



06 December 2021

New Zealand Productivity Commission

PO Box 8036

The Terrace

Wellington 6143

Attention: Ganesh Nana

Dear Dr Nana,

Submission on Immigration settings

Established in 1996, Express Immigration (NZ) Ltd is a leading immigration consultancy based in Auckland and is a key contributor to New Zealand's immigration industry in all areas but with a specific focus on business migration. We mainly deal with Chinese speaking migrants and have in depth knowledge who they are, how they are settling and what contribution they have made to New Zealand.

We will try to make this submission letter short and concise specifically with our thoughts on business immigration policy. In these submissions we will first briefly touch on general immigration policy as a whole and then focus on business migration policy setting.

General submission:

1. Purpose of the Immigration Act

In the Immigration Act 2009, for purpose of the Act, the wording of "national interest" is far too ambiguous and we suggest it would that the concept of "ppromoting economic growth" should be a specific purpose written into new legislation. For many years prior to the 2009 Act, the purpose of New Zealand's immigration policy was the protection of New Zealand's labour market with a focus on ensuring employment first and foremost for New Zealand residents and citizens. However, this was often at the expense of economic growth, including investment into infrastructure. The 2009 Act seemed to become a ready tool simply to fill labour shortages, again missing some important objectives – such as talent shortages and capital shortages? Productivity growth (skilled, educated migrants) results in economic growth and thus contributes to the overall wellbeing of the entire nation. Capital investment (business migrants) can and should be used to increase/better infrastructure. Therefore, we propose that the two objectives

should be linked to ensure New Zealand continues to grow not only economically but also socially to improve living conditions for all.

2. Population Strategy

Due to a relatively short general election cycle (three years which is fairly unusual throughout the world), both the Labour and National parties seem have little interest in formulating a long-term population strategy for New Zealand. Despite being prompted by many studies from all around the world, New Zealand still seems to be lacking the understanding that steady population growth is not only a key driver for productivity, but it can also provide certainty to both public and private sectors in more general policy setting, expectation and planning, significantly including education and skill training planning. We believe that your report has accurately identified the link between immigration and population growth and that this has, in turn, created an excellent opportunity for your commission to lobby Government for a long-term population strategy as part of a future-proofed immigration policy. From our own research and understanding of this industry over 25 years, we believe that 2% annual net growth (natural growth plus immigration growth) would be a healthy and necessary population growth figure for this small country.

We note that the New Zealand Reserve Bank uses an inflation target to regulate interest rates and thus the pace of New Zealand's economy however, with a population target, MBIE would also be able to set immigration policy to adjust labour pool and impact productivity with certainty. All walks of life including employers and migrants would then be able to foresee what would be coming before them (even with outlying factors such as a global pandemic coming into play).

3. Low Skill Work Visa Holder Number

We agree with your suggestion that the ratio between the number of work visa holders and New Zealand's overall population is high. However, that was partly caused by a work visa policy tweak following Labour's rise to power where, to prevent labour exploitation, the new Labour government removed the requirement that a migrant graduate must find a job before the remaining two years of the three years' work entitlement could be granted. What this fails to consider is that the number of overseas student vs the local population ratio in New Zealand is higher than in most western countries because international education is one of New Zealand's key export industries. The other issue with this high figure is that it reflects the absolute truth that there are simply a number of industries in New Zealand where employers are struggling to find New Zealand residents/citizens to fulfil roles, whether high, medium or low skill. For whatever reason (geographical location, high cost of living, lack of infrastructure etc) New Zealand is still struggling to find the right mix of people for all its jobs.

From many quarters we have heard that the current Government simply wants to tighten work visa policy for political reasons which seems odd as the policies in play were originally cooked up by Labour itself. Given that the current **Government has repeatedly quoted your commission's earlier observations to defend their new work visa regime**, it appears a fait accompli (making this a consultation in name only). We would hope that, as this is but the beginning of this process, that nothing has yet been finalised and that input from those of us actively working in the industry could show an opposite point of view and a different conclusion.

We note that low productivity has long been in existence in New Zealand - it is not something new after 2017 when the number of temporary work visa holders surge. It is therefore worth while to consider the underlying factors causing low productivity (lack of manufacturing, lack of infrastructure) etc and consider how migration (specifically business migration) could be better utilised to grow productively for the betterment of everyone in New Zealand.

We do also wonder at your inclusion of a quotation of the UK Government's 2020 strategy when the UK currently has huge labour shortages in the lower skill/wage industries. The UK's immigration targets and objectives were hastily set following leaving the EU with a newly introduced (and, as yet, fairly untested) points-based immigration system that hasn't been able to adapt well to either the end of Freedom of Movement or a global pandemic and we suggest it would not be wise to reference this particular set of policies in terms of a new immigration policy for New Zealand.

4. Permanent Resident Visa

Permanent residence is absolutely one of the top selling points in attracting high calibre migrants, especially super wealthy businesspeople – no one is going to invest millions of dollars into a country where they aren't given the right to live permanently. We genuinely believe that the majority of people who hold New Zealand residence and are either already living here or currently living overseas with plans to return as soon as practicable would prefer the status quo. And that isn't necessarily a bad thing.

Those New Zealand residence holders currently living overseas (whether short or long term) might, initially, have not intended to live in New Zealand for the majority of their working life, deeming New Zealand a second home, holiday home or, simply, a safe haven/Plan B. If we force such residence holder to choose only one country of residence, they are more likely to give up New Zealand and New Zealand benefits nothing by doing so. On the contrary, those permanent residents living overseas provide important cultural and economic links within New Zealand in much the same way that a spider's web has many strands. Those residence holders may well be re-evaluating their living options following the pandemic and alienating them (retrospectively as their residence

was not limited at the time it was granted) would not improve New Zealand's standing on the world stage.

5. Political Correctness and Productivity

Productivity is really all about efficiency while political correctness has more to do with equality and fairness. They are two extremes on a scale, meaning it's impossible to achieve both at the same time one.

We note your draft report has put quite some weight on the Treaty of Waitangi and Māori issues. Whilst of course any review of New Zealand policy (whether that is for immigration or any other aspect of life) should absolutely observe the Treaty and respect Māori culture (and yes, as per the courts the Treaty is considered "part of the fabric of New Zealand society"), we submit that the Commission should be brave enough to study and report on the possible negative impacts of the Treaty of Waitangi and Māori culture on productivity in this country. It is far from all positive and to leave out the negative aspects, would be an insult to the idea of true consultation.

There are both political and cultural reasons why New Zealand is lagging behind other developed countries in terms of manufacturing and infrastructure. For example, water bottling export businesses, roading and housing estates have all already been held up for years (or, in some cases, forever) due to Māori concerns. That isn't to say that those concerns aren't valid but sometimes, perhaps due to a lack of transparency, the reasoning as to why such concerns trump desperately required development has been sorely lacking.

6. Te Reo

We are concerned regarding the suggestion of including Te Reo as a language component of a new immigration policy. We fully recognise that New Zealand has two officially recognised languages. However, the majority of transactions and communications are still carried out in English. Our experience is that the English language is already a huge barrier for migrants' integration into Kiwi culture and community. The requirement of English already acts as a signification gate-keeper for immigration policy. The struggle to learn English is why the various migrant communities tend to stay around each other - Chinese with Chinese, Indians with Indians and so on. If we force first generation migrants, who are struggling with English, to learn Te Reo as well we suggest that it would become a tipping point, an extra burden, that would make New Zealand a far less attractive migration prospect than other English speaking countries that New Zealand traditionally competes with for skilled and business migrants.

7. Immigration Bureaucracy and Productivity

Quite often it is not immigration policy but rather the application process itself that holds back productivity. For example, there might be good work visa instructions in place but the 6-month processing timeframe for INZ to complete an application (which realistically could be done in two weeks' time) makes the policy unworkable for employers who need a new employee quickly.

Now, we turn to focus on business migration:

1. The Importance of Business Migration to Lift Productivity

In our experience, business migration is the most important immigration category in terms of contribution and benefit to the New Zealand economy. There are many reasons business migration has been so successful for New Zealand:

- In the first instance, the vast majority of applicants need business experience. From a global perspective, New Zealand is a small economy. The experience brought from in from other countries has, over the years, brought significant new ideas, concepts and business styles, successfully changing New Zealand's more traditional family style economy. For example, with the Entrepreneur Work Visa application, an applicant needs to create an innovative/export/high growth business, all of which is specifically designed to enhance and increase productivity. The tweaking of this policy from the original Long Term Business Visa category has ensured New Zealand continues to innovate and successfully increase its export reach.
- Secondly, business migration is much more likely to create new employment than a local small business. Under the Entrepreneur category, a business is required to create at least one new job. Migrant investors are far more likely to be an employer than an employee. The new jobs created are more likely to be export-oriented or different from existing, more traditional, job roles and thus be more productive. Counter to this, the Skilled Migrant Category only creates more employed people filling existing positions.
- Finally, business migrants tend to have already amassed more wealth and, accordingly, more capital by the time they migrate, than local business owners. For example, their property development projects are on average larger in scale than the traditional, smaller, one-man-bandy style local builder's developments.

2. The Importance of Business Migration to Build the Talent Pool

Around 70% of New Zealand's annual immigration quota is allocated to the Skilled Migrant Category. However, this category is a misnomer – most of these applicants are former international students who initially came to study in New Zealand. They may be well-qualified by the end of their course of study, but that doesn't make them "skilled" as most will have limited work experience. Unfortunately, despite good intentions over the years, and due to its relative limited strength and reputation of New Zealand's

higher education sector (Australia, the US, Canada and the UK all still draw more students), top students from other countries seldom choose New Zealand.

Under the business migration programme however, New Zealand has successfully attracted a number of businesspeople who have graduated from top universities around the world, (examples from our own business include MBAs from Wotton Business School of the University of Pennsylvania, and engineering graduates from China's number one university – Tsinghua University). One of our current Investor category applicants who graduated from Wotton Business School had an annual employment income last year of HKD40 million (NZD7.5 million). New Zealand graduates simply don't tend to command anywhere near that kind of salary.

3. The Current Entrepreneur Policy is Not Working as per Initial Design

Over the past few years, the Entrepreneur Work Visa application decline rate has been close to 90%. This high decline rate, quite honestly, seems to have the sole idea of setting applicants up to fail.

The industry agrees that the pre-2014 Entrepreneur policy (published in 2009) was far too easy and that it had become simply a steppingstone to low cost residence.

Unfortunately, it's replacement - the 2014 Entrepreneur policy - was pushed out in haste, without consultation, simply as a means to crack down on the easy residence pathway. It is, quite frankly, the poorest immigration policy currently in existence in that it is too prescriptive, but also has too many ambiguous requirements. It is a minefield for applicant and even very experienced business migration specialists within INZ find it difficult to assess applications. Coupled with the excessive and over-reaching bureaucracy that has developed within the Business Migration Branch since 2017, for Entrepreneur Work Visa holders already in New Zealand looking to now move onto residency, this category has become a nightmare.

The Government appears to have been overly concerned with the myth than an applicant would deliberately close their business after their residence was approved. It is true that this had happened (no evidence that it was widespread) but such closures tended to happen where an applicant discovered the original business idea wasn't the best one for them. Regardless, these businesspeople still tended to contribute more to New Zealand than SMC applicants and, due to their wealth and high likelihood of investment into a different business, didn't become a burden to New Zealand even if the original business was closed.

4. Our proposal for the Entrepreneur Policy

A new policy should be set combining simplicity with a high threshold:

- Government should not be too restrictive or prescriptive as to what business should be run or what experience is needed. Often, successful businesspeople are better at finding business opportunities and knowing how to succeed (better than a INZ BIS who may never have run their own business). It is the applicant who should take the risks. On the other hand, an applicant must demonstrate they themselves have conducted real market research and have knowledge about New Zealand (it should not come solely from their business plan writers).
- The current English requirement of IELTS 4.0 is too low for a small business owner that they will have huge difficulties ensuring the survival of their New Zealand business. It should be raised to IELTS 5.0.
- The current threshold for Entrepreneur Work Visa holders to be granted an Entrepreneur Resident Visa is, once again (as it was with LTBV) too low so that it has become a loophole to be exploited by certain people. We believe the threshold should be raised to the creation of at least two full time roles for at least three years, with the exception of the hospitality industry where the threshold should be raised to the creation of at least five full time roles for at least three years. A higher threshold should prevent those who are only interested in obtaining easy residence than running a successful, long-term business and therefore should offer better benefit to New Zealand.
- Immigration institutions should be written as simply as possible, no more complex than the 2009 version. The requirement for investment capital of less than half a million should be dropped (due to small amount of money involved yet quite energy consuming for every party) as it provides very little benefit to New Zealand and is seen only as easy residence for those who may not want to even live permanently in New Zealand.
- Businesspeople wanting to purchase an existing business in New Zealand (for the purpose of revamping it/increasing it) should first be issued a 12-month special purpose work visa, which would allow them to take over the business first, explore all aspects of the business and then prepare a fully researched EWV application as this type of application is far more complicated and tend to take longer to approve than a new/start up business proposal.
- MBIE should appoint a liaison officer stationed within BMB (who must be a real and experienced BIS) to communicate with applicants about business expectations, answer questions, help them review progress etc. This may reduce surprises when a live application is lodged. As far as business migration is concerned it is not sufficient for the government to only play a gatekeeping role, it should also be a business enabler actively looking to promote New Zealand as a premium business destination.

5. The Current Investor 2 Category Policy Threshold is too High (There is Room for Improvement)

- In general, the Investor category makes much more of a contribution to New Zealand's society and economy than any of the other immigration categories.
- But, New Zealand has not utilised the Investor category to either drive up productivity or to fund desperately needed infrastructure. Most of the applicants put their funds into government bonds and a mix of other private funds. Sadly very little funding has been directly injected into New Zealand businesses or infrastructure, more so where there is currently no channel to directly invest in New Zealand infrastructure.
- At least two thirds of all Investor category migrants live in Auckland. There are no incentives to encouraging these migrants to settle (and therefore help develop) the lesser developed regions, such as Northland and the West Coast.
- Contrary to popular opinion, there is simply no evidence that investors are pushing up housing prices in New Zealand. As one of the leading business migration immigration companies operating in New Zealand, we are fairly uniquely situated to understand the market and it is our understanding that more than a third of such migrants are in fact directly or indirectly involved in residential property development which is increasing housing stock.
- The Investor 1 category of \$10 million is reasonable and has attracted a number of very wealthy people into New Zealand. Given the level of funds, INZ really needs to develop a better service for such applicants both during the application and after approval.
- The pre-2017 Investor 2 category of \$1.5 million was also reasonable and well on its way to attracting the set target of 300 families each year. The May 2017 change raising the threshold to \$3 million was made only under election political pressure. Since the change, New Zealand has only been able to approve approximately 100 families per annum, making the 400 annual cap meaningless now. We submit that numbers of applicants is equally important as the amount of investment, because these are high calibre businesspeople that we need in New Zealand. There's not much point setting a policy with a cap that isn't able to be accessed.
- Compared with Australia, the New Zealand investor category policy is simply not flexible enough. For example, in Australia applicants can use a money exchange business to transfer funds (New Zealand's policy does not fully allow this – it's very prescriptive) and a secondary applicant can stay in the country in lieu of the principal applicant.

6. Our Proposal for the Investor 2 Policy

We suggest extending the investment period from 4 years to 5 years to ensure investors really plant their roots in New Zealand, whilst also reducing the amount of investment:

- We suggest a \$2million investment for people settling in Auckland which must remained invested for a minimum period of 5 years with at least 50% of the funds being invested into the Better Auckland Fund. Better Auckland will be a closed fund to be managed by Auckland Council with zero return for the entire 5 years. The fund will be dedicated to improving Auckland infrastructure such as cross harbour tunnel, new drinking water plant and wastewater treatment facilities etc. As old investors graduate and withdraw from the fund, new migrants will fit in meaning there is never a drop in funding. As a result, Better Auckland becomes a capital pool which never dries up. The annual quota could reasonably be set at 500 families.
- We also suggested a \$1.5 million investment for a minimum of 5 years for people settling in 4 other key cities including Wellington, Christchurch, Hamilton, and Tauranga. The applicant's family must have bought or rented a residential property and produce utility bills, children's school reports etc to demonstrate that they have settled and lived in that city for 5 years. It should not be necessary to set a quota for these cities.
- We also suggest a \$1 million investment for a minimum of 5 years for people settling in other places outside of the first 5 identified cities. At least 10% of those funds must be invested into a venture capital fund. The applicant family must have bought or rented a residential property and produce utility bills, children's school reports to demonstrated they have settled and lived in that area for 5 years. This will be a very popular category so as a trial the number should be limited to 800 family per annum.
- EOI process should still remain and be very transparently published which will encourage investors to compete against each other and invest more.
- In each of the following 4 years from the 2nd year of investment, the principal applicant (for all types/locations of investment) must stay in New Zealand for at least 100 days.
- Mos importantly, the above investment amount discount should loaded upfront at the application stage, ie applicant intending to settle in the West Coast only needs to show they have legally amassed \$1 million (not \$2 million).
- Investment funds could be transferred into New Zealand through a NZ registered money exchange. Key evidence of funds transfer should comprise a statement from the local money exchange. The local exchange company, when issuing statement, must detail they have received the original nominated funds from the applicant's bank account in the AIP and guarantee they have gone through all AML procedure. If non-cash was not

nominated in the application, the applicant will need to demonstrate that they have properly (legally) liquidated the assets as per immigration instructions.

- Current instructions are not clear as to how funds/assets earned 7 years before the application where tax record or bank statement are no longer available can be properly assessed. Some definitive provisions in the new policy to assist BIS' to access older documentation would be helpful.

7. Business Migration Team Needs More Training and Should (Ideally) be Based in Auckland

Under business migration policy, cases are being processed by Business Immigration Specialists (BIS). Unfortunately, at least half of these have been shown to have a lack of training and very few have any of their own business experience to draw from when deciding applications. Some of them even lack real life business experience and many don't seem to know even the basics of operating a business. They tend to be policy-bound, often focussing on insignificant issues and asking irrelevant questions. They try to teach applicants and immigration advisers (both of whom are unequivocally more experienced) how businesses should be run. Some young/inexperienced officers lack even minimum sympathy to people who are not fluent in English, new to New Zealand and trying to be running a new/small business whilst meeting the ever-changing goalposts that are business residence policies. As experienced advisors, we find it incredibly frustrating to deal with BIS who simply don't seem to have the relevant experience a reasonable person would expect. The feedback we've received from some applicants who tried the process initially without an advisor is that they felt actively repelled by the BIS. These applications are hugely time-consuming, complex and have far more paperwork than other applications and it takes a huge amount of energy to deal with a BIS – oftentimes more than is actually required to run a business.

Auckland is New Zealand's business hub and most Entrepreneur category applications tend to have their business in Auckland. We believe the Business Migration team should be stationed nearer to where these applicants work and live.

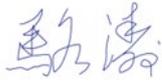
Finally, we believe that meaningful engagement with the immigration industry is important in finalising this report, including sending out questionnaires and conducting face to face surveys – all licensed advisors are easily able to be identified via the IAA. Immigration is a complicated process involving many factors and not everything can be accomplished by reading academic papers and statistics – the personal factor and experience of advisors is very relevant. One of the reasons our immigration policy is presently not well set is that the policy team work opaquely behind closed doors, relying on dated reports and data and excluding the most important voices – those of the migrants themselves and their advisors. A roadshow to specifically interact with stakeholders (migrants, employers, advisors) would

go a long way to ensuring transparency in setting new policy/legislation and help to provide lived experience of the way the immigration process in New Zealand works in real life.

In all, lifting productivity is a system engineering which requires a national mindset change to the level of understanding showing that productivity growth is the ultimate source to better wellbeing. This is something that also requires the collective effort of the Team of Five Million. A new immigration policy setting is, at most, a starting point. Engagement with the sector is the only real way to move this forward.

Should you require further information or discussion please do not hesitate to contact us.

Your faithfully

A handwritten signature in blue ink, appearing to read 'Peter Luo'.

Peter Luo

Principal Consultant

Express Immigration (NZ) Ltd.