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SUBMISSION ON: Immigration Policy

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1. Background to NZKGI

NZKGI was formed in 1993 to give kiwifruit growers their own organisation to develop a secure and stable kiwifruit industry. NZKGI represents 2,600 kiwifruit growers and gives growers their own voice in industry and government decision making. NZKGI works to advocate, protect and enhance the commercial and political interests of New Zealand kiwifruit growers.

NZKGI chairs the Bay of Plenty Labour Governance Group and is a member of the National Labour Steering Group and the Bay of Plenty Labour Market Strategy Group. With respect to labour issues, NZKGI represents the interest of the wider industry including the post-harvest sector.

2. The kiwifruit industry

In the 2017/18 season, 123 million trays of New Zealand-grown kiwifruit were sold by Zespri, providing a significant contribution to the national economy, with in excess of \$5.5 billion in revenue being generated for New Zealand. Zespri has committed to more than double global sales revenue to \$4.5 billion by 2025. The projected growth of the industry will contribute significantly to the national GDP increasing it by 131% from \$2.6 million to just over \$6 billion by 2029/2030¹.

There are 3,055 orchards across New Zealand with an average size of 3.1ha

3. Employment in the kiwifruit industry

The kiwifruit industry is in rapid expansion phase from 12,692 producing hectares in 2017/18 with 3,750 hectares of SunGold licences anticipated to be released out to 2022. NZKGI analysis shows that there were 15,678 seasonal workers in the 2017 season and approximately 8,000 permanent workers in the industry. A seasonal labour model developed in 2017 estimates that a further 7,000 seasonal workers will be required by 2027². Research on the 2018 labour needs (seasonal and permanent) is currently underway.

Permanent Employment

¹ https://www.waikato.ac.nz/__data/assets/pdf_file/0004/343813/IBR-Report-on-Kiwifruit.pdf

² <https://nzkgi.org.nz/wp-content/uploads/2018/07/NZ-Kiwifruit-Labour-Shortage-July-2018.pdf>

There are strong career progression pathways available in the kiwifruit industry with opportunities across the business spectrum for those that want to study first, those that want to study and work and those that want to learn on the job. Workers who show aptitude and a willingness to learn will find in both the orchard and packhouse that there are many opportunities to progress from seasonal low skilled work to permanent skilled work. Training is provided and is generally adequately available, although the industry takes a strong interest in the current Review of Vocational Education.

The industry does suffer from a reputational issue with young people and their parents often considering horticulture a limited low skilled career option. The transition of young people from secondary school into full time employment in the industry is low despite wide ranging opportunities being available. The industry is working to address this through awareness and attraction programmes at both a horticulture and kiwifruit industry level.

The difficulties with attracting people to careers in the industry means that there are worker shortages particularly in the low-medium skills area. In particular, the industry faces difficulty attracting workers for roles as orchard supervisors and orchard managers. Currently, we understand (although we lack data) that there are a number of workers in these roles that have current work visas. However, we also understand that obtaining and renewing these work visas is becoming increasingly difficult as more rigour is placed on the application process. Despite several attempts, the industry has been unsuccessful in having these roles accepted for the Skills Shortage list.

As the kiwifruit industry expands, we will have subsequent increased demand for permanent roles particularly orchard supervisors and orchard managers. The research work that we are currently undertaking will allow us to identify the demand for roles and consider the extent to which a shortage is likely to occur. Based on the current situation, we consider it likely that there will be a need for migrants to fill these roles in the short term and potentially the longer term if we are unsuccessful in attracting young New Zealanders.

Seasonal Employment

The kiwifruit industry is seasonal by nature with orchards requiring activity above normal staffing levels at least four times a year. During these periods, groups of 10-20 workers will work on an orchard for a few days to pick or undertake time critical orchard maintenance work. The time critical and sporadic nature of this work means that labour hire companies are often used to provide additional seasonal staffing.

In the packhouse, seasonal workers are required to undertake packing of fruit within a short period of time of harvest (i.e. 24 hours). Some of these workers continue after picking is completed as fruit is checked out of cool stores and shipped. While some seasonal workers will be employed for up to 6 months, a large number of workers will only be employed for the peak harvest season of 4-6 weeks.

The seasonal nature of both the orchard and packhouse roles makes it difficult to attract New Zealanders as it provides only short-term employment with workers having to find an alternative source of income at the conclusion of the job. The kiwifruit industry believes that we should be focussing on having New Zealanders fill permanent roles so that they have stability, regular income and the opportunity to develop skills and a career in the industry. If we are to focus on having New Zealanders in long term roles, then the industry must then find ways to attract additional people for the peak work demand, particularly around harvest. In general, these are low skilled roles that require very little, if any, training. At present, there is large reliance on visitors to New Zealand that have Working Holiday Visas. These people currently make up ~25% of the seasonal workforce. While the short term and unskilled nature of the role suits their transient work habits, as a workforce they are very

unstable for employers. Employers will not know if these people are going to arrive and take up the roles at the right time. They have no way of identifying these workers prior to their arrival in New Zealand (or in the kiwifruit region). To have 25% of your workforce so unstable is extremely difficult for the kiwifruit industry.

In 2019, the kiwifruit industry has invested significant funds and energy into attracting people to work in the kiwifruit industry during harvest. While the response has been positive, it is not clear at the time of writing this submission if the campaign has been successful. Many of the kiwifruit businesses are in a state of extreme uncertainty as they wait to find out if the workers they need will be available.

The RSE programme provides some base level certainty with 2,000 of the estimated 15,000 seasonal workers required available through this programme. Employment of New Zealanders remains the primary focus of the industry particularly where we are able to provide permanent work however there are not enough New Zealanders available for short term work to meet the industry requirement. The kiwifruit industry strongly believes that immigration options in excess of what is currently available for seasonal workers (RSE, Working Holiday Scheme) is required. This may mean an increase in the number of RSE workers provided to the industry or an increase in the number of workers available through the Working Holiday Scheme (either by increasing quota or increasing the number of countries), or it may mean a new immigration option for short term low skilled workers. The current immigration policy does not address this need. We ask that consideration be given by Government to an immigration policy to assist the kiwifruit industry with seasonal work requirements.

4. Overall comments

NZKGI has discussed the proposed Immigration Policy with Zespri and Horticulture New Zealand (HortNZ) and we reference some aspects of the HortNZ and Business NZ submissions in our comments.

Strategic outcomes

Employers place more New Zealanders into jobs, which help their businesses to grow and thrive, and result in better jobs for New Zealanders.

NZKGI supports the arguments in the HortNZ and Business NZ submissions challenging the assumption that migrant workers displace New Zealand workers. We agree with Business NZ that migration in many cases supports the employment of New Zealanders. Further, we support the submission from Business New Zealand that a key strategic outcome of immigration policy should be to provide New Zealand businesses access to a workforce where the New Zealand labour supply does not meet demand.

Temporary migrant workers, when they are employed, are not exploited and have wages and conditions that are consistent with New Zealand values.

NZKGI strongly agrees with this outcome. As an industry we work hard to implement systems that prevent and address worker exploitation of any kind. These systems apply equally to New Zealand and migrant workers. NZKGI strongly supports enhanced enforcement particularly from Immigration NZ in this regard.

5. Scope

As discussed above, NZKGI is disappointed that the proposal provides no consideration or opportunity for access to a seasonal migrant workforce over and above the existing options of the RSE and Working Holiday Schemes (WHS). While both of these schemes are critical to the kiwifruit industry, the workers provided through these schemes are insufficient to

meet requirements and in the case of the WHS provide inadequate certainty and reliability of workforce.

6. The Gateway Framework

NZKGI supports the gateway concept particularly where it provides efficiency and certainty to the immigration system. We note that many of the businesses in the kiwifruit industry that may engage through this framework are small businesses. As such, the system needs both clarity of requirements and consistency of decision making. We believe it is important that neither businesses nor migrants need to use the services of immigration consultants or lawyers in engaging with the gateway system. We see many examples in the current system where advisors provide false hope to both employers and employees on their chances of success not only costing money and time but significant uncertainty. This is particularly the case in visa renewals which are impacted by changes in the implementation of immigration policy. For example, changes in the way ANSCO codes are applied by Immigration NZ in the last 12-24 months has meant that workers that had previously been issued with a permit are now being rejected for the same job with the same employer.

We support the comments in the Business NZ submission on ensuring that the process is not onerous for small business who might do 1 application in 3 years.

NZKGI also strongly suggests that any immigration policy system needs to be supported by strong, visible enforcement. The system should reward good employers and focus on poor employers. The kiwifruit industry considers that greater enforcement is required to ensure that permits are being complied with. This includes the issuance of visitor permits and compliance to ensure these visitors are not working. While the industry has a compliance system, the industry does not have the same powers of investigation that the Ministry does and finds it difficult to identify employers and employees who are violating the permit system. Enforcement by Immigration NZ needs to be regular and visible with swift consequences. One operation per year is insufficient to address the issue. Lack of enforcement is creating an environment where employers who are not complying with the system have a significant competitive advantage over employers who are complying. This is effectively rewarding bad behaviour.

NZKGI has also previously raised the suggestion of having better systems for checking work permits. We have suggested that all migrant workers (including those on the Working Holiday Scheme) should be issued with a NZ Government photo identification document on arrival which clearly advises their work permit status and their IRD number. The current VisaView system that employers are required to use is not open to everyone, is difficult to use and is not a tool that can be used in the field to easily check identification and work permit status.

7. Gateway 1 - The Employer Gateway

NZKGI supports the HortNZ and Business NZ submissions with respect to the following areas:

- We support the need for a pathway to residency for low skilled workers if demand is evident.
- We support the opportunity for migrants to upskill and have career progression
- We support that the kiwifruit industry has an ongoing need for low skilled labour
- We do not support the renewal every 12 months
- We do not support the maximum of 3 years or the standdown for 12 months
- We support a review of the ANSCO system
- We support recognition of existing employer approvals including the RSE scheme
- We support that migrants should be able to bring their families with them

In addition, NZKGI makes the following points:

- The kiwifruit industry has a high involvement of labour hire companies due to the seasonal nature of the work. In our industry they are called labour contracting companies.
- The policy currently makes no reference to a requirement for employers to provide initial settlement assistance to migrant employees. When considering an application for an employer, NZKGI considers that an assessment of settlement assistance should be made. Employers should be expected to assist with at least accommodation and pastoral care for a period after arrival. There should be an obligation for the employer to ensure that the employee has access to suitable compliant accommodation. This will assist in the prevention of exploitation and assist with worker welfare. Employers should also be required to provide migrants with an understanding of where they can go to seek assistance if they have concerns about their treatment.
- NZKGI considers it morally irresponsible to bring migrant families to New Zealand when they have only 12 months certainty and a maximum of 3 years. The stand down period of 12 months achieves nothing but uncertainty and disruption for the migrant and their family. If the migrant has contributed to the business and New Zealand society for 3 years and the need for their involvement still exists, they should be allowed to remain in New Zealand. They should be provided with the opportunity to upskill and contribute more widely to the business and to New Zealand society and they should have the option of a pathway to residency.

8. Gateway 2 - The Job Gateway

NZKGI supports the HortNZ and Business NZ submissions with respect to the following areas:

- We agree that a range of options are used by New Zealand employers to attract workers including social media and all options should be considered
- We agree that significant investment is required by Government within the welfare system to improve permanent employment conversion rates for MSD clients. In the main, soft skills/life skills are what is required, not job related skills. This includes meeting employer requirements for workers to pass drug and alcohol tests.
- We agree that sector agreements should be voluntary both for the industry and for the employer.
- We agree that regional characterisation indicators should not add unnecessary complexity and should take in to account industry and community need and provisions
- We agree that regional skill shortage lists should be linked to each industry's needs in that region and should be directed and governed by the joint government and industry steering groups

In addition, NZKGI makes the following points:

- It is not clear why regional skills shortage lists are not intended to be generated for ANSCO 4-5 level roles and we consider these roles equally as important.
- NZKGI supports the move to a regional skills shortage lists but we note the importance of ensuring the system is significantly improved. The current system is neither effective nor efficient. Requests do not appear to be fully considered, it takes too long, is not agile. The system should consider seasonal/short term labour needs as well as permanent needs on a regional basis. They need to be reviewed often or on demand to address needs. Regionalisation will require organisation and resource at a regional level - and may be difficult to achieve in some regions.

9. Domestic Labour Market System

NZKGI is concerned that there is significant cross-over between the concept of regional skills hubs discussed in the Immigration policy with the Review of Vocational Education. As discussed above, we do not necessarily think that there is a strong linkage between availability of technical training and inability to attract New Zealanders to roles. Rather, we believe the emphasis should be on social skills making sure MSD clients are physically fit and sufficiently supported to stay in jobs and progress into careers. From small scale projects in the kiwifruit industry, we are becoming aware of the importance of pastoral care in supporting MSD clients into fulltime work. Government assistance to provide this to employers for employees is important.

NZKGI also considers that some assistance in understanding industry/region wide skills shortage would be valuable. While industry is best placed to collect data and establish strategies, assistance would be beneficial. In particular, easy access to Government held data, co-funding of research, sharing of data from other industries within regions would all be valuable. Where skills shortages are identified, it will be important to consider the lead time to attract and train New Zealanders. Businesses will require immigration to address their needs in the interim.

10. Gate 3 - the Migrant gate

NZKGI supports employers undertaking migrant capability tests but we suggest that this is undertaken within a view of public risk. For example the public risk associated with a medical surgeon is high compared with the public risk of a low skilled worker and some oversight or verification may be necessary where public risk is high.

While NZKGI supports migrants being able to bring their families to New Zealand, we think some consideration should be given to whether the role remuneration is sufficient to support the family. This would be particularly the case where accommodation costs are high.

NZKGI supports the partner of a migrant being able to work if they are filling a demonstrated skills shortage.

As discussed above, NZKGI does not support the mandatory stand down period. It achieves nothing but introduces uncertainty and cost as the business reinvests in training additional people. NZKGI supports a pathway to residency being available for workers of all skill levels where skills shortages remain.

11. Implementation

As discussed above, NZKGI considers that there needs to be improvements in the resources available for enforcement of immigration policy. Particularly with regards to where visitors to New Zealand with family associated visitor visas are working. Enforcement should focus on poor behaviour and identified issues rather than random operations. There needs to be a significant improvement in the timeframe from enforcement investigation to outcome. Industry is often in a position where we know a company is under investigation but as prosecution takes several years, we have no evidence to allow us to remove them. There needs to be better information sharing between Immigration and industries with compliance programmes.

NZKGI appreciates the opportunity to provide feedback on this policy discussion and looks forward to further involvement.