processing timeframe of a variation of condition well surpass the reasonable length of a notice period a new employer expecting. And the ability for migrant to change employer (within a specific occupation or industry) will release the constrain of their productivity. This submitter urges the commission to recommend this with the highest priority should the government adopt the final report.

Reference

1. Cabinet paper “New Zealand Residence Programme 2016/17 – 2017/18”. October 2016. <https://www.mbie.govt.nz/assets/9efa98e1ab/new-zealand-residence-programme-2016-17-to-2017-18-redacted-combined-docs.pdf>
2. Cabinet paper “New Zealand Residence Programme: New objectives and approach to managing residence numbers. <https://www.mbie.govt.nz/dmsdocument/4577-cabinet-paper-new-zealand-residence-programme-pdf>
3. The Chief Ombudsman “Internal prioritisation criteria for Skilled Migrant Category applications and Employment Visa Escalation scheme”. <https://www.ombudsman.parliament.nz/resources/new-case-note-complaints-about-immigration-new-zealand>