

## In Confidence

Office of the Minister of Housing

Cabinet Social Wellbeing Committee

# Establishing Fees for Managed Isolation and Quarantine

## Proposal

- 1 This paper seeks agreement to establish fees for managed isolation and quarantine (MIQ). These would apply to everyone arriving in New Zealand, including New Zealand citizens and residence class visa holders, except where a fee exemption or waiver applies. There are choices about whether we apply these fees only to people who departed New Zealand on or after 10 April 2020 (the MIQ requirement was introduced at 11.59 pm on 9 April 2020), or regardless of when they left New Zealand.

## Relation to government priorities

- 2 This paper relates to the Government's response to COVID-19.

## Executive summary

- 3 Protecting New Zealand communities from COVID-19 through the MIQ system is critically important, and has public health, economic and social benefits. From a public health perspective, MIQ is necessary to prevent the spread of COVID-19 in New Zealand. All arrivals to New Zealand must undertake quarantine or managed isolation for 14 days after arrival (with very limited exemptions). This protects the health and wellbeing of people in New Zealand.
- 4 The costs of MIQ are substantial and rapidly increasing. We have a limited number of facilities for MIQ, and a limited number of staff who can be made available to manage health and security needs at MIQ facilities. Demand for MIQ has grown since the system was introduced in April 2020, to the extent that we have had to make arrangements with airlines to manage the number of people arriving in New Zealand.
- 5 It is not sustainable for the government to continue to fund all the costs of MIQ. There is a risk that, in the absence of a more sustainable model, the Government is no longer able to deliver the same level of MIQ services to everyone arriving in New Zealand. This would in turn likely increase the risk of domestic transmission of COVID-19 through importation from overseas, which could have a devastating impact on people, communities and our economy.
- 6 I propose that we agree legislation to allow charging a fee to everyone arriving in New Zealand, as a contribution to their MIQ costs (including food, accommodation, and ancillary services). This would include New Zealand citizens and residence class visa holders, unless the fee is waived or they are exempt from it. However, there are choices about whether we narrow the initial application of this fee:
  - 6.1 Option 1: The legislation could allow charging a fee to everyone entering New Zealand and going into MIQ, but limit the initial application of this to a subset of people who left New Zealand on or after 10 April 2020 (the MIQ requirement was introduced at 11.59 pm on 9 April 2020).

- 6.2 Option 2: The legislation could apply the fee to everyone entering New Zealand right away.
- 7 Under this proposal, primary legislation would establish a clear legal basis for fees for MIQ. The actual amount of the fees would be set in regulations.
- 8 I am envisaging a fee of approximately \$3,500 (including GST) for one adult for a 14-day stay in MIQ, with smaller additional payments for extra family members in the same room. I will seek Cabinet approval of the fee when seeking approval to introduce legislation. The \$3,500 figure represents about half of the total costs of MIQ and is broadly in line with the fees in Australia, where some states have recently started charging for MIQ.
- 9 I recognise that many people returning to New Zealand will already be financially stressed due to job loss and the costs of relocating. I am proposing three mechanisms to assist people who may struggle to pay MIQ fees:
- 9.1 It would be possible to pay fees through instalment. This would help people who may struggle to pay the fees in one upfront payment.
- 9.2 The fees could be partially or fully waived where individuals are experiencing undue financial hardship.
- 9.3 Some groups of people would be exempt from paying fees where they may be experiencing financial distress or in situations that the Government considers that MIQ fees should not apply.
- 10 Citizens and permanent residents have the right to leave and enter New Zealand under the New Zealand Bill of Rights Act 1990 and the Immigration Act 2009. Establishing a fees system for MIQ, and the MIQ system taken in its totality, could act as a barrier to returning to New Zealand, and therefore a limitation on the rights of citizens and New Zealanders. Care will be taken during drafting to ensure any restriction on rights is the minimum necessary to achieve the policy objective of the fees system, and kept under regular review.
- 11 It is important to start the fees system as early as possible to provide certainty to travellers and lessen the community's share of the cost at the earliest opportunity. There is a very small window available for legislation to be in place before the election.
- 12 I am seeking your agreement for new legislation to be drafted, introduced and passed before the House rises with a very short Select Committee process. There are significant legal and operational risks associated with establishing a fees system so quickly, including the risk of errors and system failures. The other option is to delay the fees system until after the election, which would reduce these risks and could allow for the creation of a more nuanced system.
- 13 This paper seeks approval to proceed with drafting legislation, noting a substantial part of the detailed design (eg setting the fee) will need to be done during drafting. I propose to report back to LEG on this with the draft Bill next week, to give officials time to develop the necessary technical detail.

## Background

- 14 Managing the health risks of importing cases of COVID-19 at the border is a critical pillar of the Government's overall public health strategy for the COVID-19 pandemic. On 20 July 2020, it had been 80 days since our last locally-acquired case of COVID-19. All confirmed cases in June and July 2020 have been linked to international travel and stays in MIQ. Given the steady worsening of the pandemic globally, any re-emergence of COVID-19 in New Zealand is highly likely to be linked to international travel. MIQ is a key tool in ensuring that we are able to detect cases early and stamp out the disease, without having to resort to local or national shifts up Alert Levels.
- 15 Without some form of MIQ, the 79 cases detected at the border in June and July (as at 20 July 2020) would likely have sparked some domestic transmission of COVID-19. Events from February and March 2020 showed that compliance with self-isolation requirements by people arriving in New Zealand was patchy, and could not be relied on. If we want to prevent escalation in our local or national Alert Levels, without stricter border controls to reduce the importation of cases, MIQ is essential in the short to medium-term. In the longer term, it may be possible to take a more nuanced approach to risk management that did not require a 14-day stay in MIQ for almost everyone arriving in New Zealand.
- 16 Our present health strategy includes requiring people arriving in New Zealand to isolate or quarantine at a government facility in accordance with an order made under the COVID-19 Public Health Response Act 2020 (COVID-19 Act). As we move from emergency response into longer-term management, the Government is taking steps to ensure the sustainability and performance of our MIQ arrangements, and to respond to capacity constraints and financial pressures.
- 17 On 29 June 2020, Cabinet discussed the different options for introducing co-payments for MIQ, including options on who co-payments would apply to and the need for legislative changes. Cabinet noted that I would do further work on developing a co-payment scheme (CAB-20-MIN-0317 refers).
- 18 This paper reports back on that further work. It also seeks Cabinet's agreement to introduce fees for most people entering MIQ upon arrival in New Zealand. This will allow drafting so that legislation, which is needed to authorise these fees, can be passed before the election.
- 19 This proposal is part of a suite of changes to our overall MIQ system to manage flows across the border and match supply and demand for places in MIQ facilities. Shortly, a booking system will be implemented to better forecast demand for MIQ places and manage supply issues. In consultation with the Minister of Health, I am also working on a sustainable and scalable regulatory model for MIQ, to safely grow the supply of MIQ places. We will report back to Cabinet on this in August 2020.

## Full Crown funding of managed isolation and quarantine is unsustainable

- 20 A growing number of people are arriving in New Zealand, but the numbers of people actually able to travel here are the lowest they have been since the 1960s. An estimated 600,000 to 900,000 New Zealand citizens are living overseas, with around 400,000 to 600,000 living in Australia. It is unknown how many may wish to return to New Zealand over the coming months. In addition, family members of citizens and residents, or people with skills that are critical to the economic recovery may wish, or need, to come to New Zealand.

- 21 While New Zealand has achieved elimination of COVID-19, most countries have not. The World Health Organisation reports sustained exponential growth in cases worldwide. To address the risk of COVID-19 being reintroduced, arrivals to New Zealand must undertake quarantine or managed isolation for 14 days after arrival (with very limited exemptions).
- 22 The vast majority of arrivals to date have been New Zealand citizens or residents (88 percent in the week of 3 – 9 July 2020; 4 percent were Australian citizens or permanent residents and 8 percent were foreign national temporary visa holders). Citizens and residents (including those leaving and returning) are likely to continue to dominate inward flows in the medium term. Any future agreement of Safe Travel Zones (eg trans-Tasman or the Realm) would reduce demand for isolation services from those places, but officials expect demand from overseas to continue to rise.
- 23 In addition to New Zealanders seeking to repatriate and visa holders, our strong existing international ties mean that there may be increasing situations where New Zealanders decide to travel temporarily and return to New Zealand (for example, to undertake work or for personal reasons). This will place additional pressure on demand for isolation facilities.
- 24 Accommodating people choosing to travel to New Zealand while maintaining our critical border defences comes at significant cost to taxpayers. The current model of provision sees all costs for MIQ borne by the Crown. However, this funding model is not sustainable.
- 25 In order to meet anticipated demand from August 2020, officials are continuing to work with our oversight, to grow capacity. Accommodating these numbers could cost in the order of \$630 million for the six months from 1 July to 31 December 2020.<sup>1</sup>
- 26 The Government is working on developing a sustainable, scalable model for isolation at the border over the short and medium term (up to two years). In the longer term, it may be possible to take a more nuanced approach to public health risk management which could include not requiring a full 14-day MIQ. Such a change would ultimately reduce the benefits of introducing a fees system for MIQ.
- 27 However, under the status quo, significant expenditure would be needed if the Government continues to meet all the costs for MIQ facilities and associated services for this period of time. This will also reduce the fiscal headroom that could be used to support the economic recovery.

**I am seeking agreement to charge most people arriving in New Zealand for the costs of managed isolation and quarantine**

- 28 I am seeking agreement to introduce a fees system for some of the costs of MIQ. There are two broad approaches for who should be required to pay:
- 28.1 everyone (including New Zealand citizens and residence class visa holders (“residents”) and Australians normally resident in New Zealand) who has to isolate or be quarantined in a managed facility under the Air Border Order and the Maritime Border Order; or
- 28.2 only foreign nationals (essentially the people who currently require an exception to be allowed to travel to New Zealand).

---

<sup>1</sup> Based on forecasts held by AOG officials for 8,000 people.

- 29 I recommend that Cabinet agree that everyone who arrives in New Zealand and is required to be in MIQ,<sup>2</sup> including citizens, residents and Australians, be required to pay fees, with the ability to waive the fees for different classes or individuals. The fees would apply to people in both managed isolation and quarantine. They would represent a contribution to a person's total MIQ costs, including accommodation and food.
- 30 There are two options for phasing in this proposal:
- 30.1 Option 1: The legislation could allow charging a fee to everyone entering New Zealand and going into MIQ, but limit the initial application of this to a subset of people who left New Zealand on or after 10 April 2020 (the MIQ requirement was introduced at 11.59 pm on 9 April 2020).
- 30.2 Option 2: The legislation could apply the fee to everyone entering New Zealand right away.
- 31 Option 1 recognises that many of the people returning to New Zealand now may be doing so for reasons out of their control (eg having recently lost jobs or livelihoods overseas, or been unable to return to New Zealand earlier based on overseas lockdown situations). It would, however, mean that further Cabinet decisions would be required if we wanted to apply MIQ fees to a broader group of people.
- 32 In the normal course of events, fees would cover the 14-day stay in MIQ. If individuals spent longer in MIQ (for example people who test positive and enter quarantine), they would not be charged more than the standard fee. In the event of a shorter stay (eg for transiting passengers, if the period for MIQ is reduced for some arrivals, or if the person is transferred to hospital), then payment could be charged on a pro-rata basis.
- 33 I note that for the Australian states charging people for stays in managed isolation and quarantine (New South Wales, Queensland and the Northern Territory), all people arriving from overseas are liable to pay. This includes Australian citizens and residents.
- 34 s 9(2)(f)(iv)

---

<sup>2</sup> The following groups of people are currently exempt from having to stay in MIQ when arriving by air: aircraft pilots or flight crew members; maritime crew members transferring to a ship immediately after their arrival in New Zealand; medical attendants assisting with medical air transfers; any person designated by the Director-General of Health as critical to providing services to assist with the response to COVID-19; any person entitled to immunity from jurisdiction under the Diplomatic Privileges and Immunities Act 1968 (other than a person referred to in section 10D(2)(d) of that Act) or the Consular Privileges and Immunities Act 1971 or any order under either of those Acts; any person who is a member of the New Zealand Defence Force and returning from service outside New Zealand.

- 35 I recognise that introducing MIQ fees could significantly interfere with the rights of New Zealand citizens and residents to enter New Zealand. However, MIQ is financially unsustainable for the Government. Our experience over the last few months is that the costs of MIQ keep growing, and Cabinet has repeatedly had to increase the appropriation to keep MIQ running. Without MIQ, the counter-factual is a situation in which we may either need to resort to more extreme border measures (such as temporarily closing airports to slow the importation of cases) or returning to Alert Levels 3 or 4 to stamp out local infection clusters caused by someone returning from overseas.
- 36 Introducing a fees system for all arrivals, with provision for exemptions and waivers, is the fairest option. It reflects the benefit to individuals and families of being able to safely travel to be in New Zealand (noting that for some, this is a right). It would also reduce the costs to the rest of the community, given that citizens and residents are likely to continue to be the largest proportion of travellers to New Zealand while COVID-19 restrictions remain in place.
- 37 If a person needs to enter MIQ who has not recently arrived in New Zealand, they would not be subject to fees under this system. The same applies to people who arrive in New Zealand but are not required, by either the Air Border Order or the Maritime Border Order, to isolate or be quarantined in a managed facility. This does not preclude making other agreements for some form of fee or charge to be paid when they voluntarily use MIQ facilities.
- 38 At present there is no clear legal authority to put in place a blanket policy to require fees from arriving New Zealand citizens and residents. Legislation is needed if Cabinet agrees that fees should be required from everyone who is required to undertake government provided managed isolation or quarantine (unless the fee is waived or exempted).

**The amount of fees will be set in regulations**

- 39 Legislation would give the Government a clear authority to charge a fee to cover part of the costs of MIQ, including accommodation, food and ancillary costs (eg laundry, transportation, additional security). I do not propose the fee include costs for public services (eg health and welfare services). These are already publically-funded, and their inclusion in any MIQ fees would represent a double charge.
- 40 I will consider advice on the level of the fees. My initial view is that, for simplicity of understanding and administration, we should adopt a flat-fee structure. For illustrative purposes, the different fee structures adopted in Australia are in Appendix 1.
- 41 I envisage fees of approximately \$3,500 (including GST) for one adult for a 14-day stay in MIQ (with smaller additional payments for extra family members sharing the same room). This figure is around 50 per cent of the total MIQ costs for one person and is broadly in line with the fees which have recently been introduced in some states in Australia.
- 42 The level of the fee will be confirmed by Cabinet when I seek approval to introduce the legislation.

- 43 The following table outlines an illustrative breakdown of average costs for a single traveller and a family of four. This does not include costs such as transporting people to a managed isolation facility in a different city to their port of arrival, or MBIE's overheads to operate the MIQ system. The fee would contribute towards a portion of accommodation, food and ancillary costs.

*Table 1: Illustrative breakdown of estimated average costs per person/family of four, daily and over 14 days, \* \*\**

Cost category	Daily cost per person	Daily cost – family** of four	14-day cost per person	14-day cost – family of four
Accommodation (occupied rooms)	207	414	2,898	5,796
Food	102	409	1,433	5,732
Other facility costs (exclusive use overhead, additional security, laundry)	58	173	805	2,415
<b>Food, accommodation and other facility costs total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Wrap around supports (health and welfare)	58	230	805	3,220
Management and support teams	75	299	1,047	4,186
<b>Totals</b>	<b>\$499</b>	<b>\$1,525</b>	<b>\$6,987</b>	<b>\$21,349</b>

\* The accommodation and food costs are based on a weighted average for MIF charges as at 1 July 2020. The remaining costs are based on Auckland operations in June. The costs are approximate and rounded.

\* Includes GST.

\* For this table, a family of four consists of two adults and two children occupying two rooms.

- 44 There is significant variation in the costs of providing MIQ depending on the standard of the facility involved. This variable standard, combined with a flat fee, may generate complaints from people in MIQ that they are paying too much for a facility which is below the average standard. This risk will be partially managed by having a fair, randomised allocation of people to facilities (other than special circumstances that require certain facilities to be used, eg for people deported from Australia).
- 45 I will also take human rights considerations into account when setting the fee. Some design choices include keeping the fee as low as possible (in absolute terms or as a proportion of costs by accurately representing as many individual costs as possible) and considering equity issues arising from larger families.
- 46 If Cabinet were to choose option 2 for the application of the fees system (ie fees would apply to everyone entering MIQ, rather than just those who have left New Zealand on or after 10 April 2020), the following table provides rough estimates of the revenue which could be generated by a \$3,500 fee.<sup>3</sup> This is for the period from the beginning of August to December 2020. It assumes there are 88,000 people in MIQ over this period (or 8,000 people per fortnight). The estimates do not include the cost of collecting the fees.

<sup>3</sup> Officials have been unable to estimate revenue that may be generated under option 1 (which would only require fees from people who have departed New Zealand on or after 10 April 2020).

## IN CONFIDENCE

*Table 2: Estimate of revenues based on a \$3,500 fee for MIQ under option 2 (fees apply to everyone regardless of when they left New Zealand)*

Revenue generated	\$308 million	\$250 million	\$200 million
<b>Assumptions</b>	<ul style="list-style-type: none"> <li>Each person pays the fee</li> <li>100% payment compliance</li> <li>No waivers</li> </ul>	<ul style="list-style-type: none"> <li>Sharing of rooms based on current data, with additional people beyond the first paying no fees</li> <li>100% payment compliance</li> <li>No waivers</li> </ul>	<ul style="list-style-type: none"> <li>Sharing of rooms based on current data, with additional people beyond the first paying no fees</li> <li>10% of fees never paid</li> <li>10% of fees are waived</li> </ul>

- 47 This compares to an estimated cost of providing MIQ services of \$630 million for the slightly longer period from July to December 2020. I will provide a more precise estimate of the revenue likely to be generated by the fees to reflect our decision about who is liable to pay the fee when I seek Cabinet approval to introduce the legislation.

### **There should be flexibility to reflect the different circumstances of people arriving**

- 48 In addition to deciding who should have to pay a fee initially, I recommend there also be flexibility in the fees system to account for the different circumstances of arrivals.
- 49 Fees would become due for payment a maximum of 90 days after a person leaves MIQ. While the exact collection details are still to be worked through, it may be possible to collect the fees or a deposit at an earlier point for some classes of traveller (eg for essential workers through the booking system).
- 50 There may be a need for some travellers to pay a greater fee than set in legislation, if this is a condition of their entry to New Zealand. For example, Cabinet has agreed that people entering New Zealand as an “other essential worker” (determined by application to Immigration New Zealand) must pay for their MIQ costs or have these costs met by their employer or sponsoring agency (CAB-20-MIN-0268 refers). At present, these people are invoiced through the facility at which they have stayed, once MBIE is notified about their arrival in New Zealand.
- 51 I recommend that the chief executive of MBIE be responsible for collecting the fees. The chief executive should have flexibility to set the manner and timing of the payments. If fees are not paid by the due date, it should become a recoverable debt, through the ordinary civil debt recovery mechanisms.
- 52 The MIQ fees to be paid by individuals and families may present a significant financial outlay and I recognise that many arrivals will already be financially stressed. In some cases, people will be returning to New Zealand due to experiencing job loss and consequential financial hardship overseas. Equally, many people who have the means to pay are choosing to relocate or are seeking to exit New Zealand temporarily for personal or business travel. The specific impact on individuals will depend on the level of the fee and their individual circumstances.



- 53 There is a high risk that some people will not be able to pay their MIQ fees. There could be significant administrative costs associated with collecting the fees from people arriving in New Zealand. Early estimates are that the annual cost of processing and collecting fees would be in the region of \$10.8 million (\$2.4 million processing and \$8.4 million debt collection). It is not yet clear how the costs of collection will compare to the revenue generated. If non-compliance with the fees is widespread then this would further increase the costs of collection.

**Mechanisms to support people who are experiencing financial distress**

- 54 Many people returning to New Zealand will already be financially stressed due to job loss and the costs of relocating. To help address concerns about the financial impact of MIQ fees on people arriving in New Zealand, I am proposing that:
- 54.1 the chief executive of MBIE may agree for the fees to be paid by instalment, this would help person who may be able to financial afford the MIQ fees, but are unable to pay the fees in one upfront payment;
  - 54.2 specified classes of people are exempt from paying fees;
  - 54.3 the chief executive of MBIE may waive the fees, in part or in full, where the person is experiencing undue financial hardship.
- 55 Payment by instalment after 90 days would result in the fee being captured by the definition of a loan under the Public Finance Act 1989. This would require the creation of appropriations to recognise these payment types.
- 56 I intend to monitor how these mechanisms are working and consider other measures, such as a loan repayment scheme, should this be necessary.

*Fee exemptions for specified classes of people*

- 57 In recognition that some people may be experiencing financial distress and that there may be situations where the Government considers that MIQ fees should not apply, I am seeking agreement to allow for the following classes to be exempt from MIQ fees:
- 57.1 any person specified in Schedule 5 of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 as being exempt from paying prescribed fees, the immigration levy and international visitor levy:
    - 57.1.1 foreign diplomatic and consular personnel (defined as persons eligible to hold a New Zealand diplomatic, consular or official visa, including recognised family members) who agree to enter MIQ;<sup>4</sup>
    - 57.1.2 officials of foreign governments conducting business with Ministers or government departments or transiting through New Zealand on official government-to-government business;

---

<sup>4</sup> While foreign diplomatic and consular personnel are exempt from the requirement to enter MIQ. This minimises the public health risks that arise where foreign diplomatic and consular personnel elect to self-isolate in accordance with health requirements agreed by the Ministers of Foreign Affairs and Health, which is their alternative option to MIQ. An exemption from mandatory fees would not prevent foreign governments from covering these costs if they wished.

- 57.1.3 holders of diplomatic or other official passports who are entering or transiting through New Zealand on embassy or consulate business or en route or returning to a diplomatic posting;
- 57.1.4 refugees including claimants, protected persons, and applicants under the special category for victims of domestic violence;
- 57.2 any person travelling to New Zealand for the sentencing of the accused in the Christchurch mosque attacks;
- 57.3 any New Zealand citizen deported to New Zealand;
- 57.4 any person not required to isolate or be quarantined in a managed facility;
- 57.5 any person who has a confirmed booking to travel to New Zealand before the day after the date on which the Bill is introduced (see paragraphs 76 – 77).
- 58 Other classes could be included through regulations over time, if our experience with processing waiver applications shows that there are other classes of people who should be exempt from the fees system. This will provide flexibility to adjust the system to respond to evolving needs without requiring amendments to primary legislation.
- 59 The Government may, for example, want to consider exempting people transiting through New Zealand for a short duration but longer than 24 hours (for example, people travelling home to the Pacific Islands) or people who have humanitarian exemptions to enter or transit through New Zealand.

*Fees waivers on financial hardship grounds*

- 60 I also propose that the chief executive of MBIE be empowered to waive the fees (in full or in part) for certain individuals on undue financial hardship grounds, on a case-by-case basis. Undue financial hardship could include being unable to meet basic living expenses or existing financial obligations (eg mortgage payments), receiving a main benefit, having a serious illness or injury, and the loss of employment or a business. Australian jurisdictions that have implemented fees for MIQ have adopted measures to ease the impact on people experiencing financial hardship. This includes reduced fees for low income earners, payment plans of varying durations, and full fee waivers where there is significant financial hardship.
- 61 Further work will be necessary to determine what circumstances constitute undue financial hardship and the process for assessing and granting waiver applications. This may include setting asset thresholds to determine eligibility. Cash asset tests are used in the benefit system and may be a useful starting point for determining eligibility. For example, a person is eligible for the Emergency Benefit payment where they have cash assets of less than \$4,300 for a single person or \$7,464 for couples or sole parents with children. The asset threshold for the Accommodation Supplement is \$8,100 for a single person or \$16,200 for a sole parent or couple.

62 Assessing and granting applications for partial and full waivers will make the system more complicated to administer. However, I consider this is important to avoid disproportionate impacts of the fee. For example, the number of working age main benefit grants accessed by people returning to New Zealand from overseas spiked in April 2020 to 4,184 people (compared to 445 people in April 2019) while we were at Alert Level 4; though this has returned to 687 people in June 2020. This is not indicative of the number of people who are likely to seek a waiver of the fees, but shows that the fees could be a barrier to returning to New Zealand for a significant number of New Zealanders and residents depending on local labour market conditions, without any potential for fees to be waived.

s 9(2)(f)(iv)

63 s 9(2)(f)(iv)

64 As a stop-gap measure, airlines have currently halted ticket sales to New Zealand to avoid more people arriving in the country than we have MIQ spaces for. This halt lasts three weeks and goes until next Monday, 27 July 2020. I understand the Minister (and Ministry) of Transport will shortly be amending airlines' licences to allow for a cap on the number of passengers they can bring to New Zealand. These are interim flow management measures until MBIE's booking system comes online.

65 s 9(2)(f)(iv). Adding MIQ capacity is not as simple as identifying additional hotels: health workforce and supports are a key constraint on our ability to scale up MIQ at short notice. s 9(2)(f)(iv)

**To implement the fees system, I am seeking agreement to pass legislation before the election**

66 I consider it is important to start the MIQ fees system as early as possible to provide certainty to travellers and lessen the community's share of the cost at the earliest opportunity. There is a very small window available for legislation to be in place before the election. I am seeking your agreement for new legislation to be drafted, introduced and passed before the House rises with a very short Select Committee process.

67 I propose to establish an MIQ fees system in law that:

- 67.1 creates legal authority for the Government to charge fees for New Zealand citizens, residence-class visa holders and non-residents who are required to isolate or be quarantined in a managed facility;
- 67.2 provides the power to set charges that contribute to the costs of MIQ (covering food, accommodation and ancillary services) with the level of fees set in regulations;

- 67.3 requires the chief executive of MBIE to collect the fee and to determine the method and timing for the collection of the fee;
  - 67.4 allows the chief executive to collect the fee in instalments and for unpaid fees to become a recoverable debt;
  - 67.5 allows specified classes to be exempt from the fee;
  - 67.6 allows the chief executive of MBIE to waive the fees (in part or in full) for individuals due to undue financial hardship.
- 68 My proposed timeframe to pass this legislation, which I have discussed with the Attorney-General and the Leader of the House and will seek confirmation of at LEG, is:

<i>28 July 2020</i>	Cabinet Legislation Committee (with power to act) approves legislation for introduction to the House.
<i>29 July 2020 onwards</i>	Legislation is introduced to the House and passed through all stages with a very short Select Committee. Amendment comes into force on Royal assent.
<i>Early August 2020</i>	Regulations commence to set the fees.

#### **The fees system could be established in the COVID-19 Act**

- 69 I envisage the MIQ fees system will be created through amendments to the COVID-19 Act. This will mean the purpose of charging, which is to ensure the MIQ system can operate sustainably in the medium term, remains linked to and part of our public health response to COVID-19. This also means that existing safeguards in the COVID-19 Act, which has recently been scrutinised by the Finance and Expenditure Committee, can be used to support charging fees for MIQ.
- 70 Amending the COVID-19 Act to create the fees system also provides an opportunity to make other amendments, without compromising the timeline for passing legislation. I propose we also amend the COVID-19 Act to create an obligation for people entering New Zealand to have booked an MIQ space before entry. s 9(2)(f)(iv)

#### **Legislating now, during a small window before the House is dissolved, involves risks**

*The fee payment system cannot be overly complicated*

- 71 There are significant legal and operational risks associated with establishing a fees system so quickly, including the risk of errors and system failures. Implementing a system now requires trade-offs in the design of the system. For this reason, I am proposing to set up a basic system in primary legislation in the first instance, with some details in regulations. We will be unable to nuance the design in its initial form, for example, to only apply to New Zealanders leaving and returning or for different travel reasons. However, it would be possible to change the associated regulations over time if needed.

- 72 If Cabinet wished to have a more nuanced fees system, such as a more differential, complex fee structure, more time would be needed to develop this system. It would have to be introduced following the election, and this would be a matter for the next Government to decide.
- 73 Even if legislation is introduced before the election, the fees system could still be revised through changes to primary or secondary legislation over time as the border settings evolve.
- 74 There are implementation and operationalisation risks which are heightened by the pace with which the fees system will be introduced, including ensuring adequate provision of information (eg for people who have made bookings already), and appropriate enforcement.

*There could be a surge on travel bookings when the fees system is publicly announced*

- 75 There is also a question about when the obligation for fees will arise. Ordinarily, legislation is prospective and will apply only after the legislation is in place. However, in this case there is a risk that if the fees system is announced s 9(2)(f)(iv) [REDACTED] there may be a rush to book travel to New Zealand in the intervening period. s 9(2)(f)(iv) [REDACTED] This risk is partially mitigated by interim measures to cap the number of passengers flying to New Zealand.
- 76 Two options to further mitigate this risk are to apply fees to all travel bookings:
- 76.1 from the day after the date of introduction of the Bill; or
- 76.2 from the day after the date of Royal assent.
- 77 I propose the first option as this is the smallest available window (the day after introduction) to avoid flooding the MIQ system. This is retrospective, but there is precedent for this approach (eg legislation that overrides the effects of a court decision). I therefore recommend the fees system applies to all travel booked from the day after the date of introduction. The trade-off to avoid a significant rush on bookings is that some people who have not yet booked but are intending to travel will be caught out by this. While there is precedent, those who have been unable to book travel during the three-week freeze on bookings are especially likely to criticise the introduction of fees.

*It may not be seen to be justified to legislate in a very short amount of time*

- 78 There could be significant criticism of legislating with only a short a Select Committee process. The COVID-19 Act was enacted under urgency without a Select Committee process. There was a subsequent Select Committee inquiry into the Act (which has not yet been completed).
- 79 The inquiry into the legislation attracted well over 1,000 submissions. While legal academics were generally supportive of the legislation (albeit recommending changes), there were a very large number of public submissions that were highly critical of the legislation being enacted without public input because of the significant impact it has on human rights.

- 80 There is a real risk that legislating again with only a short time for public input would compound that criticism. In addition, the case for legislating in haste may be perceived as even weaker in the case of this Bill (compared to the COVID-19 Act) because it may be seen as being more about fiscal considerations than public health. On balance, I believe passing this legislation now will give certainty to travellers and ensure we can continue to provide MIQ at current levels (if not greater).

**A range of legal and constitutional issues need to be considered**

- 81 People wishing to travel to New Zealand, and their family and friends here, may be critical of the Government charging them to come to New Zealand. There will obviously need to be a clear legal basis for the Government to recover costs. This clear legal basis will be provided by the proposal in this paper to amend primary legislation, being the COVID-19 Act.

*Bill of Rights Act and other human rights issues*

- 82 The New Zealand Bill of Rights Act establishes the freedom of movement of New Zealand citizens, including the right to enter New Zealand and the right to leave New Zealand.
- 83 Imposing a significant cost on returning New Zealand citizens, or otherwise preventing their return (for example through a pre-booking system) could be found to be an unlawful limitation on their right to enter New Zealand under section 18 of the Bill of Rights Act. We will need to ensure any regime can be justified under section 5 of Bill of Rights Act.
- 84 While this is ultimately a matter for the Attorney-General to decide when legislation is introduced, I consider that the proposed approach to a fee system for MIQ is a justified and proportionate limitation on rights necessary to manage the public health risks posed by COVID-19. There will be significant public health, social and economic impacts if community transmission of COVID-19 occurs again in New Zealand. As the greatest risk of COVID-19 presently comes from the border, the MIQ system helps mitigate that risk, while still allowing people to enter New Zealand.
- 85 A change in circumstances domestically or globally could also affect whether limitations on the right to enter New Zealand are considered legally justifiable. For example, if COVID-19 is not rampant overseas in departure countries, or there are other ways to achieve the outcomes of MIQ without requiring a 14-day stay in a government-managed facility, there will be a need to assess whether requiring a fee (in addition to other aspects of the MIQ system) remains justifiable.
- 86 In terms of justification, we have a limited number of facilities for MIQ, and a limited number of staff who can be made available to manage health and security needs at MIQ facilities. Demand for MIQ has grown since the system was introduced in April 2020, to the extent that we have had to make arrangements with airlines to manage the number of people arriving in New Zealand.
- 87 s 9(2)(f)(iv)  
MIQ is a very costly intervention due to the level of facilities, services and personnel involved. Setting a fee to help contribute to MIQ costs will support the continued provision of MIQ services, and ensure it is sustainable in the medium term. This is needed to achieve the desired public health outcomes. Without a fee, there is a risk that the effectiveness of MIQ is weakened and COVID-19 enters the community.

88 s 9(2)(h)

89

90 We will therefore need to keep all aspects of the MIQ system under regular review to ensure it is proportionate and necessary, including that border measures have an overall coherence. The work that the Minister of Health and I are doing on a strategic direction for safely managing the arrival of people to New Zealand, which we will report on in August 2020, will also be relevant.

*Treaty of Waitangi obligations*

91 Similar to Bill of Rights Act implications, there could be a Treaty of Waitangi argument about impeding the access of Māori people's access to New Zealand. Māori people make up a significant portion of those who would be faced with undue hardship from these costs and also a significant portion of those living in Australia.

92 The fees will not differ based on a traveller's ethnicity. While there may be disproportionate impact on Māori (in terms of financial hardship) as a result of the fees, I am attempting to mitigate this by allowing for full and partial fee waivers in cases of undue financial hardship, or payment by instalments. I consider that it would be useful to engage with the appropriate stakeholders to reflect the Treaty partnership when setting the fees and designing the factors for waivers.

*The Realm of New Zealand*

93 Rights under the Bill of Rights Act also extend to New Zealand citizens in the Realm (the Cook Islands, Niue, and Tokelau).

94 New Zealand has particular responsibilities to the Realm of New Zealand (the Cook Islands, Niue, and Tokelau) that need to be considered when developing options for quarantine and managed isolation (in particular flowing from the fact that Cook Islanders, Niueans, and Tokelauans are New Zealand citizens). s 9(2)(g)(ii)

95 s 9(2)(g)(ii)

96

s 9(2)(g)(ii)

*International obligations*

- 97 We have factored into the design of the fees system a number of international law issues. The International Health Regulations 2005 (IHR) is an international treaty which sets out the measures states may take to respond to the international spread of diseases like COVID-19. Article 40 of the IHRs on its face prohibits charging short term travellers for their isolation or quarantine.
- 98 However, there could be a credible legal argument that article 40 does not prohibit charging for isolation facilities as a pre-advertised, consensual condition of entry to New Zealand, and as part of a deliberate policy to open up, rather than restrict, entry to New Zealand's border. s 9(2)(h); s 9(2)(g)(ii)

*Trade obligations*

- 99 New Zealand has trade obligations related to the temporary entry of a limited group of business persons in our trade agreements. Such persons have an expectation of entry into New Zealand, and paying for the cost of MIQ during a pandemic may give rise to questions. Charging for MIQ in these circumstances may be justified on public health grounds. Further, given the unprecedented nature of the COVID-19 crisis, and the fact that we are not the only country considering/charging a fee, I consider the risk of challenge to be low. Fee settings should be kept under review as our border settings evolve.

**Implementation**

- 100 As the lead agency for MIQ, MBIE will be responsible for implementing the fees system. Due to the speed at which the system for charging, waiving and collecting fees will have to be established it will start as a basic function (eg with invoices for payment to a bank account), which is refined over time (eg to allow credit card payments).
- 101 MBIE will monitor how the fees system is operating, in conjunction with the booking system, and provide advice to Ministers on any adjustments that may be needed.

**Financial implications**

- 102 The proposals in this paper are intended to lower fiscal costs to the Crown while enabling people to safely travel to and enter New Zealand. There is information about the finances for MIQ at paragraphs 20 – 27, and indicative information about costings and revenue at paragraphs 39 – 47.



- 103 Employees of the New Zealand Government who are posted offshore or who travel offshore for work purposes would not be formally exempt from the requirement to contribute to the costs of managed isolation and quarantine. Their MIQ costs would likely ultimately be borne by the Government in some form, eg by employing agencies.

### **Legislative implications**

- 104 As noted in the paper, urgent legislation will be necessary in order to provide for a fees system for New Zealand citizens and residents to contribute to the cost of MIQ. Regulations would be required to give effect to, and set the details of, a fees system.
- 105 This paper therefore incorporates a potential bid for the inclusion of a Category 2 Bill in the Government's 2020 Legislation Programme. If Cabinet agrees to this option, it is proposed that the Bill should be passed before the House rises.

### **Impact analysis**

#### *Treasury comment*

- 106 Cabinet's Impact Analysis requirements apply to the proposals. The proposals in the paper relate to the government's response to the COVID-19 outbreak, but do not qualify for an exemption as they are not urgently required to be effective. As no Regulatory Impact Statement has been provided, the Cabinet's Impact Analysis rules require preparation of a Supplementary Analysis Report.
- 107 The introduction of MIQ fees is part of a broader set of proposals on the management of New Zealand's borders during the COVID-19 pandemic that are being proposed and assessed separately. A fragmented impact assessment of these proposals limits the understanding of their interactions and potential alternatives and may create unintended consequences. The Treasury recommends that the Supplementary Analysis Report is integrated into a more comprehensive analysis of the suite of border management proposals.

### **Population implications**

- 108 Requiring fees for MIQ will have varying economic impacts on individuals and families depending on their personal financial situations. Flat user charges will fall disproportionately on lower socio-economic households, and Māori are over-represented in terms of socio-economic deprivation. There will also be equity issues for larger families, particularly where they are New Zealand citizens travelling from the Realm. Allowing full and partial waivers for financial hardship and the ability to pay in instalments should help to mitigate further financial stress.


### **Human rights**

- 109 As noted earlier at paragraphs 81 – 98, some human rights issues could be engaged by the introduction of fees. The specific human rights implications of the fees system will depend on its legislative design. I will therefore report back to LEG next week, with the draft legislation, in further detail about the legal, human rights and constitutional issues associated with this proposal.

## Consultation

- 110 The following agencies were consulted: Ministry of Health, DPMC (PAG), DPMC (COVID-19 AOG Response), Crown Law, Ministry of Justice, PCO, Treasury, Ministry of Transport, MFAT, Customs, Operations Command Centre, Te Puni Kōkiri, Te Arawhiti, Ministry of Social Development.

s 9(2)(h)



## Communications

- 117 A communications plan will be developed by officials in consultation with Ministers' offices to ensure widespread awareness of the fee regime once it is in place. This will also position our agencies and diplomatic posts to respond to queries from New Zealanders offshore.

- 118 Communications will need to be carefully timed alongside related initiatives, including the system for booking places in MIQ. Announcing the fees system without the necessary flow management tools in place (eg a booking system and clarity on how the new fee scheme will apply in practice to different groups) risks leading to a surge in arrivals. This risk is mitigated to some extent by the current cap on travel bookings in place. Announcement of the fees system could also cause undue distress and uncertainty to those seeking to book travel to New Zealand.
- 119 Careful communication will also be required in the context of work towards Safe Travel Zones with Australia and Realm countries, depending on the timing of this work.

### Proactive release

- 120 This paper will be proactively released following enactment of the legislation, with redactions made as appropriate, including to address issues of legally privileged advice, commercial sensitivity and foreign relations.

### Recommendations

The Minister for Housing recommends that the Committee:

- 1 **Note** that on 29 June 2020, Cabinet considered co-payment options for managed isolation and quarantine, and noted the Minister of Housing would undertake further work on developing a co-payment scheme [CAB-20-MIN-0317];
- 2 **Note** SWC was given power to act by Cabinet on 20 July 2020 in relation to this proposal;
- 3 **Note** that primary legislation is required to lawfully require fees from New Zealand citizens and residents, and Australians normally resident in New Zealand, and would also provide a more defensible basis for charging temporary visa holders;
- 4 **Note** that the current managed isolation and quarantine system is very expensive, and that fees could make a substantial contribution to the costs of the managed isolation and quarantine (MIQ) system;
- 5 **Note** that there are significant operational and legal risks associated with passing urgent legislation before the election, including the risks of getting the policy wrong or opening up the possibility of successful legal challenge;

- 6 **Agree to:**

#### EITHER

- 6.1 Initially require fees from everyone arriving in New Zealand, who is required to be isolated or quarantined in a managed facility, and who departed New Zealand on or after 10 April 2020, unless they are subject to an exemption or a waiver as provided in recommendations 12 and 13), and
- 6.2 Allow for fees to apply to a wider group of people in the future, subject to further Cabinet decisions;

#### OR

- 6.3 Require fees from everyone arriving in New Zealand, who is required to be isolated or quarantined in a managed facility, regardless of when they departed New Zealand, unless they are subject to an exemption or a waiver as provided in recommendations 12 and 13;
- 7 **Note** the fees could be approximately \$3,500 for one adult for a 14-day stay in MIQ (with smaller additional payments for extra family members), but this will be finalised when the Minister of Housing seeks Cabinet approval to introduce the legislation;
- 8 **Agree** that the fees, when set, should not exceed the accommodation, food and ancillary services components of average managed isolation and quarantine costs, and should not include any public services provided as part of managed isolation and quarantine;
- 9 **Agree** that the fees will be a recoverable debt;
- 10 **Agree** that the fees will be charged under a set fee system, with the level of the fees set in regulations;
- 11 **Agree** that the chief executive of the Ministry of Business, Innovation and Employment be responsible for collecting the fees and determining the timing (including instalment arrangements) and method of payment;
- 12 **Agree** that the following classes of people will be exempt from the fees system:
- 12.1 any person specified in Schedule 5 of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 as being exempt from paying prescribed fees, the immigration levy and international visitor levy:
    - 12.1.1 foreign diplomatic and consular personnel (defined as persons eligible to hold a New Zealand diplomatic, consular or official visa, including recognised family members) who agree to enter MIQ;
    - 12.1.2 officials of foreign governments conducting business with Ministers or government departments or transiting through New Zealand on official government-to-government business;
    - 12.1.3 holders of diplomatic or other official passports who are entering or transiting through New Zealand on embassy or consulate business or en route or returning to a diplomatic posting;
    - 12.1.4 refugees including claimants, protected persons and applicants under the special category for victims of domestic violence;
  - 12.2 any person who has a confirmed travel booking to New Zealand before the day that legislation is introduced;
  - 12.3 any person travelling to New Zealand for the sentencing of the accused in the Christchurch mosque attacks;
  - 12.4 New Zealander citizens deported to New Zealand; and
  - 12.5 any other classes of people prescribed through regulations;

## IN CONFIDENCE

- 13 **Agree** that the chief executive of the Ministry of Business, Innovation and Employment can also waive the fees (in full or in part) for certain individuals experiencing undue financial hardship, on a case-by-case basis;

### *Legislation*

- 14 **Agree** to amend the COVID-19 Public Health Response Act 2020 to establish a legal basis for an MIQ fees system, with the resulting Bill to be introduced and passed before the election;
- 15 **Agree** to also amend the COVID-19 Public Health Response Act 2020 to create an obligation for people entering New Zealand to have booked and confirmed an MIQ space before entry;
- 16 **Invite** the Minister of Housing to submit drafting instructions to the Parliamentary Counsel Office to draft legislation to give effect to Cabinet's decisions on this paper;
- 17 **Authorise** the Minister of Housing, in consultation with the Minister of Health, the Minister of Justice and the Attorney-General, to make decisions on any matters, consistent with the policy proposals in this paper that may arise during the drafting process;
- 18 **Agree** that the Bill have Category 2 priority (must be passed in the year) in the legislative programme;
- 19 **Note** that regulations will be needed to give effect of certain aspects of the new Bill, such as fee levels and to establish exemptions;
- 20 **Agree** that the Minister of Housing may undertake targeted consultation on the regulations including with the New Zealand Law Society, the Human Rights Commission, and appropriate stakeholders to reflect the Treaty partnership;

### *Financial implications*

- 21 **Authorise** the Minister of Finance and the Minister of Housing to approve changes to the Managed Isolation and Quarantine appropriations as a forecast adjustment from the MIQ fees;
- 22 **Authorise** the Minister of Finance and the Minister of Housing to make final decisions on the expenditure proposal and governance for MIQ fees;

### *Communications*

- 23 **Note** that a communications plan will be developed to ensure widespread awareness of the fee regime once it is in place, and to position our agencies and diplomatic posts to respond to queries from New Zealanders offshore, and to manage relationships with Australia and the Realm in the context of Safe Travel Zone negotiations.

Authorised for lodgement

Hon Dr Megan Woods

IN CONFIDENCE

**IN C O N F I D E N C E**

Minister of Housing

**IN C O N F I D E N C E**

## Appendix 1: Quarantine fees in selected Australian states and territories

Design feature	State/Territory		
	New South Wales	Queensland	Northern Territory
<b>Commencement date</b>	18 July 2020	1 July 2020	
<b>Fee applies to</b>	All international passengers including Australian citizens and permanent residents in hotel quarantine	Overseas arrivals Anyone arriving in QLD who has been in a COVID-19 hotspot, been in contact with someone with COVID-19, have COVID-19 or any symptoms	People travelling to NT from overseas Interstate arrivals in MIQ from 4/4 -15/6/20
<b>Quarantine fee</b>	One adult: \$3,000 Additional adults: \$1,000 each Children: \$500 each Children under 3 years: no charge <ul style="list-style-type: none"> <li>Covers meals and hotel costs</li> <li>No extra charge if have to stay longer than 2 weeks</li> </ul>	One adult: \$2,800 Two adults: \$3,710 Two adults and two children: \$4,620 (in the same room) <ul style="list-style-type: none"> <li>Covers meals and hotel costs</li> </ul> No extra charge if have to stay longer than 2 weeks	\$2,500 per person \$5,000 for a family of two or more people sharing accommodation <ul style="list-style-type: none"> <li>Contributes to accommodation, food, medical support, policing and security</li> </ul>
<b>Waivers and exemptions</b>	<ul style="list-style-type: none"> <li>Financial hardship: can apply for a payment plan (typically 3-6 months, max 18 months)</li> <li>Significant financial hardship: can apply for reduction in fee</li> <li>In transit passengers: pro-rata if in MIQ for more than 24 hours</li> <li>Waiver for bookings made before 13 July (the date of announcement). Need to produce evidence when arrive at hotel.</li> </ul>	<ul style="list-style-type: none"> <li>Payment plan available on application. Can apply between 6, 12 and 18 months depending on amount due.</li> <li>Can apply for waiver for financial hardship; vulnerable people.</li> <li>In transit passengers: pro-rata if in MIQ for more than 24 hours</li> <li>Waiver available if confirmed international flight before 17 June (date of announcement), even if arrive after 1 July</li> </ul>	<ul style="list-style-type: none"> <li>Can set up a payment plan</li> <li>Low income users can apply for a reduction in fees (half the fee)</li> </ul>
<b>Process</b>	<ul style="list-style-type: none"> <li>On hotel arrival, receive formal notice that required to pay fee</li> <li>At end of quarantine, receive invoice</li> <li>Invoice payable within 30 days</li> </ul>	<ul style="list-style-type: none"> <li>At end of quarantine, receive invoice</li> <li>Invoice payable within 30 days</li> <li>Payable within 14 days of decision if application for waiver declined</li> </ul>	<ul style="list-style-type: none"> <li>Invoice payable within 30 days (after quarantine has ended)</li> </ul>



# Cabinet

## Minute of Decision

---

*This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.*

---

### Establishing Fees for Managed Isolation and Quarantine

**Portfolio**                      **Housing**

On 27 July 2020, following reference from the Cabinet Social Wellbeing Committee, Cabinet:

- 1        **noted** that on 29 June 2020, Cabinet considered co-payment options for managed isolation and quarantine, and noted the Minister of Housing would undertake further work on developing a co-payment scheme [CAB-20-MIN-0317];
- 2        **noted** that primary legislation is required to lawfully require fees from New Zealand citizens and residents, and Australians normally resident in New Zealand, and would also provide a more defensible basis for charging temporary visa holders;
- 3        **noted** that the current managed isolation and quarantine system is very expensive, and that fees could make a contribution to the costs of the managed isolation and quarantine (MIQ) system;
- 4        **noted** that there are significant operational and legal risks associated with passing urgent legislation before the election, including the risks of getting the policy wrong or opening up the possibility of successful legal challenge;
- 5        **agreed** that anyone not currently eligible to enter New Zealand may be charged fees when they are allowed to enter New Zealand in the future, subject to further Cabinet decisions;
- 6        **noted** the fees could be approximately \$3,500 for one adult for a 14-day stay in MIQ (with smaller additional payments for extra family members), but this will be finalised when the Minister of Housing seeks Cabinet approval to introduce the legislation;
- 7        **agreed** that the fees, when set, should not exceed the accommodation, food and ancillary services components of average managed isolation and quarantine costs, and should not include any public services provided as part of managed isolation and quarantine;
- 8        **agreed** that the fees will be a recoverable debt;
- 9        **agreed** that the fees will be charged under a set fee system, with the level of the fees set in regulations;
- 10       **agreed** that the chief executive of the Ministry of Business, Innovation and Employment be responsible for collecting the fees and determining the timing (including instalment arrangements) and method of payment;



- 11 **agreed** that the following classes of people will be exempt from the fees system:
- 11.1 any person specified in Schedule 5 of the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 as being exempt from paying prescribed fees, the immigration levy and international visitor levy:
    - 11.1.1 foreign diplomatic and consular personnel (defined as persons eligible to hold a New Zealand diplomatic, consular or official visa, including recognised family members) who agree to enter MIQ;
    - 11.1.2 officials of foreign governments conducting business with Ministers or government departments or transiting through New Zealand on official government-to-government business;
    - 11.1.3 holders of diplomatic or other official passports who are entering or transiting through New Zealand on embassy or consulate business or en route or returning to a diplomatic posting;
    - 11.1.4 refugees including claimants, protected persons and applicants under the special category for victims of domestic violence;
  - 11.2 any person travelling to New Zealand for the sentencing of the accused in the Christchurch mosque attacks;
  - 11.3 New Zealand citizens deported to New Zealand;
  - 11.4 any other classes of people prescribed through regulations;
- 12 **agreed** that the chief executive of the Ministry of Business, Innovation and Employment can also waive the fees (in full or in part) for certain individuals experiencing undue financial hardship, on a case-by-case basis;

## Legislation

- 13 **agreed** to amend the COVID-19 Public Health Response Act 2020 to establish a legal basis for an MIQ fees system, with the resulting Bill to be introduced and passed before the election;
- 14 **agreed** to also amend the COVID-19 Public Health Response Act 2020 to create an obligation for people entering New Zealand to have booked and confirmed a MIQ space before entry;
- 15 **invited** the Minister of Housing to submit drafting instructions to the Parliamentary Counsel Office to draft legislation to give effect to Cabinet's decisions on the paper attached under SWC-20-SUB-0109;
- 16 **authorised** the Minister of Housing, in consultation with the Minister of Health, the Minister of Justice and the Attorney-General, to make decisions on any matters, consistent with the policy decisions in the paper under SWC-20-SUB-0109 that may arise during the drafting process;
- 17 **agreed** that the Bill hold a category 2 priority (must be passed in the year) on the 2020 Legislative Programme;
- 18 **noted** that regulations will be needed to give effect to certain aspects of the new Bill, such as fee levels and to establish exemptions;

- 19 **agreed** that the Minister of Housing may undertake targeted consultation on the regulations including with the New Zealand Law Society, the Human Rights Commission, and appropriate stakeholders to reflect the Treaty of Waitangi partnership;

### Financial implications

- 20 **authorised** the Minister of Finance and the Minister of Housing to approve changes to the Managed Isolation and Quarantine appropriations as a forecast adjustment from the MIQ fees;
- 21 **authorised** the Minister of Finance and the Minister of Housing to make final decisions on the expenditure proposal and governance for MIQ fees;

### Communications

- 22 **noted** that a communications plan will be developed to ensure widespread awareness of the fee regime once it is in place, and to position our agencies and diplomatic posts to respond to queries from New Zealanders offshore, and to manage relationships with Australia and the Realm in the context of Safe Travel Zone negotiations.

Michael Webster  
Secretary of the Cabinet

*Secretary's Note: This minute replaces SWC-20-MIN-0109. Cabinet agreed to delete paragraph 5.*