

Application number: XXXXX
Client number: XXXXXXXX

02 June 2020

Malkiat Singh
Carmeto Immigration
Level 10 63 Albert Street
Auckland 1010
New Zealand

Dear XXXXXXX

Application for a work visa for:

Applicant:
XXXXXXXXXX

Date of birth:
XXXXXXXXXX

Thank you for your application for a work visa - Essential Skills. We received your application on 25 March 2020.

Our assessment of your application

We have completed an assessment of your application and have identified the following issues which may have a negative impact on the outcome of your application:

- There are New Zealand citizens or residents available to do the work on offer and
- Genuine attempts to attract and recruit suitable New Zealand citizens or residence class visa holders for the role have not been made.

Labour Market Test

Immigration instructions state that an Essential Skills work visa may only be granted if an immigration officer is satisfied there are no New Zealand citizens or residents available for the work (WK1.5(b)(ii), WK3.1(a)(ii) and WK3.10). An immigration officer must be satisfied that, at the time an application is assessed, there are no New Zealanders available to do the work on offer. Immigration instructions at WK3.10 require that employers offering work to migrant workers will have made a genuine attempt to attract and recruit suitable New Zealand citizens or residence class visa holders for the role.

The position that you have been offered was advertised prior to the COVID-19 Pandemic. COVID-19 has greatly affected New Zealand's economy and job market meaning there has been significant changes to the labour market since that time. The change in the labour market was unpredicted and extremely fast. The documents that you have provided to date do not allow us to make a complete assessment, given the amount of change that has occurred.

Based on the evidence of recruitment provided with your application, we are not yet satisfied that there are no New Zealanders available for the work you have been offered, as required by immigration instructions at WK1.5 and WK3.10; therefore your application may be declined. To

address this concern, we require your employer to provide further information or evidence as to whether there continues to be no New Zealanders available for the role on offer. This may include information about their ongoing attempts to recruit New Zealanders for similar roles, why the skills and experience required for your job continue to be unavailable from New Zealand jobseekers, or any training they may have provided to New Zealanders to allow them to begin similar employment.

Further information is available on our website about how COVID-19 may have affected the availability of New Zealand workers. You or your employer may find this information useful when responding to this request:

<https://www.immigration.govt.nz/about-us/covid-19/covid-19-information-for-employers>

As the issues detailed above may affect the outcome of your application, we are bringing them to your attention out of fairness to you.

We have not made a decision on your application at this stage. This letter gives you the opportunity to make any comments and submit any additional evidence or information in relation to these issues.

You may provide further information by 30 June 2020

Please submit your response by **30/06/2020** as outlined below. You should send all of the information you want us to consider by this due date. Once the due date has passed OR you notify us and confirm that you have nothing further to submit, processing of your application will continue within 2 working days.

Any comments or further information must be provided by **30/06/2020**. Please upload these to your online account.

To upload documents:

1. Log into your account through www.immigration.govt.nz.
2. Click on 'Submitted' and select your submitted application.
3. Click 'Upload additional document' and select [document type] from the list of document types.
4. Click on 'Browse' to select the document for upload and 'Submit'.

If we have specifically requested that you send us original documents, please send these to your nearest Immigration New Zealand office.

Any documents not in English must be translated into English by a recognised and independent translation service.

What happens if you do not send any comments or additional information?

If you do not send any comments or information by the date requested above we will make a decision on your application based on the information you have already given us. We are unlikely to approve your application based on this information.

False or misleading information

Providing false or misleading information or withholding information may make you ineligible for a visa.

What happens if your circumstances change?

You must tell us about any changes to your circumstances that may affect your application for a visa, including but not limited to changes to the following:

- the personal or family circumstances of any person included in the application
- your address or contact details (including postal address, email address, and telephone number)
- your business or employment
- your course of study if you are applying for a student visa.

If you do not tell us about changes to your circumstances, we may decline to grant you a visa or you may become liable for deportation. While you are in New Zealand, you must make sure you hold a valid visa at all times.

Contact us

If you have any questions, you can:

- call me on XXXXXXXX
- email me at XXXXXXXX@mbie.govt.nz
- call our Immigration Contact Centre on 0508 55 88 55 or 09 914 4100, or for those outside of New Zealand +64 9 914 4100, or
- find answers to frequently asked questions or lodge an email enquiry online at <http://kb.immigration.govt.nz>.

You will need to tell us your application and client numbers (see the top of this letter). Please be ready to quote them when you phone.

Yours sincerely

XXXXXXXXX
Immigration Officer
Immigration New Zealand

RELEVANT INSTRUCTIONS

WK1.5 Overview

- a. Essential Skills work instructions provide for the grant of work visas to overseas workers with an offer of employment to work in New Zealand.
- b. Essential Skills work visas may only be granted if:
 - i. the employment is acceptable ([WK3.5](#)); and
 - ii. there are no New Zealand citizens or residents available for the work ([WK3.10](#)); and
 - iii. the employer meets requirements ([WK3.15](#)); and
 - iv. the applicant meets requirements ([WK3.20](#)).

The skill band of the employment ([WK3.5.1](#)) generally determines the currency of an Essential Skills work visa granted and the ability of an Essential Skills work visa holder to support temporary visas for family members.

WK3.1 Assessing an Essential Skills application or a request for approval in principle to recruit overseas workers

a. To approve an Essential Skills work visa, an immigration officer must be satisfied that:

- i. the employment is acceptable as specified at [WK3.5](#); and
- ii. there are no New Zealand citizens or residents available for the work as specified at [WK3.10](#); and
- iii. the employer meets requirements as specified at [WK3.15](#); and
- iv. the applicant meets requirements as specified at [WK3.20](#).

b. To approve an Essential Skills work visa made on the basis that the employer has approval in principle (AIP), an immigration officer:

- i. must be satisfied the applicant meets requirements for Essential Skills work visa applicants ([WK3.20](#)) and any requirements specified in the approval in principle; and
- ii. may rely on the AIP to satisfy the requirements of WK3.1(a)(i-iii).

c. Despite WK3.1(b), where an immigration officer has reasonable grounds for determining that the labour market, or circumstances of the employment or of the employer have materially altered since the grant of approval in principle, they may undertake further checks to ensure the provisions of WK3.1(a)(i-iii) are still satisfied.

d. In cases where the employer supporting a work visa application currently holds or has previously held AIP which has lapsed for that position, the conditions specified in the AIP will continue to apply, unless the employer can satisfy the immigration officer that the circumstances of employment have changed.

INZ may, on an exceptional basis, require an employer to apply for AIP to recruit overseas workers for the purposes of assessing any further work visa applications supported by the employer. This requirement will be imposed only where an employer's recruitment of non-New Zealand citizen or residence class visa holder workers is such that it is appropriate to undertake a labour market test for future applications collectively with an AIP, rather than on an individual basis. In these circumstances any further application for a work visa supported by that employer which is not associated with a valid AIP may be declined.

WK3.10 Determining the availability of New Zealand citizens or residents

a. New Zealand citizens or residence class visa holder workers are considered to be 'available' if, as a result of a labour market test (see WK3.10.1), an immigration officer establishes that there are:

- i. suitable New Zealand citizens or residence class visa holder workers who can take up the work on offer (see WK3.10.10); or
- ii. suitable New Zealand citizens or residence class visa holder workers who can readily be trained to do the work on offer (see WK3.10.15).

b. Immigration officers will accept that no suitably qualified New Zealand citizens or residence class visa holders are available where an occupation is included on the current Long Term Skill Shortage List, Regional Skill Shortage List or Construction and Infrastructure Skill Shortage List and the applicant's qualification and/or work experience meets the requirements on the list.

c. It is not relevant to the determination of availability of New Zealand citizens or residence class visa holder workers whether those New Zealand citizen or residence class visa holder workers are prepared to do the work on the terms and conditions proposed by the employer.

Note: The Essential Skills in Demand Lists are published on the immigration website at <http://skillshortages.immigration.govt.nz>.