



## Superdiversity Stocktake

Implications for Business,  
Government and New Zealand

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Centre include: Superdiversity, Democracy  
and New Zealand's Electoral and Referenda  
laws, 3 November 2015, funded by the  
NZ Law Foundation and also published  
on the Centre's website.

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## Executive Summary

2.1 This section sets out the key impacts of superdiversity on business from reviewing studies, statistics and New Zealand and overseas business practice, and from surveying small to medium-size New Zealand businesses (businesses employing 20 people or less) and human resources managers in larger organisations.<sup>261</sup>

- a. Superdiversity means that there is no “business as usual” for organisations if they want to keep winning great customers and staff. Although New Zealand’s diversity is not a new phenomenon, the level of migration that has occurred in the last five years, spurred on by the increase in global migration, means that those not born here have passed the point of critical mass. The opportunities and challenges are already here and are presenting themselves in a competitive market.

The status quo, where New Zealand European-staffed businesses service New Zealand European customers, is unsustainable given New Zealand’s ongoing demographic disruption. The market has changed, with almost 50 per cent of Auckland already Māori, Asian and Pacific, and by 2038 over 50 per cent of New Zealand’s population will be Māori, Asian and Pacific. Businesses will only retain market share if they win more diverse customers. Migrant customers, including tourists, represent a significant, untapped revenue stream for some businesses. The advantage of migrant customers is that they are new in New Zealand, so businesses do not have to win them away from competing businesses – they just have to win them in the first instance, and then hold onto them. New Zealand’s focus on attracting investor migrants also represents an opportunity for businesses seeking capital, and for service industries wanting high value customers.

The talent pool to service diverse customers will also be increasingly comprised of the diverse. It also makes sense to recruit from the market to service the market. If businesses want to break into ethnic networks for prospective customers, they can recruit ethnic workers who are part of those networks. Employers and managers will need to learn how to evaluate and assess foreign CVs and to recruit for culture, values and language abilities. Employers need to allow for the fact that new migrant employees may take longer to adjust to the New Zealand working environment. Employers should see this time as an investment rather than a cost, given the extraordinary performance companies like Beca have managed to achieve from using a culturally diverse workforce as a competitive market advantage, as discussed below at [2.50].

- b. The diversity dividend. Diverse employees can bring benefits to businesses, including:
  - i. Access to a wider, diverse customer base – Diverse employees share the same language, culture and values as diverse customers, and are therefore more capable of interacting with those customers. Diverse customers, in turn, may prefer dealing with those like them due to familiarity and greater ease of being understood. But the key is to understand what diverse customers want, and that may differ depending on whether they are new, 1.5 generation or second generation migrants. There is no substitute for direct engagement with customers about the type of engagement, products and services they want. The Bayleys case study (below at [2.57]) also illustrates that New Zealand European vendors sometimes prefer Asian sales agents because they can tap into the market for potential overseas Asian purchasers.
  - ii. Innovation – Diverse employees have different cultural and language skill sets, perspectives and ideas (particularly those from the skilled migrant and entrepreneurial categories), which may help grow or seed new business, as is illustrated by the experience of Brijesh and Nivedita Sethi, Oregon Group, Smile Dental and Nirvana Health Group, discussed at [2.64], [2.76], [2.81] and [2.90] below;
  - iii. Greater export potential – Diverse employees can give businesses a competitive advantage in the export market by providing access to international contacts and by better understanding how to succeed in their birth country’s market (as found in a New Zealand study, discussed below at [2.91]); and
  - iv. Migrant employees can be loyal, hardworking and willing to do jobs that

New Zealanders will not do, for example in the health care and rural sectors (as discussed at [2.272] and [2.176] in the Xero qualitative study).

New Zealand also benefits from greater access to foreign capital, foreign markets, international students and high tourist numbers. However, in order to capitalise on the diversity dividend, businesses need first to address challenges such as discrimination in recruitment and in the course of employment.

- c. Businesses are conscious of diversity, but their focus is limited to gender. Although many businesses are aware of the importance of gender diversity, to date there has been little focus on other types of diversity, such as ethnicity. A pressing diversity risk for New Zealand companies and boards is ethnic diversity given New Zealand's changed demography and greater focus on Asian markets. The available data indicates that there is poor ethnic representation in senior management and on boards, and few companies have an ethnic diversity policy or initiatives in place. For many, diversity is not seen as a pressing concern within their organisation, or a market advantage. Further, the intersection between more than one diversity strand, for instance the issues for ethnic women, is often overlooked. The pay data also shows that ethnic women often earn the least, and that the double disadvantage can create unique challenges in terms of conscious and unconscious bias and stereotyping.
- d. How to create a fit for the future business to retain and grow market share:
  - i. Target the most accessible customer base in the first instance – Businesses should target the lowest hanging fruit amongst the diverse as potential customers, such as those customers who have good English language proficiency. For example, the two biggest Asian subgroups in New Zealand are Indians and Chinese. The Indian population, in general, has good English language proficiency because English is an official language in India,<sup>262</sup> and because of their Commonwealth history,<sup>263</sup> whereas North Asian migrants (particularly from China) are the most likely to face barriers due to English language ability.<sup>264</sup> The Philippines also has a history of American occupation, so Filipinos tend to have good English proficiency,<sup>265</sup> as do migrants from Singapore, where English is an official language.<sup>266</sup> Businesses also need to adapt their services and products to the different culture and values of diverse customers.
  - ii. Understand differences between migrant groups – Migrants have different needs depending on whether they are first generation, 1.5 generation or second generation, which has implications for employers recruiting migrant staff and for how businesses target migrants as customers. For example, after undertaking market research, Foodstuffs identified three core customer types that it needed to target: Westerners who wanted to learn about Asian food, “Western Asians” (that is, those born in New Zealand or well settled in New Zealand), and “Asian Asians”.<sup>267</sup> New migrants bring their consumer habits with them from their individual home countries. Businesses accordingly need to disaggregate the data they collect on their customer base.
  - iii. Effective communication is not limited to getting an interpreter – Effective communication also means recognising particular cultural needs and expectations. Customers of different ethnic backgrounds may be unable to speak English, or may feel more comfortable being served or advised by someone they find familiar. This means that businesses should have employees who are able to speak the required language. The company as a whole should have cultural knowledge and understanding. Managers, in particular, need to have CQ or cultural intelligence, the ability to deal with people not like them, to manage diverse staff, and to understand diverse customers. A survey to determine the penetration of the ethnic media into the communities, the crossover in consumption of ethnic and mainstream New Zealand media, and the most popular titles for each demographic found that consumption of ethnic media is very high in communities where ethnic options are available. This was the case even with migrants who have been living in New Zealand for long periods of time. So using ethnic media to communicate with diverse New Zealanders matters for reaching that customer segment.

- iv. Intersection between digital and demographic disruption – New Zealand's growing pool of ethnic minorities, who tend to be more youthful than the New Zealand European population, are used to being serviced online. The intersection between demographic and digital disruption will affect the way customers expect businesses to engage with them.
- e. Superdiversity is a New Zealand-wide phenomenon not just an Auckland phenomenon. Although Auckland is the most superdiverse city in New Zealand, followed by Wellington and Christchurch, superdiversity is also diffusing throughout regional New Zealand and the rural sector (as discussed at [2.270]), especially with the Government's recently announced immigration policies, which allocate extra bonus points to migrants who work or settle outside Auckland and allow foreign rural workers to gain permanent residence (see discussion at [2.271]). Accordingly, superdiversity is not simply an "Auckland issue": it is a New Zealand-wide phenomenon that will increasingly affect all parts of a national business.
- f. Superdiversity can challenge New Zealand's business culture. Issues may arise from some migrants not understanding that bribery is illegal, and that the rule of law culture in New Zealand means that laws will be enforced. Problems also arise from migrants not understanding what the law means, especially in a different cultural context, and thus how to act legally, which may be exacerbated by low English proficiency. This may also require more training and oversight by employers of new migrant employees, and more explanation to new migrant customers.
- g. Increased risk of business conflict due to cultural differences. Increased business between ethnically diverse parties may create more cultural and language misunderstandings and therefore conflict. For example, there might be a breakdown in communication where messages have been interpreted differently or around the enforceability of oral contracts and business ethics. Further, cultural differences may also shape parties' expectations and understandings of conflict and the actions required to resolve it.
- h. We need to increase the business interface between Māori and ethnic minorities and migrants. Māori businesses have already benefitted from increased trade with Asia, but there remains huge potential for growth. Deeper business relations between Asians and Māori will contribute to improved social capital between these two groups, and to the socio-economic position of Māori in New Zealand, which will benefit New Zealand as a whole.
- i. Business needs government to keep social capital high so that it can sustain high financial capital. The financial capital brought by the diversity dividend is dependent on a minimum level of social capital. International students, tourists, and skilled and business investor migrants will not be attracted to New Zealand if there is significant discrimination and hostility towards foreigners. Accordingly, institutional support and investment in the form of settlement services, legal protections in the labour market and social cohesion initiatives promoting the benefits of migration are necessary for businesses to obtain and keep financial capital.

### List of Recommendations for Business

- Businesses should capitalise on the diversity dividend brought by migrant and ethnic employees, particularly migrants from the 1.5 generation and multigenerational migrants, and those in the skilled and business investor migrant categories.
- Migrants in the business and entrepreneur categories say they need better information on arrival about financial services and investing in New Zealand to maximise their potential contribution to New Zealand. This is a significant opportunity for the private sector, but also an important gap for public agencies to plug to grow New Zealand's economy.
- We need to consider how best to attract and retain international students in fields

where there are shortages of New Zealand-born workers. We also need to recognise such students as future high value customers, especially as many apply to be skilled migrants and then for permanent residence.

- Surveys of the diverse reveal key concerns about discrimination, especially in employment, for themselves and their New Zealand-born children, despite high qualifications and sometimes relevant experience. The OEC could assist more in promoting the benefits of hiring diverse staff, and increase its efforts to advise employers on how to make cultural diversity into a competitive advantage.
- More research needs to be conducted on the extent of the double disadvantage faced by migrant and ethnic women, particularly around pay equity and representation on public and private sector boards. Government departments such as the Ministry for Women, the Office of Ethnic Communities (“OEC”) and Statistics New Zealand collect data on ethnic or female representation on public boards, but there is little available data on the intersection between ethnicity and gender.
- Migrants need English assistance post-settlement to maximise their contribution to New Zealand’s economy, and job search support. Programmes such as the skilled migrant course (which is discussed in depth at [3.24]) show the beneficial job outcomes of teaching new migrants how to communicate in New Zealand workplaces. Good English proficiency alone may not be enough to secure employment. It would be beneficial if the skilled migrant course could be provided for all new migrants wanting assistance.
- Regulatory change requiring NZX companies to publish gender diversity statistics should be considered, as is presently the position in Australia for ASX companies. Consideration should also be given to extending this requirement to include publication of ethnic diversity statistics.
- As discussed at [2.246], businesses should consider adopting the following measures to develop sufficient internal capability to adapt to an increasingly diverse workforce:
  - a. Regular collection and monitoring of ethno-specific data on the composition of the workforce and the business’s client or customer base.
  - b. Workplace policies and practices should be informed by and developed in accordance with this data.
  - c. A diversity strategy should be developed (in addition to an anti-discrimination policy), where appropriate, to promote ethnic equality, diversity and inclusion in the workplace, in consultation with relevant internal and external stakeholders. This strategy should include the following components:<sup>268</sup>
    - i. The objectives of the strategy;
    - ii. The business case for a diversity programme;
    - iii. The scope of the policy (for example, the types of discriminatory treatment addressed);
    - iv. The rights and responsibilities of employers and employees in terms of implementation of the diversity programme;
    - v. Proactive measures; and
    - vi. Reasonable accommodation measures.
- In terms of diverse customers, businesses may need to target the lowest hanging fruit, but should consider adapting their services and/or products to reflect the needs of their changing ethnic customer base, after direct engagement with customers about what they want.
- To communicate with, and access, ethnic markets, businesses should consider implementing the following measures:

- a. Recruiting for cultural intelligence and language ability. Ethnic customers may feel more comfortable dealing with people similar to them, who speak the same language;
  - b. Providing cultural intelligence training for employees;
  - c. Translating print and online material into other languages and/or basic English; and
  - d. Making use of ethnic media outlets, and companies with expertise in diverse communications.
- There should be a regular review of numbers of migrants to the regions.
  - Migrants should be consulted on their settlement needs on a regular basis. This data should then be used to inform policy development.
  - There should be greater funding available for migrants to access ESOL classes, so they can be more effective workers on farms. Currently, government funding is available for permanent residents, but English proficiency is a requirement for entry under the skilled migrant category.
  - Regulatory agencies need to be aware that new migrants from some countries with different government and business cultures may need more education on New Zealand's government and business culture.
  - More assistance and education need to be provided to Kiwis doing business with migrants to help them recognise the cultural differences in business practice, communication and values. In turn, migrants to New Zealand should receive more information on New Zealand's business culture.
  - Organisations such as Te Puni Kōkiri ("TPK"), OEC, New Zealand Trade and Enterprise ("NZTE") and MBIE need to encourage Māori and Asian companies to do business together and to help reduce any cultural gulf which may impede or undermine business deals.
  - More people from diverse backgrounds should be encouraged to train as mediators, and all mediators would benefit from training in cultural intelligence given the likely increase in disputes exacerbated by cultural misunderstanding with New Zealand's growing superdiversity.
  - Government agencies such as the OEC and MBIE should publish information about the value of diversity for business, and should increase initiatives such as conferences and knowledge workshops to encourage interface between ethnic and mainstream businesses as New Zealand's superdiversity grows.
  - Presently, financial or physical capital is officially defined as "fixed assets in production processes, which can be tangible (for example, machinery, buildings, houses, roads) or intangible (for example, computer software, intellectual property)" and includes "equities, assets and liabilities that have a degree of liquidity, such as bank deposits, debt, and government bonds".<sup>269</sup> The potential for low social capital to undermine financial capital indicates the need to develop a new definition of "financial capital" with a social capital component to reflect the interrelationship between the two concepts.
  - There needs to be active investment by government to ensure racial harmony in a superdiverse society. This includes ensuring the Human Rights Commission ("HRC") is adequately funded to carry out its primary statutory function to advocate and promote respect for, and an understanding and appreciation of, human rights, and to encourage the maintenance and development of harmonious relations among diverse groups in New Zealand society. This role will be more challenging as New Zealand's superdiversity grows. Superdiversity can create multiple potential challenge points, as set out in the section on social capital at [2.341].

## Key Point One: Superdiversity Means That There is No “Business as Usual” for Organisations

- 2.2 Superdiversity means that there is no “business as usual” for organisations if they want to keep winning the best customers and staff. The status quo, where New Zealand European-staffed businesses service New Zealand European customers, is unsustainable given New Zealand’s ongoing demographic disruption. The market has changed, with almost 50 per cent of Auckland already Māori, Asian and Pacific and, by 2038, over 50 per cent of the population will be Māori, Asians and Pacific people. Businesses will only retain and grow market share if they win more diverse customers. Migrant customers, including highly skilled and business investor migrants, and tourists, represent a significant, untapped revenue stream for some businesses. For example, Comvita exceeded their target by achieving 28 per cent annual profit due to purchases by Asian tourists visiting New Zealand buying manuka honey and medicinal natural products.<sup>270</sup>
- 2.3 It is estimated that by 2050, more than 20 of the world’s top 50 cities in terms of GDP will be located in Asia, an increase from just eight in 2007. The redistribution of wealth, trade and influence from West to East will see Asia become home to two-thirds of the world’s middle class by 2030, compared to just one-third today.<sup>271</sup> The advantage of migrant customers is that they are new in New Zealand, so businesses do not have to win them away from competing businesses – they just have to win them in the first instance, and then hold onto them.
- 2.4 The question for companies and small to medium-size enterprises (“SMEs”) not currently thinking about superdiversity in terms of customers or staff is whether their competitors are doing so, and whether they are damaging their bottom line by failing to tap into a lucrative income stream of potential high value customers.
- 2.5 Another consideration, which is explored in the Foodstuffs case study at [2.10], is how businesses can win more diverse customers without alienating their traditional customer base. Catering to superdiverse customers does not necessarily have to push existing customers away. One way to carve out specialist treatment for diverse customers, which Foodstuff is considering, is to create specialist sections in stores catering to these customers. It is important for businesses to ascertain diverse customers’ needs (and whether they actually differ from their existing customers’ needs) before changing their products and/or services, or marketing them in a different way.
- 2.6 The mixing of different populations will lead to more specialisation in business, and will change New Zealand’s domestic and international trade patterns. The barrier of geographical distance is lessening as transnational travel becomes faster and cheaper (as discussed at [1.60]).
- 2.7 The costs of marketing have also reduced due to the rise of social media (see [1.62] for discussion of digital disruption). This means that companies can now reach millions of diverse customers in different countries, but also means that, in terms of risk, a company can accidentally destroy its reputation with diverse customers overnight through marketing mistakes (see [2.254] for discussion of ethnic marketing). Not understanding superdiversity means that businesses may fail to factor these things into their business strategy, which decreases their competitive advantage over competitors who do understand superdiversity.
- 2.8 Employers need to understand that Asians, Māori and Pacific peoples will comprise a growing proportion of the talent pool from which they hire staff. It makes sense to recruit from the market to service the market. For example, 56 per cent of the talent pool in Auckland comprises of migrants and their New Zealand-born children, and the number of Asian New Zealand citizens and permanent residents is steadily increasing. Indians are the largest group of skilled migrants entering the country, comprising 46 per cent of all residence approvals in the 2013/2014 reporting period. As discussed at [2.273], Filipinos are the largest group of essential workers in Christchurch and foreign workers on farms, and many are also employed in the health sector as aged care workers. By 2030, China will have more university graduates than the entire United States workforce, and by 2020, India will be producing four times as many university graduates as the United States.

2.9 Many New Zealand businesses have been slow to shift from servicing a predominantly New Zealand European population to adapting their products and services to New Zealand's superdiverse population, and to hiring more diverse staff. The following case studies are of those who are leading the pack. In some cases that is due to an Asian senior in the company guiding the business, as in Bayleys' case, or because the business is owned by a migrant.

## Case Study – Foodstuffs<sup>272</sup>

Foodstuffs' approach to meeting the needs of its diverse customer base demonstrates the following lessons:

- To connect with the growing Asian population, businesses must engage with Asian leaders and gain a better understanding of Asian communities;
- Adapting to the diverse market may involve making only small changes to what the company is already doing;
- The Asian customer base is not homogenous, and businesses must cater their products to the individual needs of each demographic subgroup; and
- Catering to superdiverse customers does not necessarily entail pushing away existing customers.

2.10 Foodstuffs was established in 1922, and is New Zealand's largest grocery organisation. Its portfolio of companies includes New World, PAK'nSAVE, Liquor Land, and Gilmours. It is a 100 per cent Kiwi-owned cooperative with retail sales in excess of \$7 billion, has more than 360 stores, and employs more than 1,850 people.

2.11 As part of becoming more influential in the grocery industry, Foodstuffs recently started to look at how well it was meeting the needs of its diverse customer base, in particular its Asian customer base. It found that while it was doing "alright", it could do much better. It wanted to connect more with the growing Asian population in New Zealand. To do that, it knew it had to connect more with Asian leaders, and gain a better understanding of the Asian communities in New Zealand.

2.12 The 2013 Census statistics show that there has been an enormous growth of Asians in New Zealand, particularly in Auckland. But who is "Asian"? And what characteristics do they share? Foodstuffs found the following:

- a. 20 per cent are actually New Zealand-born Asians;
- b. The median age is younger than the rest of the New Zealand and European population (average age is 30.6 years);
- c. Asians have a higher birth rate than European New Zealanders;
- d. Asians tend to be overeducated, more qualified and also are more likely to under-report their income; and
- e. They tend to live in "ethnoburbs" (suburbs with a high proportion of Asians).

2.13 For Foodstuffs, the Asian growth in New Zealand amounts to a transformational opportunity. Asian customers account for 51 per cent of the population growth this decade.

2.14 Therefore, Foodstuffs has identified three target markets:

- a. Westerners who want to learn about Asian food;
- b. Western Asians – those who were born in New Zealand, or who are well settled in New Zealand; and
- c. Asian Asians – those Asians who are still very strongly attached to the culture and way of life of their home country, or parents' home country.

- 2.15 Foodstuffs therefore conducted some research to find out more about these target markets, and its research findings are set out below.
- 2.16 Asian customers tend to prefer foods from their place of origin, and are driven by high price consciousness, quality ingredients, and freshness. Importantly, what Foodstuffs noticed during its research was that while Asians tend to buy their staples (like flour, sugar and rice), toiletries, cleaning products and “Kiwi” food (milk, bread, snacks, drinks and frozen conveniences) from the supermarket, they tend to buy their meat, fish, fruit, vegetables and specialised ethnic products from specialty stores. This means that Foodstuffs is not fully capturing the potential market of its Asian customer base.
- 2.17 The strategy for capturing that market therefore is to:
  - a. Improve the range “in situ: – by providing a greater range of goods for Asian customers in the general aisles, and in the sizes they want;
  - b. Improve the international section by providing a greater range of authentic ethnic foods;
  - c. Consider providing a store in store for specialty goods; and
  - d. Consider creating dedicated stores for specialty goods.
- 2.18 Forty-two per cent of North Auckland is Asian, and there are four key Asian groups: Chinese, Korean, Indian and Filipino. To better cater for this local market, Foodstuffs has been looking at how it can improve the shopping experience for its Asian customers at the:
  - a. Pre-shop stage by marketing the availability of the goods at their store by being more welcoming to Asian customers;
  - b. In-store stage by channelling the relevance; and
  - c. Post-shop stage by focussing on the local community, building personal relations and going digital.
- 2.19 The most scope for improvement is at the in-store stage – though often the improvements needed simply require small changes to what stores are already doing. For example, PAK’nSAVE has been selling fish for 90 years, but it is now selling fish in different cuts, such as fish heads. It is the same for the meat section: PAK’nSAVE is now considering whether to stock chicken feet to meet the desires of its Chinese customers. Signage in different languages is also being considered, as is the need to carry key international and authentic brands sold in customers’ home countries to win the shopper.
- 2.20 PAK’nSAVE Albany, part of the Foodstuffs group, is a good example of how this research may be put into action. PAK’nSAVE Albany is one of the most successful stores throughout the entire group.
- 2.21 Paul Blackwell is the owner-operator of PAK’nSAVE Albany, but his Merchandise Manager, Yew Hsin Cheng, a Malaysian Chinese Manager, has been leading much of the change within the store as it strives to become more ethnic friendly and representative of its increasingly diverse customer base. We, together with Nick Siu, Director of The Agency 88, interviewed Yew Hsin Cheng, Merchandise Manager.<sup>273</sup>
- 2.22 Over time, Mr Cheng said the PAK’nSAVE team had noticed a significant change in the overall customer demographic and had realised that with population change comes different shopping habits, needs and wants within each of their customer’s shopping baskets.
- 2.23 From a business perspective, the goal is always to grow the customer pool, which currently sits at around 36,000 across all the different departments, from dry goods, to fresh produce, fish and butchery. However, as an organisation

PAK'nSAVE Albany did not expect to see such an explosion in the Asian population over such a short timeframe (despite having previously anticipated steady growth for the North Shore district). Now the business must deal with new challenges and maximise the opportunities that lie ahead as it strives to meet the needs of this growing customer demographic.

2.24 A real surprise for the management team at PAK'nSAVE Albany was that the evening shopping demographic was 90 per cent Asian. This is potentially linked to the cultural habit of shopping later in the day, which is different to the traditional European preference for shopping earlier in the day. As a consequence, staffing rosters had to evolve to ensure Mandarin-speaking employees were always on the floor at this time. Likewise, the product mix changed, with fresh produce becoming better organised and more available; and the in-store butcher staying later in case specific cuts of meat were required. In the seafood department, where fish would normally be sold out by 6pm, extra stock was required to be on hand, as the demand had shifted to later in the day.

2.25 In the seafood department, it became obvious to Mr Cheng and his managers that the fish offering in the seafood department had to be improved for the Chinese customers who were frequenting the supermarket. Rather than the traditional European customer who would seek out fresh fish fillets, different cultural cues demanded different presentation and offerings. Asian customers predominantly demanded whole fish, such as blue cod and flounder, and before purchasing would determine the freshness of the product by wanting to check the eyes, gills and overall presentation. Interestingly, price was not the biggest factor, as customers were willing to pay for the knowledge and reputation that the produce was excellent and wanted the ability through open cabinet presentation to personally inspect the offering. Cleaning services and packing into self-sealing bags were also offered so customers had an assurance around quality, thereby generating repeat business. Since making these changes, the seafood department has been growing 20 per cent year on year.

2.26 Likewise, with rice being a staple product for the Asian consumer, PAK'nSAVE Albany has not only increased its range, but has been very aggressive in pricing compared to competitor supermarkets. Traditionally, items such as wine were used as a price leader, but with the change in demographics, it became apparent a different strategy was needed. Customers also no longer purchase the five or 10 kilogram bags of rice; the focus has shifted to the 25 kilogram bags. PAK'nSAVE Albany also realised the importance of not lumping "Asians" together as one homogenous group. The offering needed to be created in such a way that Indian customers could be served basmati rice, long grain was available to customers of South East Asian descent and Calrose and short grain were available to Korean, Japanese and Chinese. All are priced differently depending on the individual needs of each demographic.

2.27 Targeting customers through significant cultural events such as Chinese New Year has proved successful for PAK'nSAVE Albany. Mr Cheng works to ensure that suppliers are overstocked in the seafood department (as over 300 kilograms of blue cod can be sold in a single weekend). Citrus fruit such as pomelo and mandarins, rather than oranges, are also in additional supply, and the floral department ensures that they have adequate supplies of chrysanthemums. Because many of the products are gifted as tokens of appreciation, effort is placed into packaging and presentation in gold and yellow colours to ensure that customers are attracted and proud to purchase and gift.

2.28 Still, amidst all these wins, Mr Cheng reiterated that PAK'nSAVE Albany is at the beginning of its journey to better cater to the changing population. It is an incremental process, as the store is mindful not to alienate its current customer base, and one of the biggest issues it faces is compliance and labelling from potential ethnic suppliers. Food safety is of paramount importance for the Foodstuffs group, and this can sometimes limit the acceptability and accessibility of fresh produce and other ranges that smaller ethnic stores may choose to stock.

2.29 With an ever-increasingly diverse Asian customer mix, Korean, Filipino, Japanese, Indian, Pakistani, Chinese and South East Asian staff are all represented throughout the store and have been given more responsibility within the management team, such as Mr Cheng and another senior buyer of Malaysian heritage. One comment Mr Cheng reflected upon was that this diversity does come with challenges, but, in his experience at PAK'nSAVE Albany, everyone is given an equal opportunity to earn respect from each other's peers. Asian people by nature are typically non-confrontational and he himself had to learn how to be more upfront and question his boss. Likewise, his owner had to understand that Kiwi humour is different from the Asian style, and that sometimes stepping back and thinking about the wider cultural context is important. With a more than 16-year working relationship together, Mr Cheng believes it is clear that cultural integration and learning has proved to be very successful within the store.

## Case Study – Kitchen Things

The Kitchen Things case study demonstrates the following lessons:

- Businesses need to adapt their services and products to the different cultures and needs of its diverse customers. Businesses should be careful to understand the precise needs of diverse customers, as these needs may not conform to cultural stereotypes;
- Diverse customers may find it easier to speak with others who speak their language. It is therefore important for businesses to ensure that their employees represent a diverse range of cultures, and that special measures are in place to cater to diverse customers; and
- There may be challenges associated with embracing diversity, and it is important to help diverse staff integrate into the company's business culture. Having managers with diverse backgrounds and/or high cultural intelligence can assist a business to minimise difficulties caused by cultural differences.

2.30 Kitchen Things is a 100 per cent family-owned New Zealand network of 19 premium retail appliance stores. Founded in 1986, the business was one of the first specialists to import European appliances into the New Zealand market and one of the first businesses to provide cooking demonstrations and classes in store. Rachel Louie, who was interviewed by Nick Siu, Director of The Agency 88, is part of the Jones family who founded the business, and now serves as Director of the group and Managing Director of the importing business, Applico Ltd.

2.31 Kitchen Things recognised an opportunity with the changing demography in New Zealand quite early due to a personal interest in multiculturalism. Mark Jones (founder and Rachel's father) was a regular traveller around the world, including visits to China. Ms Louie has lived and worked in Japan, as well as joining her father on many of his international trips, and had noticed a change in the customer mix entering the stores. The increase in Asian consumers seeking a premium kitchen appliance offer, combined with natural growth in consumer desire for premium brands, led the group to identify a strong need to cater for this different ethnic segment.

2.32 Ms Louie and her father were two of the drivers of change within the organisation to ensure that there was a diversity of cultures amongst staff and a policy requiring a Chinese (and/or other Asian language) speaking member of staff in every store. They noticed that Asians found it easier during the sales and consultation process to communicate with others who could speak their language and that, during sales, customers would queue up in order to speak to an assistant in Cantonese or Mandarin. As a result, specific events were held in store catering for these customers, such as Chinese guest chef cooking demonstrations and targeted classes teaching use of steam ovens as alternatives to traditional bamboo steaming methods.

2.33 One surprising observation Ms Louie had was that many migrants expressed a desire to cook European food with European appliances. When Kitchen Things first embarked on understanding the changing demography, it changed its product mix to include more rangehood models similar to those sold in China, thinking they would be instantly popular. However, it soon discovered that sales were less than forecasted because migrant customers wished to integrate more into the Western style of living and entertainment. Accordingly, demand for combination appliances grew substantially. Ms Louie also attributed this to the westernisation of China itself. During business trips, she observed that, while many Chinese families traditionally used a single wok or rangehood, in new housing developments many properties were furnished with a full suite of new Western appliances, increasing awareness and acceptability of such products.

2.34 Kitchen Things has made key wins in the combination steam and standard oven category and, although there was initial apprehension around lack of familiarity with such products, the use of multilingual cooking demonstrations ensured that this apprehension was soon overcome. Multiple ovens have also proved popular, as multiple family members live in Asian households across different generations, and Asian eating habits mean that several dishes are often on the table at the same time. Multiple ovens mean, for example, that a whole fish can be cooked in the steam oven and a whole roast in another, giving the family flexibility and the ability to entertain easily.

2.35 Kitchen Things has also noticed an increasingly strong demand from New Zealanders wanting to understand, cook and eat more Asian food. With increased tourism flows to popular destinations such as Vietnam, Thailand and Japan, many locals were coming back and wanting to recreate the tastes they had experienced overseas. Consequently, more powerful gas cooktops that could accommodate woks alongside new induction technologies have become increasingly popular, as have more powerful rangehoods and external motors that extract odours and steam from curry dishes out of the kitchen.

2.36 Additionally, significant resources were spent in making the Kitchen Things website and associated collateral bilingual. Kitchen Things has also invested in targeted advertising on Chinese radio, television and in local newspapers, particularly in communities with high Asian populations, such as Botany Downs and Dannemora. Ms Louie also understands that networking is highly valued and important within the Asian community and so made a conscious effort to develop relationships with real estate companies to help cross-database referrals and increase touch points.

2.37 Community engagement is important for Kitchen Things, so last year the organisation sponsored the Miss China beauty pageant and managed to leverage off its involvement by having the winner participate in endorsements for in-store demonstrations. Kitchen Things also supports “Hands Across the Water”, a charity that helps children affected by the Thailand tsunami. Ms Louie commented that the fact the beneficiaries were children resonated with important core values of their family-owned business, and that this connection was important not only for management, but also for the Thai and other Asian staff within the organisation.

2.38 Internally, Kitchen Things employs a range of different nationalities. The Northern Regional Manager hails from the Philippines and has been a part of the organisation for over 15 years. He is involved with training all new employees, and is able to empathise well when English is not a new employee’s first language. He also provides invaluable advice to management. Ms Louie also noted that, when they previously had a number of Muslim-faith employees within their call centre, management took action to ensure that there were adequate rooms that could be used for prayer. In addition, during Ramadan, an internal note is sent around the entire organisation explaining the meaning of the occasion so as to increase intercultural awareness throughout the business.

2.39 Bilingual employees are not only hired to deal with in-store customers, but targeted property developers as well. By being able to communicate with developers in their own language and represent the brand story (that is, of an established family-owned business with diversity values), Kitchen Things found that many developers were more willing to invest in large long-term developments.

2.40 Ms Louie acknowledged that embracing diversity has its challenges, one being the need for active engagement and repeating instructions to diverse employees and stakeholders to ensure they understand what is being communicated. For example, she observed that Filipino and Indian staff could, at times, be overeager to please and would reprioritise tasks based on cultural values of hierarchy, speeding up the service of customers in order to fulfil a request from a manager. Accordingly, she said, it was important to help diverse staff to integrate into the group's business culture, which was based on the principle of equality between employees.

2.41 As a final comment, Ms Louie mused on the possibilities for Kitchen Things' future such as increasing presence within Chinese social media platforms, website enhancements, and real time click-to-chat facilities in multiple languages on the website when servicing website enquiries – all innovative developments for a retailer already with its finger on the pulse of catering to the diversifying customer mix of Auckland.

## Case Study – Bank of New Zealand (“BNZ”)

The BNZ's approach to managing and building on ethnic diversity demonstrates the following lessons:

- To take advantage of the business opportunities created by superdiversity businesses need to ask “tough questions” about their employment practices and identify barriers to the equitable representation of minority cultures among its staff;
- Staff from ethnic minorities need to be involved in the process of examining and developing diversity strategies; and
- Leveraging off ethnic diversity to achieve market advantage requires a multifaceted and well-considered strategy.

2.42 The BNZ has made an institutional commitment to valuing diversity. BNZ started by taking steps towards increasing gender diversity, with the plan to build upon this with measures to increase recognition of cultural diversity in light of the changing face of New Zealand. BNZ considers that cultural diversity “has a hugely valuable role to play in the generation of diverse thinking and in underpinning our ability to anticipate and exceed client or customer needs and expectations.”<sup>274</sup>

2.43 BNZ also recognised that it needed to ask “tough questions” about its own practices in order to take advantage of the opportunities presented by New Zealand's changing demographic composition.<sup>275</sup> For some years, BNZ has undertaken an annual survey of employees to measure their engagement and develop its people strategy. This allows the BNZ to collect data about their employees by business group, gender and ethnicity. In 2012, BNZ conducted extensive research to identify the barriers which might be preventing more cultural representation in its senior management. This involved:

- Conducting a series of one-on-one interviews;
- Conducting focus groups for specific ethnic groups and focus groups with mixed ethnic composition;
- Analysing BNZ's engagement survey results; and
- Reviewing best practice from domestic and international organisations.

- 2.44 As a result of its research, BNZ learned that culture is about more than a person's country of birth. It also encompasses ancestry, language, faith, citizenship, personal affiliations and intercultural capability (CQ) (which includes attributes such as global mind-set and language ability). The research showed that, while BNZ was good at presenting opportunities to its staff members, the prevailing dominant masculine and/or Pākehā culture and norms determined career progression and talent identification.<sup>276</sup> In other words, it may have prevented members of some demographic groups from joining BNZ or putting their hand up for promotion because doing so was not the norm in their own cultures.
- 2.45 In response to the research, BNZ developed an approach to managing cultural diversity across six areas:<sup>277</sup>
  - a. Leadership and management would provide a vision for promoting, and strategies for implementing, ethnic diversity within BNZ;
  - b. BNZ would move beyond equal employment opportunity data collection;
  - c. People would be recruited on merit, irrespective of ethnic identity;
  - d. BNZ would retain, grow and promote talented staff, including those from ethnic minorities;
  - e. BNZ would use diversity to facilitate innovative product and service design;
  - f. BNZ would use diversity to facilitate community outreach.
- 2.46 BNZ has created several initiatives to deliver on this approach, such as appointing BNZ leaders from the largest ethnic groupings as "cross-cultural ambassadors" to manage and lead the strategy and implementation of cultural diversity.<sup>278</sup>
- 2.47 As well as facilitating workforce engagement with diversity, BNZ's diversity strategy focuses on engaging with the diverse as customers. For example, BNZ has taken a multifaceted approach to engaging with the Asian and migrant communities in response to New Zealand's changing demographic composition and increasing trade ties with China and other Asian countries.<sup>279</sup> BNZ has established a migrant and Asian banking division. BNZ also supports thought leadership in this area. For example, it funded the appointment of Professor Siah Hwee Ang as Victoria University Business School's BNZ Chair in Business in Asia. The BNZ also sponsors the Chinese Business Awards.
- 2.48 BNZ also established an Indian Banking Community team within BNZ in April 2013, headed by Ansuya Naidoo. BNZ is conscious that the Indian community has a different approach to banking than other cultures. It also recognises that this community is not homogenous, and endeavours to recognise the "diversity within diversity" of the Indian community. BNZ has undertaken a range of activities to promote goodwill and visibility among the Indian community, including becoming title sponsor of Indian Newslink Indian Business Awards, which recognise and reward business success within the Indian community.
- 2.49 In addition, BNZ has a long-term strategy to develop a whole of bank culture which invests in, and embraces, Māori business. BNZ recognises that Māori are playing a significant role in New Zealand's economy and that the rise in Māori business means that there is increased demand for banking services and advice from Māori clients. Accordingly, the BNZ appointed Pierre Tohe as Head of Māori Business in 2011. As part of its strategy, BNZ made a commitment to developing awareness of Māori culture internally, starting from the top down. As well as special training for senior leadership, BNZ delivers a range of training across the organisation on Māori language, culture, protocol and relationships. BNZ places importance on listening to the opinions of its Māori employees and providing the support that they need, as well as supporting its Māori clients' business and investment growth, including some of the largest and most commercially successful iwi in the country. BNZ has also made a

commitment to supporting Māori initiatives, building on its extant community visibility among Māori. For example, BNZ provides national financial literacy workshops each year in partnership with the Commission for Financial Literacy and Retirement Income and the Māori Women's Welfare League.

## Case Study – Beca

The Beca case study demonstrates the following lessons:

- Diverse staff can give businesses a competitive advantage;
- In order to gain this competitive advantage, businesses may need to invest time and effort to help migrant staff adapt to and succeed in the New Zealand workplace, as migrants may have an understanding of workplace culture that does not align with their employer's expectations; and
- Leaders within the business should actively promote the benefits of a culturally diverse workforce. Executive commitment to the business's diversity practices can help demonstrate that the business is truly committed to a diverse workforce.

2.50 Beca is a 3,000 strong professional services firm operating throughout the Asia-Pacific region, with headquarters in Auckland. The firm was established in 1918 and has grown into one of the region's most successful consulting engineering businesses. Beca is 100 per cent employee-owned, and as at 2015 had more than 50 nationalities and 70 languages spoken in its New Zealand based offices. There is a global skills shortage of experienced engineers, and part of Beca's competitive success has been to attract the best talent from around the world.

2.51 Beca has undertaken a number of steps to ensure that the cultural diversity of its workforce is a competitive advantage for the firm. Matt Ensor, who is currently Beca's Business Director for Advisory Services, formerly the General Manager of Transportation, has been a leader in this space. During the 2000s, there was a boom in global engineering and it was almost impossible to recruit candidates in sufficient numbers from the English-speaking countries where Beca had traditionally sourced its talent. In order to facilitate the growth of Beca's transportation consulting business, Mr Ensor actively recruited staff from Asia, and travelled to India and Singapore to conduct interviews. The percentage of migrants in the team grew from almost none in 2002 to approximately 50 per cent of the team a few years later.

2.52 The challenges of a culturally diverse team were readily apparent to Beca and presented as "problems that needed solving". This included issues such as the standard of written communications and limited contribution to the team beyond technical project delivery tasks. To create a competitive advantage, Mr Ensor implemented numerous changes in his part of the business. What proved to be most transformational was the discovery that many migrants had a limited or incorrect understanding of what would make them successful in the New Zealand workplace culture.

2.53 Mr Ensor developed an internal development programme which identified nine "cultural mysteries" that make people successful in a New Zealand business, beyond just doing one's technical work well. He invited all staff with less than five years' experience (including both migrants and New Zealand-born employees) to a series of sessions discussing each of these nine success factors. For example, one session discussed the meaning of "initiative" in the New Zealand workplace. For many migrants, "initiative" meant doing one's job well, working hard, and finding the best ways to complete tasks. From a New Zealand employer's perspective, however, "initiative" is more about doing things that one is not asked to do, including tasks that are not in one's job description.

2.54 The sessions informed Beca's employees of the firm's expectations, which assisted employees with both their current and future careers. The format of

the programme included members of Beca's executive talking to the group about how each of the nine success factors had been important in their career development. This demonstrated the company's respect and commitment to fostering success for migrant staff.

2.55 The programme helped staff to understand how to lead culturally diverse teams, and fostered increased levels of creativity and engagement. The team became the most successful of its type in New Zealand, and is now a talent magnet that attracts the best transport engineers in the world.

2.56 Mr Ensor moved on from the leadership role of the transportation team in 2012, but now, in addition to his role as Business Director, continues to work within the firm and externally to promote the benefits of effective cultural diversity leadership practices to New Zealand businesses and organisations.

## Case Study – Bayleys

Bayleys' adaptation to the changing real estate market demonstrates the following lessons:

- To maintain a competitive advantage, businesses must identify and capitalise on the changing demographics of the New Zealand market;
- Adapting to the diverse market involves taking a multifaceted approach by, for example, building a dedicated international team, undertaking bilingual marketing and ensuring that the business has a presence in the local community;
- Diverse employees are inherently more capable of interacting with diverse customers, as they share the same language, culture and values, and can understand the ethos motivating diverse customers' purchases; and
- Adapting to the Asian market is not possible without building long-term relationships and making a true commitment to an "Asia strategy".

2.57 Bayleys is New Zealand's largest full service real estate company with the group having more than 800 salespeople and over 1,300 employees. It remains entirely New Zealand owned, with one of its leadership team, James Chan, acting as the head of its international sales and leasing division. Mr Chan is an industry pioneer in connecting with the Asian community, and has led much of the change and initiatives relating to service improvements within Bayleys' customer base as it has noticed New Zealand's shifting demography. Nick Siu, Director of The Agency 88, interviewed Mr Chan on how Bayleys was responding to New Zealand's growing ethnic diversity.<sup>280</sup>

2.58 Bayleys first recognised the need to look at diverse markets some 20 years ago when the market had significant mortgagee sales, an interest rate of 20 per cent and a dearth of local buyers. Initially, Graham Bayley had the vision to work with Japanese buyers, and then his sons, John and David, identified, together with Mr Chan, the potential opportunities represented by Chinese buyers. Although Mr Chan studied at Melbourne University, he was born in Hong Kong, so not only does he have people skills but also the ability to speak fluent Cantonese, Mandarin and English. Now he leads an international team of 12 sales people from Guangzhou, Shanghai, India and Korea – driven by the increased demand from these Asian communities. There are now Chinese-speaking agents within all the key Auckland branches in Mt Albert, Remuera, Pt Chevalier, Ponsonby and Mt Eden.

2.59 Mr Chan mentioned that it was hard to quantify the exact percentage of turnover coming from Asian buyers, as many were locally born, and others potentially acted for offshore partners and friends. But he had noticed that Asian business had increased throughout Christchurch, Tauranga and Wellington. He attributed this to China's large and growing middle class, its polluted environment, and a desire by families to provide a better opportunity for their children's education. He also noticed that many of his high net-wealth offshore clientele placed a high importance on migration

to English-speaking countries such as Canada, the United States, Australia and New Zealand, over other non-English speaking countries. This was because English is regarded as the international language of business and the language of choice for education purposes. Even if those clients could not speak English, their children could. Other factors such as air travel frequency, cultural education exchanges through high school and universities, and high-speed Internet access were also factors that made New Zealand an attractive destination.

2.60 In Mr Chan's view, many of his buyers applied the ethos of what was best for family above strict investment principles. For example, he currently had on the market a project of over 2,000 apartments to be built in New Lynn by a Guangzhou-based development company. The company was willing to take a risk on such a substantial project because, not only did the project fit within its expertise and design strengths, but also because much of its team had migrated to live in Auckland so had seen first-hand the opportunity to capitalise on the lifestyle the city offered.

2.61 As a consequence, Mr Chan and his team at Bayleys invested significant internal resources not only to develop a dedicated international team, but also to provide as much bilingual marketing collateral as possible. This included printing Chinese brochures and information memorandums, team profiles in both Chinese and English, as well as video introductions and bilingual website portals. He made significant efforts to promote the multilingual aspect of the team by ensuring that email introductions and business cards reflected this. Bayleys also makes sure to have a presence in the local community by sponsoring a Chinese Doctor Day annually at Selwyn College in Auckland's Eastern suburbs, where over 300 people attend free seminars run by doctors, eye specialists and other medical professionals. Bayleys has also partnered with organisations such as the Make A Wish Foundation and donated to local Asian football tournaments. This has facilitated both community involvement and staff engagement.

2.62 Mr Chan commented that many non-Asian buyers saw the value of Bayleys' strength in the Asian market and this consolidated their competitive position to win sole agencies on properties. He stressed the value of long-term relationships and that making reactive changes as an organisation without true management commitment towards an Asian strategy was unlikely to be successful.

2.63 While education was an important part of the hiring process in the international team, and linguistic ability was a must, the most important thing was knowledge of property. Internal systems were set up to be diversity friendly and solely performance driven. As a result of all of these measures, Bayleys has experienced few cultural conflicts and has become a leader in the New Zealand property industry, with a cornerstone on the Asian market.

## Case Study – Brijesh and Nivedita Sethi

This case study demonstrates the following lessons:

- The opportunities to capitalise on the diverse market are varied and manifold;
- Adapting to the diverse market requires businesses to build transnational contacts and partnerships; and
- The diverse have innovative perspectives and ideas which may help found or grow a new business tailored to diverse markets.

2.64 Brijesh Sethi, a Production Engineer from Mumbai, and his wife, Nivedita, arrived in New Zealand with just enough money to sustain them for two months. Mr Sethi has now built an education organisation that employs about 75 plus full-time staff and has had 3,000 students graduate over a period of 10 years.

2.65 Mr Sethi is the Managing Director and owner of New Zealand School of Education ("NZSE"). NZSE is one of the leading private training establishments in

New Zealand, specialising in ICT, Design, Business, Digital Media, Early Childhood, Foundation Studies and English Language. NZSE now has six schools for these streams catering to both domestic and international students (mostly from India and China). NZSE has three campuses across Auckland and is looking to expand further with an opportunity to open a campus in Wellington. NZSE has direct relationships with institutions overseas for students wanting to study in New Zealand with options to complete a degree at a local University or Polytechnic. In 2009, NZSE was awarded the Exporter of the Year Award for export education.

2.66 Mr Sethi is also a Director at Travel Point NZ Limited, a travel agency that specialises in travel to the sub-continent of India. Travel Point offers a 24/7 personalised service to migrants, usually in their own language, and it has become the largest travel company operating in the migrant community.

2.67 Mr Sethi has also recently ventured into a winery production line specialising in innovative fruit wines. The winery produces fruit wines made of kiwifruit, feijoa and boysenberry, which are then exported to China, Japan and other countries.

2.68 Ms Sethi is the founder and Managing Director of Kuddles In-Home Childcare & Education, which predominantly services Indian, Chinese and Korean children. Ms Sethi started this home-based childcare service in 2008 with the aim of helping children less than five years old get quality early childhood learning at home while maintaining and strengthening their language and culture, and found a strong market for such services.

2.69 Kuddles plays an integral part in sustaining the culture and values of young children and supporting families to keep their language and culture.

## Case Study – Perpetual Guardian

The Perpetual Guardian case study demonstrates the following lessons:

- Businesses need to reflect the diversity of the communities they serve, not just for commercial benefit, but to be thought leaders and “do the right thing”;
- Adapting to diverse markets may require changing online services and content, and hiring foreign-speaking staff to liaise with members of superdiverse communities who are not comfortable being serviced online;
- Embracing diversity requires working towards a workplace which reflects society, and undertaking recruitment free of any racial, cultural or gender bias; and
- Businesses should engage in ongoing conversations with the key stakeholders in New Zealand’s diverse communities.

2.70 Perpetual Guardian, a fiduciary services company, has over 140,000 will relationships and administering or supervising assets valued over \$100 billion. The Perpetual Guardian team wants to ensure that every adult New Zealander has a will and every child is protected by one, by making them affordable and accessible to everyone. In 2013, Perpetual Trust was acquired by Andrew Barnes, and in 2014 he also purchased Guardian Trust. The two companies were merged to form Perpetual Guardian.

2.71 Mr Barnes knows from personal experience about New Zealand’s growing ethnic diversity, and this has helped him to understand the importance of adapting Perpetual Guardian’s fiduciary services to the distinctive needs and expectations of New Zealand’s superdiverse communities. Mr Barnes has worked in Sydney, London and now Auckland, all very diverse cities with large migrant populations. This experience has meant that he has always led teams of people with diverse work and cultural experiences. He has learnt first-hand that not only does a business need to reflect the community of its customers for commercial benefit, but this is the right thing to do as a good corporate citizen and thought leader.

- 2.72 Mr Barnes' own children are from Sri Lankan descent on their mother's side, one of whom was born in Australia. So, both professionally and personally, he believes in treating each person on their merits irrespective of ethnic background.
- 2.73 Charlotte Lockhart, Perpetual Guardian's Sales and Marketing Director, says the company has had to adapt the way it engages with ethnically diverse communities seeking fiduciary services. Perpetual Guardian knows that to engage with New Zealand's diverse communities, it must have ongoing conversations with the leaders, supporters and role models for these communities. For example, many Asian communities are superstitious about death, and so might be hesitant about making a will or planning their estate. In order to address this challenge, Perpetual Guardian is working with New Zealand Asian Leaders ("NZAL") to help lead discussion in these communities about the importance of preparing for such matters. In addition, it is working to engage with Māori and Pacific communities in a meaningful way which is reflective of their culture. Perpetual Guardian also recognises that the younger generations, who are increasingly Māori, Asian and Pacific peoples, are disengaging with estate planning, so are developing products and service processes to reverse this trend, like the purchase of "My Bucket List", where wills can be made online.
- 2.74 Part of adapting to the Asian market has meant having the website translated into Mandarin. Perpetual Guardian is also working with NZAL to make videos in Mandarin to upload alongside the online Mandarin portal to explain, in a way which meets Chinese cultural needs, why estate planning is important in New Zealand, and how it differs from back in Asia. They have also hired a Singaporean mobile branch manager who speaks Mandarin and Cantonese to liaise with those in Asian communities who may not be used to, or comfortable, being serviced online.
- 2.75 Perpetual Guardian recognises that the New Zealand market has changed, and its workforce is beginning to reflect that change. It believes that diversity is not just about race or gender, but is about actively working towards being a workplace which reflects society and its customers. Each person is hired on merit and without cultural, gender or age bias, and having an Asian-born Human Resources Coordinator helps to ensure unconscious bias is mitigated.

## Case Study – Nirvana Health Group

The Nirvana Health Group's emphasis on celebrating cultural diversity demonstrates the following lessons:

- Having a culturally diverse workforce is an asset, as diverse staff can communicate and empathise with linguistically and culturally diverse customers;
- Businesses need to "interweave" multifaceted policies in order to accommodate cultural diversity; and
- Businesses need to encourage cultural intelligence and religious tolerance within management and generally among staff to promote social cohesion in the workplace.

2.76 The Nirvana Health Group was established in 1977 by a young Indian couple, Kanti and Ranjna Patel, who started a medical practice in Otara. At that time, Mr Patel, who had trained as a doctor in India, was a new immigrant to the country. The Nirvana Health Group now owns a large network of primary health organisations, including organisations working under the banner of West Auckland Healthcare, Mt Roskill Healthcare and White Cross.

2.77 As a result of the cultural diversity of the communities it serves, and within its own workforce, the organisation's ethos places great emphasis on celebrating ethnic diversity. For many years, the Nirvana Health Group has had a high proportion of foreign-trained employees, mainly from South East Asia, the Middle East, the Pacific Islands and the Philippines. The organisation has only recently started recruiting more

- • locally-trained graduates. The acquisition of the White Cross Clinics in 2007 further
- • increased the cultural diversity of its workforce, as the majority of White Cross em-
- • ployees are of New Zealand European descent.
- •
- • 2.78 The organisation's diversity slogan states that "We celebrate diversity of race,
- • religion, culture and believe that different perspectives enrich our work and the
- • services that we provide." This reflects the Nirvana Health Group's recognition that
- • the ethnic and religious diversity of its staff allows the company to effectively serve its
- • patients and the community.
- •
- • 2.79 The Nirvana Health Group interweaves a number of policies to meet the vary-
- • ing needs of its culturally diverse workforce. The management team works to
- • accommodate the ethnic and religious practices of its staff in a number of ways. For
- • example, staff members are given extended leave when tradition requires them to
- • mourn bereavement over several days. The company also celebrates its staff mem-
- • bers' numerous religious and cultural festivals. On the morning of the holy feast of Eid,
- • Muslim staff members visit their colleagues with sweets and gifts. Similarly, the office
- • celebrates Christmas, Easter, Diwali and Chinese New Year. As the company's clinics
- • operate seven days a week, 365 days a year, employees often offer to work extra hours
- • to allow their colleagues to take time off for religious or cultural festivals. As a fami-
- • ly-orientated organisation, Nirvana Health Group also ensures that it looks after the
- • families of its staff by adjusting rosters to accommodate special family circumstances.
- •
- • 2.80 The Nirvana Health Group also acts to ensure that it has a presence in the local
- • community. The organisation's leaders encourage staff members to regularly
- • undertake community outreach initiatives, and the company believes that promoting
- • cultural diversity in the workplace can facilitate social cohesion.

## Case Study – Smile Dental

- •
- • 2.81 Smile Dental, founded and run by Dr Jacky Lam, who migrated to New Zealand
- • at an early age, is another example of the diversity dividend that migrants can
- • bring to New Zealand. After he graduated from dental school, Dr Lam saw the need for
- • a dental health provider that catered to ethnic minorities, and reflected the cultural
- • diversity of Auckland. In 1996, he bought a practice from a retiring dentist in Otahuhu
- • and rebranded it into Smile Dental Otahuhu.
- •
- • 2.82 Smile Dental is now the largest private dental clinic servicing the migrant com-
- • munity, with 11 branches across Auckland in Albany, Auckland CBD, Avondale,
- • Henderson, Manukau, Papakura, Ranui, Remuera, Somerville, Sylvia Park, and Taka-
- • nini. Smile Dental actively recruits from the global talent pool, with around 90 per cent
- • of its staff coming from Hong Kong, China, Taiwan, India, Dubai, Sri Lanka, Singapore,
- • Korea, Malaysia, Cook Islands, Samoa and Iraq. As a result, many of the dentists at
- • Smile Dental speak more than one language, including Mandarin, Cantonese, Korean
- • and Malay.
- •
- • 2.83 Smile Dental provides employment opportunities to both skilled and un-
- • skilled migrants, while also creating first-job opportunities and mentoring for
- • New Zealand qualified dentists. In 2012 and 2013, Smile Dental was the largest em-
- • ployer in private practice for new graduates in Auckland.

## Key Point Two: The Diversity Dividend

*"A lot of people in our industry haven't had very diverse experiences. So they don't have enough dots to connect, and they end up with very linear solutions without a broad perspective of the problem. The broader one's understanding of the human experience, the better design we will have."*

*Steve Jobs (1955–2011)*

- 2.84 The “diversity dividend” describes cities and regions with large immigrant populations experiencing higher rates of productivity and innovation,<sup>281</sup> as diversity provides “an environment for the cross-fertilization of ideas that contribute to creativity and innovation”.<sup>282</sup> Investment and the increased local aggregate demand created by diversity foster “product and process innovation”, and can involve a transfer of managerial or technological expertise, or a commercial buying or selling of connections as part of a global value chain (as is discussed further below).<sup>283</sup>
- 2.85 A 2014 study examining 366 public companies across a range of industries in Canada, Latin America, the United Kingdom and the United States found that:<sup>284</sup>
- a. Companies in the top quartile for racial and ethnic diversity were 35 per cent more likely to have financial returns above their respective national industry medians;
  - b. Companies in the bottom quartile both for gender and for ethnicity and race are statistically less likely to achieve above-average financial returns than the average companies in the data set (that is, bottom-quartile companies are lagging rather than merely not leading).
- 2.86 A 2014 study in the United Kingdom found that 69 per cent of young adults did not want to work for establishments lacking ethnic diversity, and a significant majority of teachers preferred recommending an organisation with a reputation of promoting ethnic diversity in the workplace.<sup>285</sup>
- 2.87 A global survey of private companies likewise found that greater diversity on boards is associated with higher equity returns, higher prices-to-book valuations and superior stock price performance.<sup>286</sup>
- 2.88 Accordingly, there will be a diversity dividend for regions that receive immigrants, depending on the level of diversity, the source countries, the level of worker skills and experience, employment status, and the accessibility of support services for migrants.<sup>287</sup>
- 2.89 The potential benefits of superdiversity for New Zealand are wide ranging. Increased diversity underpins two of New Zealand’s largest export earning sectors: international education and tourism.<sup>288</sup> Record numbers of migrants and tourists are predicted to support New Zealand’s domestic economic growth for the next year, as the export goods sector faces uncertainty in global markets and softness in commodity prices.<sup>289</sup> Between 2013 and 2014, 2.2 million visitors arrived in New Zealand and the tourism industry is worth \$9.8 billion to the New Zealand economy.<sup>290</sup> China is predicted to overtake Australia as New Zealand’s biggest tourism market in terms of expenditure within the next seven years, increasing to 23.6 per cent of New Zealand’s tourism spending by 2021 (up from 14 per cent in 2014).<sup>291</sup> Export education is New Zealand’s fifth largest export earner, supports 28,000 jobs, and is worth \$2.6 billion to the economy each year, 63 per cent of which is generated in Auckland.<sup>292</sup> This figure is expected to grow to \$5 billion by 2025.<sup>293</sup>
- 2.90 Migrant communities can play an important role in export and international trade, as they are often well connected internationally through their “prior experiences, family connections and wider business activities”.<sup>294</sup> These communities can drive an increase in exports with their knowledge of relevant source countries and those countries’ needs. For example, Thomas Song from Oregon Group was born in Malaysia and came to New Zealand 25 years ago. Because he was born in Malaysia and because he understood China, he realised that there was a growing Chinese middle class who were going to want to build houses and apartments, which would require a large supply of timber and other raw materials. So Thomas came to New Zealand and he set up Oregon Group, which is now a major owner of forests in New Zealand, and exports the wood to China.
- 2.91 The benefits of the diversity dividend in the New Zealand context are being measured in research by the Te Pūnaha Matatini Centre of Excellence at the University of Auckland, which includes measuring the effect of increased migration on export success.<sup>295</sup> The main findings on employee characteristics and international engagement are:

- Firms that employ a higher fraction of high-ability foreigners (and thus a lower fraction of high-ability natives) are more likely to export.
- Firms that employ a higher proportion of people who previously worked for an exporter are more likely to export.
- The proportions of foreign employees and employees with export experience are correlated with many other types of international engagement by firms.
- Employees from Australia and the Pacific and from Europe are positively correlated with firm exporting. The correlations are absent for foreign employees from Asia.
- The probability that a firm earns income in a given country is more correlated with its fraction of employees from that country than with its total fraction of foreign employees.
- A firm with a higher fraction of employees from a given country is more likely to earn income in that country only if the country is developed.

2.92 Although these relationships are correlations only and should not be interpreted as proof of causality, they do suggest that the experience and specialised knowledge of employees may be relevant to firms' decisions to engage internationally, and that such engagement may act as a conduit for foreign knowledge to enter the country. Similar findings were reported in a 2014 study conducted by Motu.<sup>296</sup>

2.93 New Zealand's immigration policy favours highly-skilled migrants, and it is not clear whether the benefit to business is because the immigrants are highly skilled (meaning there would be the same impact for a highly-skilled non-immigrant), or whether it is because they are immigrants.

2.94 There are clear benefits in having a diverse workforce when targeting a diverse customer base. These benefits include: access to a wider customer base and wider skill set, international competitive advantage, gaining international contacts, broader perspectives and a more innovative and adaptive work environment, developing a reputation as an "employer of choice", greater customer satisfaction and an increased sense of corporate citizenship and trust.<sup>297</sup> Many New Zealand employers also report that their migrant employees are loyal, hardworking and are willing to do jobs that New Zealanders will not do, for example in the health care and rural sectors. For discussion of the challenges faced in the agricultural sector, see [2.272].

2.95 According to Immigration New Zealand, it is important to ensure that the Auckland region in particular remains an attractive place to work and live for skilled overseas migrants, particularly as other countries are increasingly competing with New Zealand for skilled labour.<sup>298</sup> Incentives such as employment opportunities, competitive salaries and favourable work environments are needed, but so too are initiatives to address discrimination in employment so that migrants do not simply go home, or immigrate elsewhere when they fail to get a job commensurate with their qualifications and experience in New Zealand. Research conducted in the United States found that cities and regions that are more tolerant and inclusive of migrants are able to attract more talent.<sup>299</sup> As a result, these areas displayed higher levels of innovation.<sup>300</sup>

2.96 A 2012 study on the increasing numbers of immigrants in 12 European countries found that "innovation levels are ... positively associated with migrant diversity", an effect that only occurs when there is a "minimum level of diversity".<sup>301</sup> The study further found that diversity can enhance local aggregate demand for goods and services; new investment fosters product and process innovation; and migrants, especially skilled migrants, add to the "capital stock" of host communities.<sup>302</sup>

2.97 Another study relying on aggregate data from 12 European countries found that cultural diversity positively influences production and consumption.<sup>303</sup> The study also found that there was growing evidence that Americans are more productive when they live in culturally diverse regions.<sup>304</sup>

- 2.98 Research conducted by AsiaLink and the Australian Industry Group in 2010 across 380 businesses found that the greater the proportion of senior leaders who have undertaken cultural training, can speak an Asian language and have lived or worked in Asia, the greater the reported business performance in Asia.<sup>305</sup>
- 2.99 At present, New Zealand businesses could utilise the 1.5 generation and multigenerational migrant talent pool more. A key finding in our survey of ethnic minorities and migrants is that migrants are discriminated against in the job market, particularly if they look visibly different and have foreign-sounding names denoting ethnicity from Asia, Africa or the Pacific.<sup>306</sup> If businesses want to reap the diversity dividend, they will need to address issues such as discrimination, as discussed further below at [2.123].

## Business Investor Migrants

- 2.100 New Zealand's focus on attracting business investor migrants represents an opportunity for businesses seeking capital. Immigration New Zealand is planning to put greater efforts into marketing New Zealand as a destination for business investor migrants and linking them to growing sectors.<sup>307</sup> There were 439 approved business category applications for the 2014/2015 financial year, comprising approximately 6 per cent of total residence approvals for that period.<sup>308</sup> New Zealand's business investor and entrepreneur immigration policies have also recently been revised to attract higher value and better quality businesses.<sup>309</sup> Business investor migrants and entrepreneurs can bring commercial expertise, international linkages and networks to boost the economy.<sup>310</sup>
- 2.101 In 2014, 46 per cent of business migrants approved in the investor category were Chinese.<sup>311</sup> A 2014 MBIE survey of investor migrants found that approximately 65 per cent of those surveyed invested more capital in New Zealand than the amount required by the investor policy.<sup>312</sup> However, the type of investment chosen for residence application tended to be passive, such as through investment in government, corporate or bank bonds (50 per cent) rather than active, for example through purchase of shares, company equity or venture capital (20 per cent). A study by KPMG found that around 80 per cent of migrant investor funds currently end up in government and corporate bonds.<sup>313</sup>
- 2.102 According to the MBIE survey, migrants who spent more time in New Zealand were more likely to make active investments, but most opted for passive investment due to a lack of networks and knowledge about the New Zealand economy and business culture. Just 31 per cent felt that New Zealand made the most of investors' talent and networks. Further, even though 85 per cent expected to be able to make a significant contribution to New Zealand, just 65 per cent felt they had the opportunity to make a sizable contribution. Many reported that they did not think their education or skills were relevant in the New Zealand context and welcomed greater engagement by organisations such as NZ Inc, which works with industry leaders, business, and government to help New Zealand businesses and business leaders to succeed internationally.<sup>314</sup> A number of respondents said they would be interested in either setting up their own business or providing equity for other businesses once they were settled in New Zealand and had a better understanding of the business landscape. These findings indicate that we are not fully maximising the potential contribution from investor migrants, both intellectually and financially.
- 2.103 Andy Hamilton, Chief Executive of The Icehouse, and KPMG, have called for at least 10 per cent of wealthy migrant capital to go into growth investments such as angel investment, venture capital or private equity growth funds.<sup>315</sup> It is estimated that changing New Zealand's policy settings could bring in between \$50 million and \$100 million annually for New Zealand growth companies.<sup>316</sup>
- 2.104 The Government is currently considering changing the rules around investor migrants to ensure wealthy migrant capital is channelled into productive assets.<sup>317</sup> The Government's recently approved Investment Attraction Strategy indicated that a review of migrant visa categories would be conducted to ensure they were attractive to entrepreneurs and investors.<sup>318</sup> At the same time, however, Economic Development Minister, the Hon Steven Joyce, has

cautioned that any changes should avoid deterring high net-worth investors from coming to New Zealand.<sup>319</sup>

*The balance will be in to what extent you can direct that investment without putting people off... It's a balancing act...some [investment] is more active than others and has the potential to create more spill over benefits.*

2.105 For example, following the introduction of a rule change in Australia requiring investor migrants to invest in growth assets such as venture capital from 1 July 2015,<sup>320</sup> the Financial Times reported that just seven investor visa applications had been received.<sup>321</sup>

2.106 Immigration New Zealand's Talent (Accredited Employers) Work Policy also enables businesses which are accredited employers to recruit globally and fast-track the processing of employees' talent visas.<sup>322</sup> In order to become accredited, employers must demonstrate that they are financially viable, committed to training and employing New Zealanders, and have sound human resource and workplace policies and practices.<sup>323</sup> Immigration policy in New Zealand is further discussed at [3.3].

## Ethnic Businesses and Migrant Entrepreneurs

2.107 MBIE's latest report on the small business sector found that around 97 per cent of enterprises in New Zealand are SMEs.<sup>324</sup> These 459,300 enterprises include those with no employees, micro enterprises (one to five employees), and small (six to 19 employee) enterprises. SMEs make a significant contribution to the New Zealand labour market: more than 584,000 people are employed in enterprises with fewer than 20 people, comprising 30 per cent of the New Zealand workforce.

2.108 SMEs play a "distinct role" in New Zealand's economy, often providing a method of entry into business for new entrepreneurial talent and a career for those who value economic independence.<sup>325</sup> They also act as specialist suppliers of goods and services to large companies, and contribute to variety and consumer choice for customers by serving niche rather than mass markets.

2.109 According to MBIE, in the entrepreneur category, the top source countries for those earning income from self-employment are the United Kingdom (34 per cent), South Korea (20 per cent) and China (17 per cent).<sup>326</sup> The rate of approved applications from the United Kingdom has declined since 2010, from approximately 37 per cent receiving approval to 22 per cent in 2014. In contrast, the rate of approvals for applications from China and South Korea has increased significantly since 2010, from 20 per cent and 9 per cent respectively to 60 per cent and 59 per cent in 2014.

2.110 The main industries for migrants earning in self-employment were "other" (46 per cent), professional, scientific and technical services (17 per cent), construction (14 per cent) and low productivity industries. Fifty-eight per cent of migrant businesses have no employees. In 2014, 53 per cent of migrants with long-term business visas transitioned to residence, though there were higher transition rates for migrants from South Korea and China (67 per cent and 58 per cent respectively). Eighty-six per cent gained residence through the entrepreneur category. However, only a small proportion of migrants in the entrepreneur category actually earn income from self-employment – the majority of migrants earning from self-employment fall under the skilled migrant category. Only 2 per cent of those earning self-employment income gained residence through the entrepreneur category.

2.111 A longitudinal study on migrants taking up residence in New Zealand between 2004 and 2005 found that the proportion of skilled and family partner migrants earning through self-employment increased to between 7 and 9 per cent after 36 months in New Zealand.<sup>327</sup> The small-scale studies completed on migrant entrepreneurship to date indicate that the increased level of entrepreneurship displayed by migrants is partly due to their ability to identify gaps and leverage market opportunities and access different markets (see for example the case studies on Brijesh and Nivedita Sethi, and Smile Dental, at [2.64] and [2.81]) and partly, for Asian migrants, because they find it difficult to access (or may be discriminated against in) the mainstream labour market.<sup>328</sup> These studies indicate that a large number of

migrants from Asian ethnic minority groups venture into entrepreneurship after struggling to break into the New Zealand job market post-arrival, or failing to find career options that are commensurate with their skills and qualifications.

2.112 For example, the highest rates of unemployment among migrants were for recent Chinese migrants (those resident in New Zealand for less than five years), whereas those who had been resident in New Zealand for five years or longer were more likely to be self-employed, predominantly within service industries.<sup>329</sup> The self-employment rates for Chinese-born migrants almost doubled for those who had resided in New Zealand for between five and 10 years, and unemployment reduced by 70 per cent as their period of residence increased.<sup>330</sup> A similar pattern of time-delayed business venture creation was also evident for migrants from Hong Kong and Taiwan.<sup>331</sup> In contrast, Pacific migrants are significantly less likely to be self-employed (4.3 per cent as at 2013 compared to 12.1 per cent of the general New Zealand population).<sup>332</sup>

2.113 It is common practice for ethnic businesses to receive assistance, financial or otherwise, from friends and family based in New Zealand and overseas, rather than from banks or government agencies. In a 2011 study, many Chinese and Korean business owners reported that they did not feel that the host organisations which represent and engage with businesses understood their particular circumstances and needs.<sup>333</sup>

2.114 Chinese and Korean business owners, in particular, are more likely to rely on co-ethnic networks for capital, supplies, information, labour and for a customer base.<sup>334</sup> This is facilitated by “co-location with co-ethnics” in ethnic precincts, which permits businesses to take advantage of the ethnic networks in which they are situated.<sup>335</sup> A 2014 qualitative study by IRD found that:<sup>336</sup>

*Indian and Chinese business owners tended to rely more on their accountant/tax agent (who was usually from the same ethnic background as themselves) to manage their tax affairs and provide tax advice.*

*The UK and Australian business owners, however, were more likely to seek tax information through Inland Revenue channels, and used a wider suite of business systems to manage their accounts and paperwork. They were also more likely to receive overseas income.*

*... the UK and Australian business owners appeared to have integrated better into New Zealand society. For example, a higher proportion of UK and Australian business owners earned household income that was greater than \$100,000 while a higher proportion of Chinese and Indian respondents reported that they were struggling financially. Chinese and Indian respondents tended to feel that they were being treated “differently” because of their ethnicity and reported lower levels of life satisfaction than their UK and Australian counterparts.*

2.115 Similarly, a 2010 study of 24 Chinese businesses found speaking English, employing staff, obtaining finance and start-up capital and operating within the local business environment to be the most commonly experienced problems.<sup>337</sup> All the businesses employed at least one Chinese staff member and supplier, and 95 per cent used Mandarin as the main language in the workplace. Almost 90 per cent of the businesses had Chinese customers, though most reported that they had a multicultural client base. Half of the employers travelled overseas, predominantly to China, to support their businesses. Strategies employed by Chinese employers to set up and develop their businesses included:

- a. Engaging local experts to obtain licences;
- b. Employing non-Chinese staff to create a multicultural image;
- c. Employing young Chinese graduates to lower employee costs and enhance the quality of customer service; and
- d. Selling company shares to business migrants as an alternative to securing bank loans.

2.116 In contrast, while South African, British and Indian business owners reported challenges as they sought to establish themselves in the New Zealand business environment (in particular, obtaining local knowledge relating to business practice and local culture), their

English language proficiency, together with their greater familiarity with New Zealand business practices meant that they were less dependent on their co-ethnic relational networks.<sup>338</sup> A 2011 study on British employers likewise found that British employers experienced “little displacement on arrival in New Zealand” because they were often in similar occupations to their pre-departure work and accessed a wide range of local business organisations and government services upon arrival (unlike Chinese and Korean businesses).<sup>339</sup>

2.117 New Zealand’s migrant entrepreneur policy underwent significant changes last year. The policy is now a points-based system, with a minimum capital requirement of \$100,000. Points are granted for business experience, creating full-time positions, providing unique products or services to New Zealand, capital investment and for businesses based outside of Auckland.<sup>340</sup> This, in combination with the increased number of bonus points allocated to migrants based outside of Auckland, means that businesses and employers in the regions should be able to capitalise on the diversity dividend that migrants offer.

## International Students – Managing the Transition from Study to Work

2.118 International students transitioning from studying to working in New Zealand is another aspect of the diversity dividend. Approximately 30 per cent of former international students remain in New Zealand for at least five years after completing study on a work or residence visa.<sup>341</sup> In 2005, a range of policy changes were introduced aimed at making New Zealand a more competitive destination for international students, including a graduate job search permit and the post-study practical experience permit. Further changes to these policies extending the right to work for certain groups of students post-study were made in 2007 and 2011. In 2012, students attending institutes of technology and polytechnics were the most likely to transition from study to work/residence (62 per cent). However, in terms of numbers, students from private training establishments (“PTEs”) represented both the largest number of leavers and also the largest number of students transitioning (approximately 6,000 students or 51 per cent transition).

2.119 The number of PTE students transitioning has gradually increased from approximately 7.5 per cent in 2005 to 51 per cent in 2012. Universities had the second largest number of leavers in 2012 but, due to a lower transition rate, had the smallest number who transitioned (just 25 per cent). The highest number of students transitioning to work or residence comes from India, with 82 per cent transitioning in 2012, compared with just under 50 per cent of Chinese students and 6 per cent of students from the United States.<sup>342</sup> The higher transition rate aligns with the increased number of international students from India since 2009. Most students who transition study at diploma or level 7 graduate certificate and diploma level.

2.120 The management and commerce fields had the highest number of international student leavers transitioning to work or residence in 2012, followed by society and culture and food, hospitality and personal services. The contrasting transition rates and number of leavers between both fields of study and levels of study has implications for various agencies and groups. For example, if there is a shortage of a particular skill level, or those trained in a particular field, the number of leavers and the transition rate can be used to investigate whether this is due to the fact that we are not attracting enough of these students to complete this level or train in this field (an attraction issue) or because these students are choosing to leave New Zealand post-study (a retention issue).

2.121 For example, if we wanted more people working in the IT profession, one possibility would be to try and attract more students to come to New Zealand to study IT, as 70 per cent of persons studying in this field transition to work or residence, or to find ways to better retain those students already coming to New Zealand to study IT. The engineering and related technologies field was the fifth highest field in terms of the number of graduates in 2012, but only 36 per cent of students transitioned to work or residence.

2.122 Another issue that has been identified is tertiary education organisations blurring the division between study, work and immigration by enticing international students with the possibility of working rights and permanent residence, despite providers not being

able to guarantee either. Some providers have said that such offers are necessary to ensure New Zealand is able to compete with other countries for international enrolments.

### Recommendations

- Businesses should capitalise on the diversity dividend brought by migrant and ethnic employees, particularly migrants from the 1.5 generation and multigenerational migrants, and those in the skilled and business investor migrant categories.
- Migrants in the business and entrepreneur categories say they need better information on arrival about financial services and investing in New Zealand to maximise their potential contribution to New Zealand. This is a significant opportunity for the private sector, but also an important gap for public agencies to plug to grow New Zealand's economy.
- We need to consider how best to attract and retain international students in fields where there are shortages of New Zealand-born workers. We also need to recognise such students as future high value customers, especially as many apply to be skilled migrants and then for permanent residence.

## Key Point Three: Challenges to Obtaining the Diversity Dividend

### Discrimination against the Diverse

2.123 Discrimination is differential treatment based on race, religious or ethical belief, and national and/or ethnic origins<sup>343</sup> that results in a material disadvantage to a person or group in comparable circumstances, which cannot be justified.<sup>344</sup>

2.124 The amount of discrimination experienced by the diverse is a good measure of whether we need to do more to ensure social cohesion given New Zealand's superdiversity. For discussion of the legal framework relating to discrimination, see Chapter Four.

### Discrimination

2.125 Almost three-quarters of interviewees in Statistics New Zealand's General Social Survey 2014 reported that they would feel comfortable with a neighbour from a racial or ethnic minority.<sup>345</sup> Despite this, various studies indicate that ethnic minorities are more often subject to discrimination, particularly in the labour market, as is discussed below.

2.126 In terms of complaints to the HRC, the number of complaints from each area is roughly proportionate to population, with the Auckland region the origin of most HRC complaints, followed by Christchurch, Wellington and other urban centres.<sup>346</sup> There has been a change in the nature of complaints from allegations of overt racism to complaints of harassment or discrimination of a more covert nature.<sup>347</sup> The number of HRC complaints has actually been declining over the past four years, possibly due to greater public awareness about alternative forums for such complaints, such as the Office of the Ombudsman and the Broadcasting Standards Authority, greater use of social media to record concerns, and reluctance to make a complaint in the course of employment.

2.127 The Race Relations Commissioner, Dame Susan Devoy, says that despite the overall decrease in race-related complaints, there are often spikes in reported racial abuse after particular events. For example, the Muslim community has reported increased harassment of women and children after ISIS attacks, as has the Jewish community after attacks in the Gaza Strip, and the Chinese community after comments by the Labour Party on the Auckland housing market.<sup>348</sup> It is important to bear in mind, however, the limitations of discrimination complaint statistics. There is no mandatory obligation for complainants to the HRC to specify their ethnicity or ethnicities, which affects the completeness of HRC data.<sup>349</sup> A person's culture and ethnicity may play a role in whether they actually report discrimination at all. People from Asian and Pacific cultures, for example, tend not to speak out for fear of losing face, or because being discriminated against is considered shameful.<sup>350</sup> Others may not know how to complain to the HRC.

2.128 A 2012 survey found that racial discrimination is the most common form of discrimination people experience, with persons who identified as Asian reporting the highest level of racial discrimination.<sup>351</sup> Likewise, a 2011 survey conducted on behalf of the HRC showed that 76 per cent of New Zealanders consider that Asians are discriminated against more than any other group.<sup>352</sup> The next most discriminated against were Māori. In 2013, the Race Relations Commissioner said that: “Although the New Zealand Human Rights Commission aims for the best practice in combating racism, we do not claim to have achieved it.”<sup>353</sup> A TV3 poll in 2013 also found that 76 per cent of respondents believed New Zealand was a racist country.<sup>354</sup>

2.129 The most disturbing reports are of migrants and refugees experiencing blatant racism through verbal and physical abuse. One incident reported in a study by Girling, Liu and Ward is of an Asian boy being assaulted inside a fish shop. When he picked himself up and asked the New Zealand European man why he had pushed him, the man said that it was because the boy looked Asian.<sup>355</sup> There are other accounts of migrants who cannot go on a walk or outing without being physically or verbally abused by a member of the general public for being of a visibly different ethnicity.<sup>356</sup> Being stopped by Customs when returning from overseas travel is also a particular issue raised by migrants.<sup>357</sup> If left unaddressed, discrimination and racial abuse can lead to negative mental health problems and marginalisation.<sup>358</sup>

2.130 Recent incidents such as New Zealanders dragging Asians out of cars and assaulting them prior to confiscating their keys for alleged erratic driving will have an adverse effect on New Zealand’s export education and tourism markets.<sup>359</sup> Discrimination against international students in Australia certainly had a negative effect on its export education market.<sup>360</sup> Parents will not send their children to destinations that are not safe and where they will suffer discrimination in finding jobs. MoE surveys conducted on the experience of international students between 2011 and 2012 found that personal safety is one of the key factors leading international students to choose to study in New Zealand.<sup>361</sup>

2.131 New Zealand also has a history of discriminatory laws based on “preferred country of origin” and it is important that we do not revert to that in breach of our national and international commitment not to discriminate on the basis of race.<sup>362</sup>

## Discrimination in Employment

2.132 The key challenge in the labour market from the perspective of the diverse is discrimination: diverse candidates and their New Zealand-born children struggle to get jobs commensurate with their skills, experience and qualifications due to conscious and unconscious bias. In my own experience, the deep concern from the diverse is that, having sacrificed to get their children the best education, and their children having attained good qualifications and training, these young people are still suffering discrimination in employment. This was confirmed when I interviewed Dr Anwar Ghani, President of the Federation of Islamic Associations of New Zealand, who stressed that the inability of highly qualified young people from Muslim communities to get jobs commensurate with their qualifications was a key problem.<sup>363</sup> In its latest concluding observations on New Zealand, the Committee on the Elimination of Racial Discrimination also expressed concern at the persistent discrimination against migrants, particularly of Asian descent, in the labour market, including reports of inadequate recognition of their educational qualifications.<sup>364</sup>

2.133 These concerns are reflected in the discrimination complaint statistics: discrimination in the labour market, both at the recruitment stage and in the course of employment, is still the most common type of race-related complaint received by the HRC.<sup>365</sup> The legal prohibitions on discrimination in employment are discussed at [4.7] and [4.37]. In 2014, complaints to the HRC concerning racial discrimination at the pre-employment stage made up 23 per cent of complaints (behind disability and sex).<sup>366</sup> Complaints concerning racial discrimination in employment still make up the majority of complaints to the HRC (38.2 per cent or 117 complaints in 2014), followed by disability and sex.<sup>367</sup> In terms of the nature of complaints, complaints on issues to do with English language policies, failure to be appointed because of race or ethnic origin and lack of managerial intervention in workplace harassment have become more common.<sup>368</sup>

- 2.134 A 2013 survey found that migrants from the South East Asia region were most likely to report workplace discrimination (14.6 per cent), followed by those originating from the Middle East, Latin America or Africa (12.8 per cent).<sup>369</sup> Only 4.4 per cent of New Zealand-born Europeans reported experiencing workplace discrimination.<sup>370</sup> As is discussed further at [2.148], women were more likely to experience discrimination than men, whether foreign-born or New Zealand-born, indicating that migrant women are subject to a “double disadvantage”.<sup>371</sup> The study concluded, however, that the situation did generally improve for migrants the longer they lived in New Zealand, probably due to greater English fluency.<sup>372</sup>
- 2.135 There is evidence of applicants with foreign-sounding names not getting interviews when the same CV submitted by “John Smith” gets a more positive response.<sup>373</sup> One study revealed that New Zealand European candidates were three times more likely to be contacted by prospective employers than Chinese candidates, despite being similarly qualified.<sup>374</sup> Others report being shortlisted and interviewed on several occasions, but not being able to secure the job.<sup>375</sup>
- 2.136 Another study found that accounting graduates from an ethnic minority group find it more difficult to enter the accounting industry in Wellington than their New Zealand counterparts.<sup>376</sup> In particular, Chinese and Indian nationals were more likely to be excluded from entering the workforce on the basis of their ethnicity, though Middle Eastern, African and graduates from other Asian countries were more likely to experience discrimination than New Zealanders. The study ascribed this to New Zealand employers’ tendency to place too much emphasis on an applicant’s social and cultural attributes, such as their mannerisms, oral language skills and local experience (which are usually determined by the applicant’s ethnic background), rather than their technical knowledge, skills and qualifications. It has also been reported Auckland has the most well-qualified taxi drivers in the world and that highly educated and qualified migrants lose self-esteem having to resort to earning their living in this way.<sup>377</sup> Their children are also ashamed at school, which in turn affects social capital (discussed at [2.341]) and engenders feelings of isolation. These accounts indicate that employers need more training on how to assess migrant CVs properly.
- 2.137 Asians with a Bachelor’s degree were three times more likely to be working as clerks than the national average (33 per cent versus the national average of 11 per cent) in 2010.<sup>378</sup> A Department of Labour study attributed this to a lack of New Zealand work experience, a lack of recognition of overseas qualifications and possible language difficulties, but also acknowledged that discrimination might play a role.
- 2.138 Pay equity is also a challenge for ethnic minorities in the employment context. Research conducted in 2009 concluded that the “migrant effect” meant overseas-born Pacific peoples earned 31 per cent less than New Zealand-born Europeans, and overseas-born Asians earned up to 24 per cent less.<sup>379</sup> As is discussed at [2.148], there is evidence of the double disadvantage suffered by workers who are women of colour ending up at the bottom of the scale in terms of pay and conditions and promotions.<sup>380</sup>
- 2.139 Although migrants tend to earn less, the children of Asian migrants earn comparable incomes to the general population.<sup>381</sup> This suggests that new migrant status is the most important factor in the conversion of education into income for Asian New Zealanders, though age at arrival, years of residence and language proficiency are also important. A 2014 Office of Ethnic Communities report found that employment rates and the earning capacity of migrants correlate with their English language ability.<sup>382</sup> Migrants from North Asia (particularly from China) were more likely to encounter employment barriers because of their English language ability than migrants from other regions.

Table: Difference between population average income and Asian average income in 2015<sup>383</sup>

Ethnicity	No qualification	School only	Post-school	Bachelor's degree	Post-graduate study
Indian	\$9,500	\$11,300	\$13,700	\$15,200	\$18,900
Chinese	\$12,900	\$14,200	\$15,400	\$15,300	\$19,200
Filipino	\$9,700	\$12,400	\$16,100	\$20,800	\$26,400
Korean	\$11,700	\$19,000	\$20,100	\$26,500	\$31,900
Other Asian	\$12,500	\$14,500	\$16,300	\$17,300	\$16,200

2.140 The difficulty migrants face securing employment in New Zealand commensurate with their qualifications is reflected in the unemployment statistics issued by Statistics New Zealand, which indicate that a higher proportion of Asians, Māori, Pacific, and Middle Eastern, Latin American and African (“MELAA”) people of working age are unemployed compared to New Zealand Europeans.<sup>384</sup>

Table: Unemployment rate by ethnic group between 2011 and 2014<sup>385</sup>

Ethnicity	2011	2012	2013	2014
NZ European	5.1	5.4	4.9	4.4
Māori	13.4	14.1	12.9	12.1
Pacific	13.9	15.6	15.2	11.8
Asian	8.3	8.9	6.4	6.7
MELAA	13.1	11.5	9.3	12.7
Other ethnicity	4.7	6.6	4.5	4.3

2.141 Finally, there is evidence that, even after being hired, workers of Asian ethnicity struggle to break through the “bamboo ceiling” of middle management, with employers thinking that they are hardworking technicians but not really strategic or leadership material. There are relatively few Asian leaders in senior management roles in the private and public sector and on the boards of New Zealand companies, even in companies doing regular business with Asia. An EY survey in conjunction with NZAL in 2014 found that only 5 per cent of the top 100 NZX companies have Asians on their boards.<sup>386</sup> As at 1 May 2015, only 4.7 per cent of all governance appointments to Crown companies and Crown entities were of “other” ethnicity (not New Zealand European, Māori or Pacific).<sup>387</sup> In the public service, Asians make up only 8.2 per cent of officials and just 2.4 per cent of senior managers.<sup>388</sup> Just 3 per cent of seats on public boards are occupied by Pacific people (62.7 per cent of whom are women, 37.3 per cent of whom are men).<sup>389</sup> Of the seats occupied by Pacific people, 46 per cent of these seats are on boards which the Minister of Pacific Island Affairs (“MPIA”) is solely or jointly responsible for, such as the Pacific Cooperation Foundation and the Pacific Development Conservation Trust.

### Law and Policy Changes to Facilitate Diversity Hiring

2.142 As discussed in Chapter Four, New Zealand already has a comprehensive legislative framework in place to ensure the rights of minority groups are protected, and there are tribunals and dispute resolution mechanisms available which are already being utilised to resolve complaints of discrimination in the employment context. NZX companies are required to provide a breakdown of gender composition for their boards of directors and officers, and a statement evaluating progress towards their diversity policies (if applicable), but there is no obligation to publicly release such information.<sup>390</sup>

2.143 Improvements in the ethnic composition of workplaces in countries such as Canada and the United Kingdom are being driven, at least in part, by extensive reporting requirements requiring the public service and larger companies to collect diversity data at the application and hiring stages, and to report regularly on the ethnic composition of their workforces. This has led to better awareness of the benefits of diversity, and companies have become more open to discussing what steps they need to undertake to become an employer of choice and a good corporate citizen.

2.144 In Australia, the ASX Corporate Governance Council requires ASX companies to benchmark their corporate governance practices and to publicly disclose where they do not comply and the reasons for non-compliance, either on the company's website or in its annual report (though they stop short of compelling companies to comply).<sup>391</sup> The Australian Council of Superannuation Investors, which represents non-profit super funds worth A\$400 billion, also intends to release a list "naming and shaming" 32 companies on the ASX200 which lack female directors.<sup>392</sup> The Council has notified the chairmen of these companies that unless they recognise that the absence of women on their boards represents a governance risk and present a credible plan to fix it, the Council will consider advising their boards to vote against their next bid for re-election.

2.145 Despite the absence of such public reporting requirements, a number of companies in the United States (particularly in the Silicon Valley) have voluntarily published information on their workforce composition and engaged in discussions about the implications of workplace diversity, even if these discussions are partly self-critical.<sup>393</sup> Companies which publish information on the diversity of their workforce are making diversity an integral part of their corporate branding, and those without it risk being perceived negatively. For example, Tim Cook, the CEO of Apple, remarks on the company's website that:<sup>394</sup>

*Apple is committed to transparency, which is why we are publishing statistics about the race and gender makeup of our company. Let me say up front: As CEO, I'm not satisfied with the numbers on this page. They're not new to us, and we've been working hard for quite some time to improve them. We are making progress, and we're committed to being as innovative in advancing diversity as we are in developing our products.*

2.146 The experience of some Canadian firms is that formal regulation as opposed to self-regulation has the potential to lead to a "compliance culture and a backlash which may discourage proactive action".<sup>395</sup> The Norwegian statutory requirements mandating gender diversity on boards have not led to any improvements in female representation outside of the boardroom or in narrowing the gender pay gap.<sup>396</sup>

2.147 At the very least, central government should provide further assistance by publishing guidance and resources for businesses. Some materials have already been produced by the OEC on specific areas, such as recruitment.<sup>397</sup> The United Kingdom's Civil Service is attempting to become a leader in this area, and regularly produces resources on diverse recruitment and retention, collection and use of ethnographic data and diversity policies. Such materials will be of particular assistance to smaller businesses that might not necessarily have the resources to seek professional advice on a targeted diversity plan. As discussed at [5.307], the OEC runs business conferences and knowledge workshops in Auckland and Wellington designed to foster connections between ethnic and other New Zealand business communities.

### Ethnic Women, the "Double Disadvantage" and Pay Equity

2.148 In New Zealand, the gender wage gap has been slowly declining, but still sat at 10.1 per cent in 2013.<sup>398</sup> According to recent news reports, the gender pay gap rose to almost 12 per cent in 2015.<sup>399</sup> Men are persistently paid more than women overall and within ethnic groups.<sup>400</sup> The discrimination that is at the heart of the pay equity issue has a disproportionate impact on diverse employees, who face a double disadvantage. Since 2009, Statistics New Zealand has been collecting data that allows wage comparisons by both gender and ethnicity, which clearly illustrates the impact of the dual or compounding disadvantage.

Table: Average and median hourly earnings for those earning income from wage/salary jobs as at June 2014<sup>401</sup>

Ethnicity	Men	Women
European		
Average hourly earnings	\$30.40	\$25.46
Median hourly earnings	\$24.53	\$21.50
Māori		
Average hourly earnings	\$24.08	\$21.81
Median hourly earnings	\$20.00	\$18.94
Asian		
Average hourly earnings	\$24.10	\$23.48
Median hourly earnings	\$19.61	\$19.44
Pacific Peoples		
Average hourly earnings	\$22.85	\$20.07
Median hourly earnings	\$19.04	\$17.50
MELAA <sup>402</sup>		
Average hourly earnings	\$24.16	\$25.97
Median hourly earnings	\$20.00	\$22.06
All ethnicities		
Average hourly earnings	\$28.70	\$24.70
Median hourly earnings	\$23.00	\$20.73

2.149 European women earn 16.25 per cent less in average hourly earnings than European males; Asian women earn 22.76 per cent less than European males, while Māori and Pacific women earn 28.26 per cent less and 33.98 per cent less than European males respectively.

2.150 The results are similar when one compares average weekly income between ethnic groups:

Table: Average weekly income for people in paid employment from wages and salaries at June 2014<sup>403</sup>

Ethnicity	Men's average weekly income	Women's average weekly income
European	\$1,006	\$753
Māori	\$900	\$729
Asian	\$813	\$727
Pacific Peoples	\$868	\$692
MELAA	\$821	\$831
All ethnicities	\$969	\$746

2.151 New Zealand European women earn 25.15 per cent less on a weekly basis than New Zealand European men, Asian women earn 27.73 per cent less than New Zealand European men, Pacific women earn 31.21 per cent less, and Māori women earn 27.53 per cent less.

2.152 Even taking account of differences in terms of full-time and part-time employees, there is an hourly gender pay gap, which is also more pronounced for minority ethnic women. As noted by Professor Judy McGregor in a 2014 speech:<sup>404</sup>

*[New Zealand's] overall gender pay gap ... is approximately 13 per cent based on average hourly earnings. However, this metric disguises wide variability including the double disadvantage of*

gender and ethnicity. For example, the gender pay gap between the highest hourly rate (European men) and the lowest (Pacific women) is 24.4 per cent.

2.153 In a 2013 study on perceptions of workplace discrimination, workplace discrimination was higher among overseas-born compared with New Zealand-born: 9.8 per cent versus 5.2 per cent.<sup>405</sup> Among those born overseas, women were more likely to report workplace discrimination than men: 10.3 per cent and 9.2 per cent respectively. There are differences between men and women with respect to workplace discrimination. Those who migrate from Asia are more likely to be exposed to workplace discrimination than other New Zealand workers. However, Asia is too broad a classifier: for men, only those born in South and Other Asia (predominantly India) experience more discrimination, whereas for women, this applies to those from South East Asia (predominantly from the Philippines and Malaysia). For men from North East Asia (predominantly from China) the discrimination may be reflected in lower employment rates.<sup>406</sup>

2.154 The intersection of more than one ground of discrimination presents complexities, for example in terms of the role played by unconscious bias. However, the extent of the “double disadvantage” is difficult to measure due to the lack of empirical data. For example, although the MfW and the HRC collect gender and ethnic specific data, no data is collected on the intersection between gender and ethnicity in diverse representation on public boards. Similarly, analysis of the trends in the skilled migrant category:<sup>407</sup>

*... does not account for their gendered identities and can only provide a very distorted and partial picture of the experiences, strategies and achievements of these prized individuals ... The lack of any comprehensive analysis of these gendered data means that the implications of a preponderance of women being recruited into service and care industries (the feminisation of flows) are overlooked, as are the implications of skilled principal migrants being more likely to be male.*

2.155 As noted by Meares, Bell and Peace:<sup>408</sup>

*... it is apparent that both quantitative and qualitative methods are crucial to providing a well-rounded account of the interplay between new migrants and the society and workplaces within which they seek work and settlement. Quantitative research can provide the “big picture” data of patterns of migrant characteristics and employment across locations. The patterning such data make visible can identify sites of disadvantage in labour force participation rates, occupational status and earnings, and longitudinal data collection results in rich data sets with which to investigate change over time.*

2.156 In 2012, the Committee on the Elimination of Discrimination Against Women requested the New Zealand Government provide, within two years, data and information on women from ethnic minority groups, including their access to employment.<sup>409</sup> Before solutions can be devised, visibility is needed: we need to quantify the issue, otherwise we cannot discuss it and it will not be addressed, which risks undermining social capital among ethnic minorities and, in turn, the financial capital brought by superdiversity.<sup>410</sup>

2.157 The double disadvantage experienced by ethnic women in the employment sector raises the possibility that a pay equity case such as Terranova Homes & Care Ltd v Service and Food Workers Union Nga Ringa Tota Inc will arise in the context of a class of women of colour earning below white women.<sup>411</sup> In Terranova, the Service and Food Workers Union argued that wage rates did not provide equal pay on the basis that aged-care givers were being paid lower rates of pay than if aged caregiving was not work predominantly performed by women. The Court of Appeal referred the case back to the Employment Court to determine the applicable principles.<sup>412</sup> The case was brought under the Equal Pay Act 1972, which affirms that:<sup>413</sup>

*No employer shall refuse or omit to offer or afford any person the same terms of employment, conditions of work, fringe benefits, and opportunities for training, promotion, and transfer as are made available for persons of the same or substantially similar qualifications employed in the same or substantially similar circumstances on work of that description by reason of the sex of that person.*

2.158 A pay equity claim brought by Māori, Pacific and/or Asian workers in certain industries would fall under the NZBORA rather than the Equal Pay Act, which is limited to pay discrimination on the basis of sex.

## Recommendations

- Surveys of the diverse reveal key concerns about discrimination, especially in employment, for themselves and their New Zealand-born children, despite high qualifications and sometimes relevant experience. The Office of Ethnic Communities could assist more in promoting the benefits of hiring diverse staff, and increase its efforts to advise employers on how to make cultural diversity into a competitive advantage.
- More research needs to be conducted on the extent of the double disadvantage faced by migrant and ethnic women, particularly around pay equity and representation on public and private sector boards. Government departments such as the Ministry for Women, the Office of Ethnic Communities and Statistics New Zealand collect data on ethnic or female representation on public boards, but there is little available data on the intersection between ethnicity and gender.
- Migrants need English assistance post-settlement to maximise their contribution to New Zealand's economy, and job search support. Programmes such as the skilled migrant course (which is discussed in depth at [3.24]) show the beneficial job outcomes of teaching new migrants how to communicate in New Zealand workplaces. Good English proficiency alone may not be enough to secure employment. It would be beneficial if the skilled migrant course could be provided for all new migrants wanting assistance.
- Regulatory change requiring NZX companies to publish gender diversity statistics should be considered, as is presently the position in Australia for ASX companies. Consideration should also be given to extending this requirement to include publication of ethnic diversity statistics.

## Key Point Four: Fit for the Future Businesses Need to Build Internal and External Diversity Capability to Reap the Diversity Dividend

2.159 Fit for the future businesses need to build internal and external diversity capability to reap the diversity dividend. Not only must a business adapt its services and products to what diverse customers want, but it needs to be capable of effectively communicating with a diverse customer base. Otherwise it risks losing market share.

2.160 New Zealand's open trading economy, in which having to meet the needs of overseas customers makes business very focussed on what is driving profit in diverse populations, means that the incentives to understand and turn internal population diversity into an advantage are also strong. Great Britain (as it then was) was New Zealand's top export country for dairy and agricultural products up until the United Kingdom entered the European Union in 1973.<sup>414</sup> This impacted on Britain's trade with New Zealand (and Australia), and stimulated greater efforts by New Zealand exporters "towards diversification of both products and markets ... in Australia, Asia (especially Japan), the Middle East and Latin America".<sup>415</sup> Retaining this global outlook in the 21st century in order to remain domestically and globally competitive means we need to better understand those we are exporting to and trading with and, as China overtakes Australia as our number one export destination, it is crucial that we use our internal superdiversity to gain a more sophisticated understanding of the China and Asian markets.<sup>416</sup>

2.161 We have used the findings from research on New Zealand and overseas businesses to develop a best practice model for building internal diversity capability for New Zealand businesses. The model sets out how businesses can maximise the benefits and opportunities of superdiversity, and also address its challenges.

## Successfully Recruiting the Best Diverse Workforce

2.162 New Zealand businesses need to better equip themselves to harness and maximise the advantages of having Asian employees, including providing better links with future markets in Asia, diverse thinking and CQ (intelligence about other cultures and values).

2.163 In order to unlock the full economic potential of the superdiverse population, businesses need to be proactive in tackling issues such as discrimination (discussed above at [2.123]). As the customer base of ethnic minorities and migrants grows, businesses will likely need to discriminate in favour of diverse candidates already equipped with CQ and linguistic ability to serve the changing market. For example, employing from the 1.5 generation will be important, as these candidates already come equipped with English and other language skills, a good understanding of New Zealand culture, CQ and a global outlook. They are also used to bridging the cultural divide, as many from this generation have experience acting as language and cultural brokers for their first generation parents.<sup>417</sup>

2.164 The following sections set out the key challenges of superdiversity faced by business employers in New Zealand and overseas, and the best practice for preventing and mitigating these challenges to allow businesses to become fit for the future. Best practice recommendations to ensure external capability are set out under Key Point Five. Looking at the experience of businesses in other superdiverse countries and cities is helpful in identifying challenges that New Zealand businesses may face from superdiversity, and the measures that they can implement to adapt to and address these challenges. However, it is important to bear in mind that New Zealand's superdiversity is unique and includes a large indigenous component, so overseas learnings still need to be adapted to our local conditions.

2.165 Although many businesses are aware of the importance of gender diversity, to date there has been little focus on ethnic diversity. Thus, a pressing diversity risk for New Zealand companies and boards is ethnic diversity given New Zealand's changed demography. The available data indicates that there is poor ethnic representation in senior management and on boards and few companies have an ethnic diversity policy or initiatives in place.

2.166 Part of the issue with getting businesses to broaden their view of diversity beyond gender is "diversity fatigue": a disinterest in diversity activities after months or years of diversity programmes. A study by Hays Recruitment found that causes include a lack of executive involvement, failure to link programmes with a business case, or lack of accountability.<sup>418</sup> Thirty-four per cent of respondent organisations reported that diversity was not seen as a genuine concern for their organisation, 29 per cent said the public face for diversity is a goal rather than a reality and 24 per cent said line managers failed to genuinely embrace policies such as diversity in recruitment.

2.167 Managers, in particular, need to cultivate CQ, as internal capability enhances businesses' external capability to deal with its diverse customer base. This means that businesses which want to tap into the potential diverse customer base need to have employees on hand who are able to speak the required language or be of the same background. The company as a whole must also be able to convey a sense of cultural knowledge and understanding.

### Asia Capability Survey

2.168 In Australia, the Diversity Council has developed a survey tool which allows individual organisations to measure the "Asia capability" of their workforce, and enables national benchmarks of Asia capability to be generated.<sup>419</sup> The seven key domains for measuring whether an organisation has an Asia capable leadership team, and generating an organisation's Asia Capability Scorecard are as follows:<sup>420</sup>

- a. *Cultural Intelligence*: A person's ability to adapt effectively to new cultural contexts. Indicators include cultural knowledge, skills and meta-cognition;
- b. *Asian Cultural Knowledge*: A person's knowledge of Asian cultures and how culture can affect oneself and others. Indicators include cultural beliefs, regulatory/legal systems, economic relationships, political and diplomatic relationships, and managing in Asian business contexts;
- c. *Asian Cultural Experience*: A person's experience living in Asian countries and working in culturally diverse teams which include people from Asian cultural backgrounds. Indicators

include living and working in Asia, travelling/studying in Asia, working in culturally diverse teams including Asian individuals, and managing culturally diverse teams including Asian individuals.

- d. *Asian Language Proficiency*: A person's ability to comfortably meet and greet colleagues/clients, and have a conversation in one or more Asian languages. Indicators include the ability to read, speak and/or write in one or more Asian languages;
- e. *Asian Social Capital*: A person's trusted relationships and regular contact with people from Asian cultural backgrounds. Indicators include Asian networks that can assist work, Asian colleagues and/or clients, Asian relatives and/or friends, and involvement in Asian organisations/social groups;
- f. *Asian People Management Lens*: A person's ability to recruit, reward, and promote individuals from all cultural backgrounds, including Asian backgrounds. Indicators include valuing Asian professional experience, building diverse professional networks, valuing Eastern and Western leadership models, and working knowledge of Asian employment practices; and
- g. *(Asian) Multicultural Identity*: A person's identity is made up of more than one cultural background. Indicators include multicultural identity, particularly Asian multicultural identity.

2.169 The Diversity Council found that there was clear scope for Australian organisations to better cultivate their workforce Asia capabilities.<sup>421</sup> It found that:

- One in three Australian workers have little or no Asia capability;
- Two out of three have no or little working knowledge of how to manage in Asian business contexts;
- Only 5.1 per cent are fluent in one or more Asian languages; and
- Organisations were more likely to value the Asia capabilities of their workforce than to know about, invest in, or effectively use these capabilities.

2.170 As discussed below at [2.197], businesses should, as part of their in-house surveys, examine the Asia capabilities of their workforce, to build their internal capability to leverage of the increasingly diverse talent pool and improve engagement with Asian clients and customers.

## Survey on Internal Capability of New Zealand Businesses

2.171 The Superdiversity Centre undertook a survey in partnership with EY of New Zealand businesses and found that most are not capitalising on the growing ethnically diverse talent pool as a competitive business advantage.<sup>422</sup>

### Methodology

2.172 The survey posed a series of qualitative questions (with pre-selected possible options for some questions, with the option for further comment), to approximately 279 potential participants on the internal capability of their organisation in regards to the recruitment and management of diverse staff. Ninety-eight organisations responded. The survey was sent to organisations on EY's database of varying sizes (primarily medium to large organisations), predominantly in the private sector. The focus of the questions was on collection of ethnicity data, whether organisations had a diversity strategy and/or policies in place, whether CQ was a relevant factor in the recruitment process, whether organisations were facing challenges from an increasingly diverse workforce and, if so, the best practice for dealing with those challenges. All data was anonymised to protect confidentiality.

### Limitations

2.173 The accuracy of the data may be affected by drop-off rates in responses from those organisations surveyed. There was a drop-off in response for questions relating to:

- a. Barriers in collecting diversity information;
- b. Use of data;
- c. Diverse recruitment policies/CQ training;
- d. Challenges from diverse workforce; and
- e. Customer base ethnicity.

## Results

2.174 The key findings from the survey, which is included in Appendix One, were as follows:

- a. *Collection of data:* 46.9 per cent of the surveyed organisations collect ethnicity data on their staff, while 17.3 per cent are planning to in the near future;
- b. *Barriers in collecting diversity information:* 16.1 per cent of organisations who did not collect ethnicity data said that their organisation did not have a central system where this information could be stored and easily accessed, and 16.1 per cent reported that they did not focus on ethnicity as a priority within their organisation; 9.7 per cent said that they did not see the importance of collecting this information.<sup>423</sup>
- c. *Use of data:* Where collected, this information was primarily used for internal reporting on diversity programmes (21.9 per cent), informing the organisation's diversity policies/practices (20.3 per cent) and targeting change in the organisation's diversity programme (15.6 per cent); 10.9 per cent of respondents only collected the data for "general use".
- d. *Staff diversity:* 58.92 per cent of organisations reported that less than 5 per cent of their organisation was comprised of Asian, Māori and Pacific peoples; 16.1 per cent of organisations had 6 to 10 per cent Māori, Asian and Pacific staff, 14.28 per cent had between 11–15 per cent, and only 3.57 per cent had over 16 per cent Māori, Pacific and Asian staff.
- e. Diverse recruitment policies/CQ training:
  - i. 75 per cent of respondents did not have specific policies on recruiting diverse staff/ those who could speak other languages. Several organisations mentioned recruiting for values.<sup>424</sup>
  - ii. Only 31.1 per cent of those who responded to this question trained HR/recruitment to manage foreign CVs (though 33.8 per cent said they provided equal weighting in the recruitment process to overseas experience). Only 9.5 per cent trained all managers and recruitment staff on conscious/unconscious bias. Only 1.4 per cent covered identifying features (that is, names/photos) from CVs; 5.4 per cent communicated their policy on candidate diversity on their recruitment website and through external recruitment partners.<sup>425</sup>
  - iii. Eighty-three per cent of respondents did not test for CQ when recruiting, and only 23.9 per cent trained existing staff on CQ; 4.3 per cent planned to recruit for CQ in the near future, and 13 per cent planned on training existing staff in CQ in the near future.
  - iv. Only 8.5 per cent had policies in place to ensure the progression/promotion/retention of diverse staff, with 12.8 per cent planning to in the near future.<sup>426</sup>
- f. *Challenges from diverse workforce:* 45.3 per cent of respondents reported not experiencing any challenges from recruiting diverse staff. The key challenge reported was resistance to change by existing employees (18.9 per cent), followed by lack of CQ resulting in confusion and/or a lack of teamwork (13.2 per cent) and difficulties getting traction around diversity within the organisation (11.3 per cent).<sup>427</sup>
- g. *Measures to counteract challenges:* The most common measure adopted to address challenges from diverse staff was having zero tolerance of bullying in the workplace (31.4 per cent), followed by having leadership/role models for diversity and inclusion (17.8 per cent) and promoting cultural events (11 per cent). Three organisations (2.5 per cent) surveyed

had implemented accountability measures to encourage leadership/management to reach diversity/hiring targets.<sup>428</sup>

- n. *Customer base ethnicity data:* Only 9.1 per cent of respondents collected information on the ethnicity of their customer base.<sup>429</sup>
- 2.175 This survey of New Zealand businesses indicates that, although many businesses are aware of the importance of gender diversity, to date there has been little focus on other types of diversity, particularly ethnic diversity.

## Xero Qualitative Research Study on SMEs' Views of Migrant Workers

### Methodology

- 2.176 Xero aims to be a small business thought leader by providing small business with evidence-based advice on how to work on the business to achieve their goals. To that end, Xero, together with Colmar Brunton, undertook qualitative research on the impact of migrant workers joining the New Zealand workforce, for the Superdiversity Stocktake.
- 2.177 In total 15 in-depth interviews were conducted with opinion leaders and small business owners who have had first-hand experience with migrant workers and their impact in New Zealand. Participants came from industries where the effects of migrant workers are felt most deeply: transport, storage, retail, healthcare and social assistance, cleaning, hospitality, businesses for sale and other areas such as trade and construction. The majority of participants (12 out of 15) were immigrants themselves.
- 2.178 The research looked at the key issues facing immigrant workers and perceptions of immigrant workers. It found that while participants told many stories about prejudicial attitudes and feelings (racial stereotyping), blatantly racist attitudes were rarely described.
- 2.179 The study identified the following issues faced by immigrant workers:
  - a. **Institutional hurdles which migrant workers must overcome:** New Zealand qualifications and experience in a New Zealand context are more valued than international qualifications from places such as India and other Asian countries. This forces many first-generation migrants to downplay their qualifications to find work in low entry roles. As part of the study, each participant was provided with identical CVs containing equivalent qualifications – one from Mr Smith and another from Mr Patel. All of the participants, even participants who expressed strong opinions against prejudice and bias, preferred Mr Smith's CV on the perceived basis that Mr Smith would more easily fit into their businesses culture. This reflects the fact that even an open-minded employer or human resources director who embraces diversity has to consider whether a foreign-trained employee will fit with their colleagues and interact well with customers. Therefore, unless there is a whole-of-organisation approach to diversity, it takes significant investment on the part of businesses to integrate foreign trained employees or employees with different accents and attitudes.
  - b. **Language is a big hurdle for many migrants:** Strong foreign accents can be perceived as a risk to a business, and employers can use this as an excuse to decline hiring foreign-born and/or trained job applicants on the basis of internal fit and engagement with clients. In this sense, language is the biggest "confirmation bias". Further, hiring staff with English language difficulties can require extra effort on the part of employers to communicate internally amongst staff. Employers may also avoid placing new migrants in managerial roles and be wary of potential complaints from customers and clients.
  - c. **Religious and cultural practices are not as great a hurdle as language barriers:** The study found that business owners and employers were often amenable to accommodating cultural differences, so long as this did not interfere significantly with business. For example, accommodations are made where employees need to wear certain attire or avoid certain food for religious reasons. Some difficulties caused by cultural differences can be easily resolved through open communication. For instance, one participant gave the example of a young Asian employee who was an extremely efficient and reliable worker

but would often sleep at her desk between jobs. When the employer challenged this habit and explained that she should not sleep at her desk, the employee explained that she only did so between jobs and requested more work.

- d. **There is a sense of misalignment between employment laws and immigration laws:** The study found that, at an institutional level, there is a gap between immigration and employment law. For example, some migrants consider buying businesses as a means to take advantage of loopholes in New Zealand's immigration laws. Further, human resources directors often lack adequate knowledge of immigration laws and processes, which may lead them to prefer the easiest choice between job applicants, often to the detriment of migrant workers. This employment-immigrant disparity means that, if the Government seeks to plug skills-shortages through immigration (as has been the case in the agricultural sector and the Canterbury rebuild), it should ensure that correct migrant qualifications are matched to the right job field.
- e. **Buying a business can be the only means to a Kiwi future:** Many first-generation migrants find it easier to "buy a job" through buying a business, than applying for one. Many migrants therefore buy businesses such as lunch bars, lawn mowing franchises, cleaning franchises and operator-cab drivers because language is less of an issue in these businesses and the business can often be shared amongst family members. Owning a business can also provide the desired "Kiwi experience" while allowing migrants to earn a living.
- f. **There is insufficient understanding of the reasons why people come to New Zealand:** There is insufficient understanding of why immigrants come to New Zealand, which can lead to assumptions that reinforce prejudices and biases. One participant, a proactive employer of migrants, advised that it is important to listen to migrants and, in particular, understand why they left; listen to what they hope to achieve in their new home; talk openly and directly; and focus on the individual rather than the culture. The study also found that, rather than taking "Kiwi jobs", many first-generation immigrants are taking the jobs left behind by New Zealanders. These immigrants feel that they do not have a fall-back option and therefore have a greater fear of failure than their New Zealand-born contemporaries.
- g. **Experienced migrants are the worst perpetrators of abuse against newer migrants:** Participants noted plenty of experience with prejudice and stereotyping that limited the job options of migrants, but did not have much first-hand experience with abuse of migrants by employers. However, those stories of abuse that were told often involved the abuse of new migrant workers by experienced immigrants. These abusive employers often used familiar culture and language to manipulate the situation, paying migrants low wages, displaying threatening behaviour and using misinformation and false promises.
- h. **Some institutional support is misguided:** Much of the training available to migrants, especially in relation to entrepreneurial and business owner support, is outdated. It focuses on skills such as how to write CVs or put an advertisement in the Yellow Pages. There is great scope to provide more relevant areas of training such as language skills, franchisee models, managing Generation Y as staff, "dos and don'ts" of Kiwi business and seminars teaching employers to value different cultures.

2.180 The study also looked at perceptions of migrant workers. It found that while there may be functional impediments and emotional reasons behind negative perceptions of migrant workers, the line between the two is very fine. It also found that, despite prejudice, migrant workers are known as enthusiastic and hardworking employees. Participants often drew on the "cat versus dog" analogy to distinguish between migrant and "Kiwi" workers: migrant workers were perceived as having a strong drive and work ethic, while "Kiwi" workers are seen as more friendly and open, although lacking drive. Participants shared many examples where the migrant employee was considered the better choice. However, this positive opinion of migrant workers can be marred by a few bad experiences which can stay with employers, such as a migrant worker with language difficulties or a different attitude. As one participant put it, "perceptions lead opinions", and until perceptions are changed, employers will be reluctant to maximise the benefits presented by migrant workers.

2.181 The study concluded that demystifying the process for both parties can shift the focus to the positive aspects of hiring migrant workers. To that end, culture needs to be embraced on both ends. It is likely that successful migrant workers will become thought leaders in this space as they increasingly become the employer. While prejudice is an important barrier, migrants also have a role to play in resolving the difficulties that they face in the job market. Reluctance on the part of migrants to learn the language and change their habits can make things difficult for employers. Finally, moving past a culture of “passive-aggressive” communication to open and direct conversation will be critical to this shift.

2.182 Using the results of the study, Xero and Colmar Brunton also came up with a number of measures to promote the further integration of migrant workers in New Zealand:

- Small business should provide:
  - a. Areas and opportunities for sharing cultures in the workplace;
  - b. Consider conducting pre-employment English proficiency testing; and
  - c. Encourage migrant employees to familiarise themselves with immigration and employment issues as part of their training.
- Migrant workers should also be able to access training programmes to improve their English proficiency, and should be provided with opportunities to attend multicultural events and seminars.
- On a larger scale, there are a number of initiatives that could also help, such as
  - a. Setting up seminar opportunities to provide advice about hiring migrant workers;
  - b. Making existing information more accessible and public;
  - c. Providing seminars and courses on buying a franchise and managing a casual workforce; and
  - d. Aligning immigration law with employment law.

### Surveys on Challenges facing SMEs

2.183 There is a gap in comprehensively analysing ethnic businesses and how SMEs are addressing the challenges of superdiversity. The following survey of SMEs was conducted by the Superdiversity Centre in partnership with the following Chambers of Commerce:

- a. Wellington Employers’ Chamber of Commerce;
- b. Gisborne Chamber of Commerce;
- c. Hawke’s Bay Chamber of Commerce;
- d. Eastern Bay of Plenty Chamber of Commerce;
- e. Nelson Tasman Chamber of Commerce;
- f. Queenstown Chamber of Commerce; and
- g. Southland Chamber of Commerce.

### Methodology

2.184 Small to medium-sized businesses on Chamber of Commerce databases in various regions were sent a short survey comprised of qualitative questions regarding how their business was dealing with superdiversity in terms of internal and external capability.<sup>430</sup> The focus of the questions was on the diversity of the business owners and staff members, whether the businesses had policies in place for recruiting employees regardless of ethnicity, the challenges of a superdiverse workforce and customer base, and changes which the businesses had made to adapt to these challenges.

2.185 A copy of the survey and a full set of results are set out in Appendix One.

## Limitations

2.186 In some cases, the surveys only had a limited response rate or there was a significant drop-off in question response rates. We have included these surveys but acknowledge that further research is needed in this area to fully understand the challenges faced by businesses in certain regions.

## Summary of Findings

2.187 The majority of business owners across all regions surveyed identified as New Zealanders, New Zealand European, Caucasian or Pākehā, and the majority were also New Zealand born. Even where business owners were born overseas, most had resided in New Zealand for many years, with only a fraction migrating here in the past two years (1.5 per cent or four respondents). This could be because new migrants with limited English could have found a written survey challenging.

2.188 In terms of the diversity of respondent businesses' employees, Wellington businesses were the most likely to employ persons from an ethnic minority or to employ migrant staff (84.7 per cent of respondent businesses), followed by Gisborne (83.3 per cent), Hawke's Bay (56 per cent), Queenstown (43.3 per cent) and Southland (41.2 per cent). Gisborne businesses had the highest proportion of Māori employees, with 60 per cent of respondents reporting that more than 20 per cent of their employees were Māori. Employees of Wellington businesses spoke the largest range of languages other than English.

2.189 Of Wellington businesses, 47.5 per cent reported experiencing challenges as a result of an increasingly diverse workforce. In contrast, only around a third of businesses in the Hawke's Bay and Queenstown regions had encountered challenges, and just over one in five respondent businesses in Southland. None of the businesses in the Eastern Bay of Plenty or Gisborne indicated that they had experienced any challenges.

2.190 For those businesses that had experienced challenges from an increasingly diverse talent pool, the main issues centred around:

- a. Language and/or communication barriers, particularly due to lack of English proficiency or misunderstanding of the New Zealand workplace communication style;
- b. Intercultural misunderstandings and accommodations for employees' religious and/or cultural requirements;
- c. Regulatory and/or legal compliance issues, for example adapting to New Zealand's transparent and anti-corrupt business culture, and issues with visa renewal;
- d. Difficulties matching up foreign qualifications with the New Zealand equivalent; and
- e. Resistance of existing employees to diverse staff and/or discrimination and racism.

2.191 Wellington businesses were the most likely to have a specific policy in place relating to diversity recruitment, such as an Equal Employment Opportunities policy (54.7 per cent). Of respondent businesses in the Wellington survey 13.7 per cent said that, although they had no specific diversity recruitment policy, equal opportunity principles were observed (that is, the best candidate was hired irrespective of ethnicity, age, sex and so on). Outside of the Wellington region, only a handful of respondent businesses had implemented a specific diversity recruitment policy or undergone some kind of training to assess foreign CVs in the Hawke's Bay and in Queenstown.

2.192 Across all regions, the majority of participants indicated that they had not implemented any specific measures to address challenges from recruiting ethnically diverse staff, or any specific practices or policies to accommodate their staff's cultural, religious and/or linguistic needs. This was the case even in regions such as Wellington, where a larger proportion of respondent businesses hired diverse employees and indicated experiencing challenges from the changing talent pool; 34.7 per cent of Wellington businesses had adopted specific policies and/or practices, and 9.03 per cent indicated that informal policies and/or practices existed. Examples of specific policies and/or practices adopted across the different regions included:

- a. Intercultural awareness and language training (including training in different languages and encouragement of verbal as opposed to written communication);
- b. Publication of materials in languages other than English, in basic English and/or with diagrams;
- c. Facilitating a culture of tolerance and zero tolerance for bullying policies;
- d. Giving time off for cultural/religious holidays, creating prayer rooms and accommodating cultural/religious dietary requirements;
- e. Orientation and mentoring programmes for diverse staff; and
- f. Using in-house translators or interpretive services.

2.193 Respondent businesses based in Hawke's Bay, Wellington, Queenstown and Gisborne were the most likely to report changes to their customer or client base in the past five years in terms of ethnic diversity (50 per cent, 37.4 per cent, 33.3 per cent and 33.3 per cent respectively). Hawke's Bay and Queenstown businesses reported an increase in Asian consumers, particularly from China, India and Indonesia. Wellington businesses also reported an increase in Asian customers, but also mentioned greater numbers of Pacific, Māori, Latin Americans, South Africans and Islamic people in the region. In contrast, Gisborne-based businesses noticed higher numbers of Māori and South African, British and European migrants. Almost one-quarter of Southland businesses noticed increased ethnic diversity in terms of their customer base, primarily from farming communities or international students studying at the Southern Institute of Technology.

2.194 Across all regions, the primary challenge reported from an increasingly diverse customer base was communication and/or language difficulties, followed by cultural misunderstandings and differences in business practice. Notably, the vast majority of respondents surveyed reported experiencing no challenges from the changing customer base. For those that had made changes to address the challenges and/or maximise the opportunities, the following types of measures were adopted:

- a. Using interpreters (including family and friends) or specifically employing staff who could speak languages other than English and/or who had international experience;
- b. Intercultural training for staff members;
- c. Taking more time to explain things to customers with English as a second language;
- d. Advertising in different languages or in ethnic media channels and/or translating promotional materials and online materials and/or using basic English phrases or diagrams; and
- e. Adapting products and/or services to suit customer demand.

#### Comparative Experience of Challenges from a Diverse Workforce

2.195 Many of the challenges faced by New Zealand businesses as a result of an increasingly diverse workforce, as well as by ethnic people and migrants in the labour market, are also occurring overseas. In sum, the following challenges have been reported in Canada, Australia and the United Kingdom:

- a. Communication difficulties, including lack of English fluency and intercultural misunderstandings;
- b. Resistance to change from predominantly Caucasian employees;
- c. Discrimination and unconscious bias in employment, both at the recruitment stage (for example, difficulties gaining jobs commensurate with skills, qualifications and experience, or getting interviews) and in the course of employment (for example, a lack of opportunity for progression and promotion, the "glass ceiling");
- d. Perception among employers/businesses that there is no business case for investing in diversity initiatives or embracing workplace diversity (as opposed to only tolerating it);

- e. Lack of ethnically diverse role models at senior level within the business or organisation and/or lack of any explicit diversity policy;
  - f. Lack of knowledge around operational and/or regulatory procedures by migrant employees;
  - g. Diversity policies being limited in focus to indigenous candidates and employees; and
  - h. Issues around the adoption of English language policies.
- 2.196 For a full overview of the challenges faced by overseas businesses and ethnic/migrant candidates in the labour market, see Appendix Two.

## Best Practice: Developing Ethnically Diverse Internal Capability

### Data Collection

#### *Gathering Data*

- 2.197 Just as with the development of public policy, business practice strategies and policy should be based on sufficient and relevant ethno-specific data, so as to make informed analysis. Data on current workforce ethnicity should be compiled and analysed to determine whether any ethnic groups are under-represented, or whether any ethnic groups have effectively been segregated by their role in the organisation.<sup>431</sup> This is what is known as a “diversity scorecard” or “diversity stocktake”.
- 2.198 In addition to information on staff, data on the ethnic and cultural makeup of a business’s customer or client base should be collected to determine that it has the right people, skills and approaches in place to meet their needs and expectations (as well as the appropriate services and products).
- 2.199 Surveys are often the best tool for acquiring information, though discussions with employees and customers are a close second best, and may be easier to undertake.

#### *What Data to Collect*

- 2.200 Diversity data can help businesses and organisations achieve the following goals, and surveys should be designed with these in mind:<sup>432</sup>
- a. Build reputation;
  - b. Improve productivity by valuing and supporting people’s backgrounds and making the most of their contribution to the business;
  - c. Recruit and retain the best talent;
  - d. Create awareness;
  - e. Provide support for specific adjustments, training, or interventions;
  - f. Identify and address any inequalities in application of employment practices; and
  - g. Avoid or mitigate legal, financial and reputational harm.
- 2.201 The International Labour Organisation recommends that the following types of qualitative and quantitative information be gathered as part of a diversity stocktake or ethnic diversity audit:<sup>433</sup>
- a. *Quantitative information* – The proportional representation of ethnic groups in terms of: staff profile; job offers; permanent and non-permanent contracts; wage and benefit packages; performance evaluation categories; training; promotions; succession pools or groups of workers identified for more senior positions in the enterprise; scholarship and study loans; trade unionisation and collective bargaining agreements; disciplinary hearings; dismissals; resignations; turnover; and, length of stay and tenure.
  - b. *Organisational culture* – The organisational norms, attitudes, policies, processes and practices regarding human resources and other practices in the organisation, including: diversity and anti-discrimination initiatives; diversity readiness; inclusive culture;

management participation in enterprise diversity initiatives; tolerance of discrimination; recruitment, selection, and promotion; job assignments and transfers; training opportunities and career development; performance reviews; racial discrimination complaints procedure; work–family balance initiatives; and cutbacks, hiring freezes and downsizing.

- c. *Systemic barriers to ethnic diversity and legal compliance* – Data on aspects of the enterprise ethos, structures and values that are barriers to the promotion of ethnic and cultural diversity. These might include, in the New Zealand context, symbols and artefacts of New Zealand European culture and its history; the use of language, terms, euphemisms and so on which effectively exclude certain groups; high levels of indirect discrimination; organisational norms based solely on norms typically held by New Zealand Europeans; and lack of “reasonable accommodation” of different beliefs, practices and customs of ethnic groups, such as language and food preferences and religious holidays.

2.202 Businesses should also collect data about gaps in business leadership and management, including complaints about discrimination in service and job entry, employment grievances and more formal complaints (such as to the HRC). The number of complaints about discrimination at job entry level, leadership rates of diverse employees in senior management and government roles, and the number of work discrimination complaints is one effective indicator of a business’s success in the diversity space.<sup>434</sup> In surveying Māori, Asian and Pacific employees, the following may serve as a template of relevant questions to ask:

**Table: Questions template**

Question	Response
Do you think our workplace welcomes people from diverse cultures?	
What does an ethnically diverse workforce mean to you?	
Would you describe this workforce as being ethnically diverse? How do you think this organisation can improve in terms of ethnic diversity?	
How does this workplace compare to any previous workforce you have worked for in terms of ethnic diversity?	
Do you think our job advertisements target diverse ethnic groups?	
Did you experience any direct or unconscious discrimination during the recruitment process?	
Do you think our top management supports ethnic diversity?	
Do you think our recruitment processes are fair?	
Do you think promotions are fairly distributed among all ethnicities?	
Do you think ethnic workers are fairly considered for promotion to senior management positions?	
Do you always participate openly in discussions, and feel free to express your ideas, suggestions or initiatives? If not, what barriers do you believe have prevented you from doing so?	
Do you think our workplace has strong anti-discrimination measures in place?	
Does our workplace adequately accommodate workers from different ethnic groups? Do you have any suggestions as to how this might be improved?	
Do you think our human resources department has a strong commitment to ethnic diversity?	
Do you think there is reasonable accommodation in the workplace for ethnic workers of different beliefs, customs, and practices?	

2.203 Businesses should consider breaking down ethnicity into overall groupings and subgroupings in accordance with New Zealand’s Standard Classification for Ethnicity, as this will allow the information collected to be compared to Census and other Statistics New Zealand data. Businesses should also make it clear that there is an option to select multiple ethnicities.

Table: Ethnicity New Zealand Standard Classification<sup>435</sup>

Level 2	Level 3	Notes
European	European (not further defined)	
	New Zealand European	
	Other European	
Māori	Māori	
Pacific Peoples	Pacific Peoples (not further defined)	
	Samoan	
	Cook Islands Māori	
	Tongan	
	Niuean	
	Tokelauan	
	Fijian	
	Other Pacific Peoples	
	Asian	Asian (not further defined)
Southeast Asian		
Chinese		
Indian		
Other Asian		
Middle Eastern/Latin American/African	Middle Eastern	
	African	
	Latin American	
Other Ethnicity	Other ethnicity	
Residual Categories	Prefer not to say	

### Confidentiality and Publication of Data

2.204 In collecting this information, it is important to explain to employees why this information is needed, and the benefits of collecting the information. Assurances should be given about confidentiality, how the information will be stored and used, and who will have access to the information.<sup>436</sup> Employees will also need to be given a written guarantee that the information will not be used against them in their employment, particularly when it comes to matters such as promotion, performance, or selection for new positions or redundancy. Given the personal nature of the information, it is best practice for businesses to consider whether the category “prefer not to say” should be included.<sup>437</sup> Employees should be encouraged to complete and regularly update equality and diversity information through formal and informal channels.

2.205 It is vital that the data collected is used and is seen to be used, for example to inform the business or organisation’s vision going forward.<sup>438</sup> As well as encouraging further participation, regular reporting of the data collected (provided it is anonymised) can help reassure employees that the information they provide is going to be put to valuable use.<sup>439</sup> Individual responses should not be singled out as examples unless the individual gives his or her consent.

## Monitoring

2.206 Once data has been collected, and recruitment has been undertaken, it is necessary to monitor the progress towards retaining a diverse workforce and a workplace culture of inclusiveness. Businesses and organisations need to be confident that they understand the changing composition of their workforces, and that they are well placed to take advantage of the benefits that a diverse workforce offers.<sup>440</sup> Monitoring equality and diversity in the workplace enables businesses and organisations to see how their employment policies and processes are working in practice, and to identify areas where policies and processes appear to be disproportionately impacting upon certain groups of staff.<sup>441</sup> In particular, continuous monitoring is required to ensure the success of the business or organisation's diversity strategy.

2.207 The extent of monitoring required will depend on the overall size and capacity of the organisation or business concerned.<sup>442</sup> Businesses and organisations should take into account available quantitative and qualitative data from a range of sources including employee turnover data, levels of recruitment and promotion, staff interviews, customer satisfaction surveys, and other internal metrics automatically collected (for example, when operating and maintaining client accounts).<sup>443</sup>

2.208 Businesses should undertake monitoring at the appropriate transitional points in the employment process, including recruitment, training, promotion, staff surveys, performance management, grievances, and upon the exit of the employee from the business.<sup>444</sup> Customers can be targeted in a similar way. For example, when customers purchase a new product or discontinue a service, these circumstances can be used to initiate a discussion.

## Using Collected Data

2.209 Data can be used for a multitude of functions. For example, data can be cross-referenced in order to analyse multiple diversity characteristics. The United Kingdom's Civil Service recommends a three-stage process for data analysis:<sup>445</sup>

- a. The first cut of data is examined for trends; for example, that employees from diverse backgrounds leave certain departments within the business at a greater rate than others;
- b. The second level of analysis might look for patterns within this trend; for example, employees with diverse backgrounds who have flexible working arrangements may have longer tenure; and
- c. The third level of analysis considers methods of obtaining targeted feedback (such as focus groups) that will help the business to formulate an appropriate response to be implemented to address the particular issue.

2.210 Businesses might also be able to use external benchmarking (that is, comparing the results of their workplace monitoring with other companies with similar ethnic composition) in order to see whether comparable progress has been made.<sup>446</sup>

2.211 In particular, organisations and businesses should use the collected data to determine whether they are experiencing any of the following issues:

- a. Over-representation or under-representation of certain ethnic and cultural groups in areas such as: staff profile, staff movement, development, promotions, disciplinary hearings, tenure, type of employment contract, trade unionisation, scholarships, succession pools, wages, benefits, performance evaluation criteria, and their evolution over time;<sup>447</sup>
- b. Inconsistent application of policies;
- c. High levels of indirect discrimination and/or lack of accommodation of diverse cultural practices (for example, if organisational communication is only in English, religious holidays are defined in terms of the religion of New Zealand European culture, or vacancies are advertised in newspapers read primarily by mainstream New Zealanders);
- d. Tolerance of discrimination;

- e. Salary and benefit gaps between workers from different ethnic groups;
- f. Widely diverging views regarding the place of diversity in the workplace;
- g. Inability to appropriately manage discrimination complaints; and
- h. Other discriminatory human resources practices.

2.212 If the data indicates that certain ethnic demographics are under-represented, or that direct or indirect discrimination is prevalent, then the business or organisation should investigate the reasons behind this and should implement appropriate strategies and initiatives to combat these issues as part of a diversity strategy.

### Developing a Diversity Strategy

2.213 Once demographic data has been sought and collected, the business or organisation needs to identify the relevant issues and the action/s it will take in response. One way in which such data might be used is to inform the development of (or amendment of) the business's diversity strategy.

2.214 However, it is important to note that a diversity strategy may not be necessary for all businesses, and is no substitute for direct engagement with customers or clients. The better approach may be simply to talk to customers and ask what they want in terms of engagement, products and/or services.<sup>448</sup>

2.215 An ethnic diversity strategy is fundamentally different to an anti-discrimination policy, which every workplace should already have in place. An ethnic diversity strategy is not just about the elimination of discrimination, but is also concerned with the promotion of ethnic equality in the workplace, in both a cultural and representative sense. From a best practice perspective, a diversity strategy should incorporate the organisation's anti-discrimination policy, rather than the other way around.

2.216 The ASX Corporate Governance Council in Australia has recommended that all Australian companies have a diversity policy encouraging diversity hiring, and that they publicly report staff composition against diversity goals on an annual basis.<sup>449</sup> A progress report released by the Corporate Governance Council in 2014 found that:<sup>450</sup>

- a. 69 per cent of participating organisations with graduate recruitment programmes achieved gender balance;
- b. 58 per cent of participating organisations with mid-level talent development programs achieved at least 40 per cent female representation;
- c. 71 per cent of participating organisations improved the gender balance of their external hiring; and
- d. 76 per cent of organisations had put in place formal sponsorship programs to ensure women have the same access to opportunities and advocacy as men.

2.217 Each organisation will have its own barriers to address, and should adapt their diversity strategies accordingly. Some organisations may have very specific targets to have a certain number of women and/or ethnic minorities in senior management positions by a particular date.<sup>451</sup> As observed by Salt Funds Management joint managing director, Matthew Goodson, "diversity of experience and knowledge is very important on a board and ultimately ... that includes female board members ... The last thing you want on a board is everyone looking and sounding alike and agreeing with each other".<sup>452</sup> Others may have broader goals to eliminate discrimination or foster a culture of inclusiveness in the workforce. Examples of relevant goals may include:<sup>453</sup>

- a. Minimising and eliminating bias in the selection process for new employees;
- b. Attracting and retaining talent from a diverse range of ethnic and cultural backgrounds;
- c. Management at all levels demonstrating effective leadership and due regard to equality, diversity and inclusion;

- d. Developing potential of under-represented groups to create a diverse, representative workforce at all levels;
- e. Promoting an inclusive working environment where staff respect and value each other's diversity; and
- f. Delivering services in a way that promotes equality and respects diversity and inclusion, and leveraging the diversity of the business's workforce.

### Elements of a Diversity Strategy

2.218 The International Labour Organisation recommends that a comprehensive and well-drafted policy include the following components:<sup>454</sup>

- a. The objectives of the strategy. Relevant objectives will include:
  - i. Increasing ethnic diversity at all levels of the organisation;
  - ii. Increasing organisational understanding of ethnic diversity;
  - iii. Educating and informing stakeholders about the organisation's approach to ethnic diversity;
  - iv. Ensuring fair and equitable human resources practices, policies and procedures;
  - v. Ensuring a broad understanding of all behaviours that are discriminatory towards ethnic and cultural groups, particularly at the higher levels of management; and
  - vi. Providing a framework for workers who experience discrimination.
- b. The business case for a diversity programme.
- c. The scope of the strategy.
- d. The types of discriminatory treatment addressed in the strategy. In particular, the strategy should expressly make clear to all employees that discriminatory behaviour will not be tolerated in the workplace, including:
  - i. Exclusion from certain jobs in the organisation on grounds of ethnicity;
  - ii. Stereotyping or making derogatory jokes or slurs in relation to a staff member's ethnicity;
  - iii. Refusing to take into account any linguistic differences or difficulties an employee may have;
  - iv. Refusing to work with, or excluding, people of certain ethnic groups; and
  - v. Retaliating against workers for bringing a complaint of racial discrimination.
- e. Rights and responsibilities of employers and employees.
- f. Proactive measures. This includes positive action to redress the effects of past discrimination or rectify any demographic imbalances in the organisation through:
  - i. Hiring or promotion targets;
  - ii. Accelerated training and development programmes for (in the New Zealand context) employees of Māori, Pacific, or Asian backgrounds;
  - iii. Recruitment or mentoring programmes targeted at candidates or employees from Māori, Pacific or Asian backgrounds;
  - iv. Forming alliances with ethnic community groups; and/or
  - v. Targeted recruitment campaigns.
- g. Reasonable accommodation measures. This includes ensuring that, in the New Zealand context, employees from non-European New Zealand backgrounds are able to meaningfully and equally compete in all spheres of employment through measures such as

the following:<sup>455</sup>

- i. Ensuring access to workplace policies, rules and meetings in various languages;
- ii. Catering for diverse food preferences;
- iii. Providing time off for religious holidays or traditional ceremonies;
- iv. Recognition for achieving ethnic diversity; and/or
- v. Procedures to report, and for dealing with, racial discrimination.

2.219 As well as relying on ethno-specific workplace data, all diversity strategies and policies should be developed in consultation with senior management, frontline staff, and other relevant stakeholders.<sup>456</sup> External stakeholders, such as migrant and community groups, could also be consulted during the development of diversity strategies to ensure that all ethnic and cultural needs are being met and that the strategy does not simply reflect mainstream views.

2.220 Finally, in drafting a diversity strategy, consideration should be given not only to the content of the strategy, but also to its presentation. While any diversity strategy will invariably be drafted in English, depending on the particular business's current workplace composition (and the types of people the business wishes to attract), consideration should also be given to publishing the strategy in Te Reo Māori, Hindi, Mandarin, Cantonese or any other relevant language. While the publication of diversity measures is not statutorily required, as in countries such as Canada, publicising a diversity strategy (and the progress towards its objectives) is one measure businesses can undertake to effectively market themselves to prospective employees and customers as a diversity leader.<sup>457</sup>

### The Role of Proactive Measures

2.221 An employer might take the following proactive measures to improve recruitment of ethnic candidates within an organisation:<sup>458</sup>

- a. The implementation of agreed targets in all appointments;
- b. The formation of alliances with professional organisations for specific ethnic groups; and/or
- c. The implementation of scholarship programmes targeted at students from Māori, Asian or Pacific backgrounds.

2.222 Although proactive measures may involve an element of differential treatment between New Zealand European employees and Māori, Asian or Pacific employees, the Human Rights Act 1993 ("HRA") and the NZBORA recognise that such measures will not be considered discriminatory or unlawful where they are implemented in good faith for the purpose of assisting or advancing persons or groups of persons who need assistance or advancement in order to achieve an equal place compared with other members of the community.<sup>459</sup> This is discussed further in Chapter Four. Initiatives aimed at recruiting Māori, Pacific, and Asian employees, including hiring targets, accelerated development programmes, mentoring programmes and targeted recruitment campaigns, are therefore unlikely to be unlawful where they can be rationally linked to the objectives outlined in the business's diversity strategy. This underlines the importance of having a clear and comprehensive diversity strategy in place.

2.223 In introducing any proactive measures, it is good practice to accompany any announcement of these measures with a general summary of the diversity strategy, in particular its overall objectives.

### Effectiveness of Proactive Measures

2.224 Overseas, proactive measures such as diversity targets are more common with respect to gender than ethnic representation. A 2014 study of Australian employers revealed that, while 14 per cent of employers had targets for gender representation, only 6 per cent had targets for multicultural employees.<sup>460</sup> It is unknown how many New Zealand employers implement similar voluntary target systems.

2.225 The most frequently cited example of the efficacy of workplace targets in action has been the experience in Norway, where government departments and agencies and publicly-held companies are statutorily required to ensure that 40 per cent of their boards are women, with penalties for non-compliance.<sup>461</sup> Prior to the enactment of 2003 legislation, Norwegian women held just 6 per cent of board seats on Norway's publicly-listed companies. By 2010, the share of female board members of the 500 affected companies was greater than 40 per cent, and women filled more than 25 per cent of board seats of Norway's 65 largest privately-held companies.<sup>462</sup>

2.226 Targets for ethnic diversity, if accompanied by similar penalties for non-compliance, would be likely to yield a similar effect. However, such measures should be adopted with some degree of caution. While recruiting targets might have the advantage of increasing the overall rates of Māori, Pacific, and Asian employees in an organisation, there is the danger that, from an overall recruitment perspective, they might become a ceiling rather than a floor. Employers may be led to assume that it is simply enough to meet the specified targets and fail to do anything more to foster a genuine workplace culture of diversity, by, for example, increasing the cultural awareness of all staff and eliminating all forms of conscious and unconscious discrimination. This would, in turn, have a negative impact on Māori, Asian and Pacific staff retention rates and could lead to a lack of diversity at the higher levels of the organisation.

2.227 The introduction of targets – or “quotas” as they are often pejoratively called – without the implementation of any further cultural awareness initiatives may also lead to the negative stereotyping of ethnic employees and harm rather than help the promotion of ethnic diversity in the workplace.<sup>463</sup>

## Recruitment

2.228 Recruitment is a vital part of any diversity strategy in terms of ensuring high rates of ethnic representation within a business or organisation. Businesses and organisations should be reflective of the community in which they operate and the customers or clients they serve.

2.229 However, as discussed at [2.123] and [2.195], candidates from ethnic minorities often experience both direct and indirect discrimination in the recruitment process across a variety of industries, both in New Zealand and overseas.<sup>464</sup> It is important to recognise that unconscious or systemic biases may also inhibit the development of an ethnically diverse workforce.<sup>465</sup>

2.230 Where systemic biases may have historically limited employment opportunities for members of a particular group, organisations and businesses should consider more effective ways to recruit candidates from these groups.

2.231 When recruiting for a position, employers should:<sup>466</sup>

- a. Consider the extent to which a role could be reshaped to attract greater numbers of ethnic candidates;
- b. Include testimonials on the company website of candidates from ethnic backgrounds;
- c. Have the job description and person specification outline focus on transferable skills that will be of benefit to the organisation as a whole rather than a specific role;
- d. Rigorously assess “essential criteria” for relevance to the role in terms of delivery and remove unnecessary qualifications;
- e. Take a manageable risk when recruiting people from migrant backgrounds, recognising that they may bring greater cultural intelligence to the job;
- f. Ensure that positions are advertised in such a way as to be readable and accessible to those from non-English speaking backgrounds, for example through:
  - i. Use of neutral language;
  - ii. A focus on transferable skills rather than personal attributes and/or work experience;

- iii. Ensuring any images represent a diverse workforce;
  - iv. Offering flexibility for the right application (except where performance during certain hours is essential to the position);
  - v. Advertising through targeted non-mainstream channels.
- g. Provide assistance in the application process to those who do not speak English as a first language;
  - h. Mitigate any unconscious or cultural biases which may exist in the application process that may unfairly prejudice applicants from different cultural backgrounds, for example through unconscious bias training; and
  - i. Ask job applicants relevant questions, and refrain from irrelevant questioning based on race or ethnic stereotypes.

2.232 Employers should also consider recruiting for values. This challenges those involved in the recruitment process to step away from the familiar boxes, and to think more deeply about seeking out and hiring candidates with different capabilities. It also helps mitigate unconscious bias, as it encourages employers to find commonalities with those who appear different, but who share similar goals, values and experiences.<sup>467</sup> In order to effectively achieve values-based recruitment, businesses should consider:<sup>468</sup>

- a. Having a values statement for the business. Values need to speak to one's best-performing staff, and to desirable prospective candidates;
- b. Being clear that the business recruits for values, not just for technical skill sets;
- c. Having a behaviour framework so that staff know what the values mean, how the values relate to delivering core services and the conduct expected from all staff;
- d. Articulating both values and desired behaviours in job advertisements, job descriptions, shortlisting criteria, interview questions, and assessments;
- e. Ensuring that successful candidates can demonstrate that they live, and put into action, the business's values;
- f. Being willing to evaluate and change the recruitment process if it is not delivering the desired results; and
- e. Engaging with all staff about what values mean to them in their role, and creating a culture where colleagues feel that it is safe and acceptable for them to address behaviour that does not fit with their values.

2.233 Candidates within a particular migrant group may have different strengths in relation to positive qualities the organisation may wish to focus on. As addressed above, it is well recognised that employees of different cultural backgrounds have the potential to bring a number of different qualities to an organisation, including diverse thinking and innovation, greater productivity, enhanced connections with home communities and cultural intelligence.

2.234 As well as at the recruitment stage, employers should consider strategies and methods to eliminate the operation of unconscious bias in the workplace more generally to help ensure the retention of diverse employees. This is particularly important given biases can affect a variety of people-related decisions, including "what clients to work with, what social networks to join, and what contractors to hire".<sup>469</sup> Common types of bias include ingroup bias – perceiving people who are similar to you more positively – and outgroup bias – perceiving people who are different from you more negatively. Although individuals cannot consciously monitor their own biases, organisations and teams can "become aware of bias in ways that individuals cannot. Team-based practices can be redesigned to help identify biases as they emerge, and counteract them on the fly, thus mitigating their effect".<sup>470</sup> Preventative measures are necessary to mitigate biases, as it is difficult to manage for bias in the moment when making a decision.

2.235 Examples of strategies to mitigate unconscious bias include:<sup>471</sup>

- a. Providing company-wide unconscious bias training to all employees. Where staff from ethnic minorities report during the data collection process that they have experienced disadvantages due to hidden biases and unfairness, it may be appropriate to tailor this training to address these particular concerns;
- b. Encouraging the free discussion of unconscious biases among employees, and informing employees as to the effect of these biases on the overall progress of the workplace;
- c. Initiating a resume study within the organisation to see whether resumes with similar career and educational qualifications are weighed equally when the names are ethnically or culturally distinct; and
- d. Rewarding employees who take steps to eliminate, reduce, or even show an awareness of, unconscious biases in the workplace.

## Education and Training

- 2.236 Education initiatives are necessary to ensure that staff understand their role in making the goals outlined in the organisation's diversity strategy a reality.
- 2.237 All employees should be "champions" of ethnic and cultural diversity within the organisation and be made aware of the organisation's aims and objectives, relevant diversity policies, the importance of cultural diversity, and the impact of conscious and unconscious discrimination in the workplace.<sup>472</sup>
- 2.238 It is possible that staff members, particularly from dominant ethnic groups, may have questions or concerns in terms of what is expected of them. Care should therefore be taken to communicate clearly, and regularly, what is expected and why.

## The Role of Leaders

- 2.239 Managers charged with responsibility for implementing equality and diversity initiatives should be given special training to encourage ethnic and cultural diversity in the workforce. Managers should have the following key qualities and responsibilities:<sup>473</sup>
- a. To implement the organisation's vision and strategy in terms of ethnic and cultural diversity;
  - b. To promote the benefits of ethnic and cultural diversity for both employees and customers;
  - c. To take the lead on specific ethnic and cultural diversity issues within the business;
  - d. To represent the cultural and ethnic diversity agenda for the organisation at board meetings and at external events;
  - e. To seek out community opportunities to reinforce learning and promote the business's reputation as a diverse workforce;
  - f. To research best practice in ethnic and cultural diversity initiatives and use these findings to inform discussions;
  - g. To actively support employee networks and mentoring within the organisation and make use of internal ethnic and cultural diversity networks as a sounding board for issues;
  - h. To review ethnic employee opinion survey results and develop, implement and adapt the business's diversity strategy where appropriate;
  - i. To identify specific barriers to ethnic and cultural representation in the workplace and formulate strategies for their mitigation and elimination;
  - j. Have the ability to listen and understand what is happening within the organisation and proactively take appropriate action on cultural issues or inequalities;
  - k. Be willing to admit what has worked and what has not and the ability to learn from experiences;

- i. Be prepared to allocate ample time and commitment to ensuring cultural and ethnic diversity in the workplace; and
- m. To acknowledge the importance of cultural difference – and the value of cultural intelligence – as opposed to forcing diverse employees to “fit” the culture of the organisation, the latter of which can lead to high levels of turnover in an organisation.<sup>474</sup>

### Developmental Opportunities

- 2.240 Diverse employees within an organisation should be provided with career development opportunities so that diversity can filter through to the top levels of the organisation. This might be achieved through internal or external training, or one-on-one mentoring with senior members of the organisation to provide support and career guidance.<sup>475</sup>
- 2.241 Support networks among ethnic employees should be established and supported by senior management to allow workers from these backgrounds to share common experiences and career goals.<sup>476</sup> For example, the United Kingdom group, Race for Opportunity, encourages the adoption of mentoring circles, in which small groups of employees from an ethnic or migrant background are paired up with a senior mentor in the organisation to assist with their career development.<sup>477</sup>

### Accountability Measures

- 2.242 For true change to occur, leadership must come from the top down. Many leaders in the diversity space consider that without investment in dedicated diversity and inclusion staff, accountability, and visibility, change cannot be achieved.<sup>478</sup> The development, implementation and monitoring of diversity policies and strategies should be considered an element of good governance practice for all businesses.
- 2.243 Accordingly, overarching diversity targets for improving the number of ethnic employees should be communicated to all staff by senior leaders. Company board members should personally assume responsibility for both the creation and implementation of the business’s diversity strategy, as senior management makes the ultimate decisions about allocation of resources, desired standards of performance, and accountability for progress and outcomes.<sup>479</sup> Accountability for recruitment of ethnic candidates should rest with managers. The requirement to meet diversity targets should be incorporated into managerial job descriptions and performance should be measured against the progress towards such targets.<sup>480</sup>
- 2.244 Prior to communications to staff, it is important to ensure that key stakeholders, including senior management, are aware of any diversity initiative, have been briefed on how to proactively support it, and how they will be measured on its implementation.<sup>481</sup> These issues should be explicitly reflected in departmental and person performance review schemes so as to ensure accountability.<sup>482</sup> Firms should also work with human resources and recruitment to promote transparent practices and hold staff accountable for any discrimination where it might exist.
- 2.245 As well as holding senior management accountable for any failure to implement the company’s diversity strategy, they should also be rewarded and incentivised for supporting it. In the United Kingdom, for example, the supermarket chain Safeway Incorporated increased its representation of women from 12 per cent to 25 per cent over a five-year period. Part of the company’s diversity strategy included a rigorous accountability framework to ensure the management and tracking of gender diversity targets. Managers are assessed on their progress towards diversity goals and the highest rating affects a manager’s bonus pay by up to 10 per cent.<sup>483</sup>

### Best Practice Diversity Model for New Zealand

- 2.246 In order to have sufficient internal capability to adapt to an increasingly superdiverse workforce, businesses should adopt the following objectives:
  - a. Managers at all levels should demonstrate effective leadership and due regard to equality, diversity and inclusion;

- b. The potential of under-represented groups should be developed to create a diverse, representative workforce at all levels; and
- c. An inclusive working environment should be promoted where the staff respect and value each other's diversity.

2.247 In sum, businesses and organisations should consider implementing the following measures in order to achieve the above objectives:

- a. Regular collection and monitoring of ethno-specific data on the composition of the workforce and the business's client or customer base;
- b. Workplace policies and practices should be informed by and developed in accordance with this data;
- c. A diversity strategy should be developed (in addition to an anti-discrimination policy), where appropriate, to promote ethnic equality, diversity and inclusion in the workplace, in consultation with relevant internal and external stakeholders. This strategy should include the following components:<sup>484</sup>
  - i. The objectives of the strategy;
  - ii. The business case for a diversity programme;
  - iii. The scope of the policy (for example, the types of discriminatory treatment addressed);
  - iv. The rights and responsibilities of employers and employees in terms of implementation of the diversity programme;
  - v. Proactive measures; and
  - vi. Reasonable accommodation measures.

### **Key Point Five: Communicating with Ethnic Minorities and Migrants as Customers is Not Limited to Getting an Interpreter**

2.248 New Zealand's growing superdiversity makes targeting migrant customers one obvious way to grow market share. Businesses may need to communicate differently with migrants. Communication is not just about translating English into migrants' own language (for those who do not speak English), but involves taking account of their different culture, values and expectations as customers. The following section discusses challenges for businesses in communicating with ethnic minorities and migrants as customers, and possible strategies to assist businesses in such interactions.

2.249 For example, Mike Jewell, a senior researcher from TNS (the world's largest project-based market research firm) said that understanding the growing middle class of modern, independent Asian women will be key to the failure or success of many premium food and beverage exporters in the future:<sup>485</sup>

*"They are a very significant group more in evidence in some markets than others. They are focused on making the most of their good educations, getting careers, and building their lives on their terms rather than traditional expectations." They, like their Western counterparts, are having fewer babies, and leaving childbirth later. They are also focused on living healthy lives ... "It is filtering through to a lot of different societies and it is starting to filter through to South East Asia as well."*

2.250 Businesses should bear in mind that their internal capability to attract and retain a diverse workforce is integrally linked to effectively communicating with the diverse population they wish to target as employees, customers and clients. Finally, businesses may need to adapt their products and services to address diverse customers' needs and expectations.

### **Importance of Ethnic Media**

2.251 Niche Media, a specialist multicultural marketing firm, along with the Office of Ethnic Communities, recently commissioned a survey into the media consumption habits of

the Indian, Chinese, Pacific and Korean communities in Auckland.<sup>486</sup> The purpose of the survey was to determine the penetration of the ethnic media into the communities, the crossover in consumption of ethnic and mainstream New Zealand media, and the most popular titles for each demographic. The results indicated that consumption of ethnic media is very high in communities where ethnic options are available. This was the case even with migrants who have been living in New Zealand for long periods of time. For example, in terms of the Chinese community, which accesses a range of media types (including radio, print, television, online and social media), 78 per cent of those surveyed consumed at least half of their media in Mandarin or Cantonese, and 76 per cent preferred their advertising in Mandarin or Cantonese. For the Indian, Pacific and Korean respondents, this figure ranged from 56 to 78 per cent.<sup>487</sup> 18 per cent of the Indian respondents preferred their advertising in Hindi or Punjabi, 32 per cent of the Pasifika respondents preferred their advertising in Samoan or Tongan and 81 per cent of Korean respondents preferred their advertising to be in Korean.

2.252 The result is that business and government wanting to communicate with migrant communities need to use ethnic media. Otherwise, significant proportions of New Zealand's diverse communities will be missed by simply communicating through mainstream media. The problem will get worse as migrant numbers increase, as they have sufficient critical mass to congregate in ethnoburbs and to live in self-sufficient communities of their own people speaking their own language. As discussed at [1.83], ethnic precincts which have their own ethnic food outlets, schools, and ethnic media services, ethnic communities can effectively operate in a self-contained manner without the need to integrate into mainstream communities.

2.253 The influx of new migrants has resulted in a proliferation of ethnic media outlets in recent years, particularly in Auckland, which publish written, online and broadcasting material in languages other than English or on issues relevant to ethnic and/or migrant communities. Languages include Mandarin, Cantonese, Filipino, Hindi, Punjabi, Japanese, Korean and Samoan. Settlement Support New Zealand has released a short directory of ethnic media.<sup>488</sup> Many ethnic media publications, radio and television programmes have relatively large readerships, listenerships and viewers. For example, the Samoan Times Newspaper has an estimated readership of over 20,000, the Global Indian Magazine has around 40,000 page views per month and Radio Tarana, a Hindi radio show, has around 80,000 listeners every month. The United Chinese Press, the Chinese Herald, the Vision China Times and the Mandarin Pages, together, have an estimated readership of around 70,000 people. SkyKiwi, a Chinese portal website, generates over 700,000 daily page views, and two Chinese language television channels, TV33 and World TV, were established in 2010 and 2007 respectively.

### Ethnic Marketing and Cultural Competency

2.254 The concept of "ethnic marketing" gained popularity in the United States as early as the 1980s, and subsequently in the United Kingdom in the 1990s, with the recognition that those who are marginalised or excluded in any society cannot be reached by mainstream marketing approaches.<sup>489</sup> As a result, marketers realised the need for businesses to adapt to the use of "niche strategies" to reach marginalised minorities.<sup>490</sup>

2.255 In practice, ethnic marketing can cause various human resource management ("HRM") issues for businesses if not carefully tailored to the needs of ethnic markets. HRM encompasses "the broad tasks of managing employee assignments and opportunities, competencies, behaviours and motivation".<sup>491</sup> Failures may occur in a service interaction, for example, in close physical proximity where one person misunderstands another's non-verbal cues, or where a business seeking to apply well-intentioned practices does not fully understand the differences between and within ethnic groups.<sup>492</sup>

2.256 Businesses need to develop cultural intelligence and competency to effectively communicate with a diverse customer base. Developing cultural competency is effective adaptation to cultural differences rather than seeking to remove the "cultural gap".<sup>493</sup> A business's capability for cultural competency will vary according to a number of factors, including:<sup>494</sup>

... the number of minority ethnic groups to be targeted, the current stock of skills within the

*business, the degree of competition and barriers to entry, the availability of suitable bilingual [or multilingual] ethnic personnel available for employment, the relative importance (strategically or otherwise) of the ethnic market in the overall market, the resources available to the business ...*

- 2.257 Cultural competence is needed at all levels of an organisation, at the internal and external interface, in order for business to achieve long-term credibility with the public.<sup>495</sup>
- 2.258 A study on language use and practice in European companies found that, in order for expatriates to function effectively in foreign markets, they required the following skills:<sup>496</sup>
- a. Interpersonal skills, particularly the ability to form relationships;
  - b. Linguistic ability (although the study concluded that having total command of other languages may not be feasible and may be less important than trying to understand what matters to others);
  - c. Genuine interest in other countries;
  - d. Tolerance for uncertainty and ambiguity;
  - e. Flexibility in responding to customer needs and preferences;
  - f. Patience, as learning new methods takes time, and different cultures may hold “distinct horizons”;
  - g. Respect or a “non-ethnocentric” approach;
  - h. Cultural empathy;
  - i. A strong sense of self, so as to allow for cross-cultural interaction without losing one’s identity; and
  - j. A sense of humour, as a mechanism for coping with a sometimes hostile and always different environment, and for relationship building.

## Successful Adaption of Products and Services

2.259 Migrants have different needs and expectations depending on whether they are first generation, 1.5 generation, second or multigenerational migrants, which has implications for employers recruiting migrant staff and for how businesses target their customer base.<sup>497</sup> New migrants tend to bring their shopping habits and preferences with them from their native countries, so it is a “challenge and an opportunity to identify innovative ways to connect with these preferences”.<sup>498</sup> For example, Asian customers who are new migrants are not used to having a narrow range of items on offer, and expect customisation. But a second generation Chinese person is likely to be a very different customer.

2.260 Businesses should collect data on the ethnic and cultural makeup of their customer or client base, and this data should be disaggregated. As observed by Nick Siu, Director of The Agency 88:

*... when designing a multicultural business strategy, it is not all plain sailing, as it is important to not sweep a broad brush approach at classifying a continent’s origins and assume they all have the same wants and needs. Data should be disaggregated as much as possible to reflect the characteristics of different sections of the population, for example geographical location, gender, income level, social characteristics, ethnicity and origin, religion, age, etc. Disaggregated data will allow the creation of policies and commercial initiatives that could be directed toward specific groups with the increasing ethno-racial, religious and linguistic diversity (such as Mandarin to Cantonese) we are seeing in Auckland.*

2.261 In the first instance, businesses should target the lowest hanging fruit of their superdiverse customer base, for example those customers who have good English language proficiency. For example, as is discussed at [1.80], the two biggest Asian subgroups in Auckland are Indians and Chinese.<sup>499</sup> The Indian population, in general, has good English language proficiency because of their Commonwealth background.<sup>500</sup> Likewise, Filipinos also tend to speak good English because of their history of American occupation,<sup>501</sup> as do migrants

from Singapore, where English is an official language.<sup>502</sup> In contrast, North Asian migrants (particularly from China) are the most likely to face barriers to consumption due to low English language ability.<sup>503</sup> Thus, Hindi or Filipino translation may be less essential than Mandarin and Cantonese. In order to fully capitalise on this new diverse customer base, however, businesses need to go further and sync their services and products with the different culture and values of diverse customers.<sup>504</sup> Such decisions should be made on an informed, empirical basis, for example from customer surveys, to confirm that migrants want something different.

2.262 For example, in Japan, products retailing for ¥9.99 are unlikely to sell because the number nine (ku) is a homophone for suffering and thus is to be avoided. In such a scenario, the business would need to investigate the reason why the number nine is viewed differently in Japan, and then could seek to relate to that explanation by looking for an example of similar number bias influencing consumer decision in the majority culture, such as products retailed for \$6.66 or floors labelled 13.<sup>505</sup>

2.263 There have been many success stories of global corporations changing their products for new local markets that they have entered, also known as “glocalisation”.<sup>506</sup> For example, domestic appliance manufacturer Whirlpool Corporation incorporated specially designed agitators into its washing machines when it entered the Indian market. This enabled Indian women to wash their saris without them getting tangled. It also formed a joint venture with a local partner to produce washing machines and refrigerators in bright colours to suit local taste and culture.<sup>507</sup>

2.264 As is discussed in the Foodstuffs case study at [2.10], major New Zealand supermarkets now stock 25 kilogram bags of rice as well as half kilogram bags to prevent customers going to ethnic supermarkets. The biggest selling item in some areas of Auckland is rice, not potatoes or flour. Loyalty programmes may need to explain their programme not just in English, but also in Mandarin and Samoan, which are amongst the most commonly spoken languages in New Zealand by residents likely to have little or no English proficiency. Another example is the increasing demand for “sharia-friendly mortgages” from financial institutions.<sup>508</sup> Paying or receiving interest on loans is forbidden in Islam.<sup>509</sup> “Sharia-friendly mortgages” are where the customer pays for the home in instalments at a premium rather than taking out a traditional mortgage with interest. As New Zealand’s Muslim population grows, there is likely to be greater demand for such products.

2.265 It is also important for businesses to look at product categories in context. For example, research on how to target Chinese customers for the Royal Bank of Canada found that it was better to target Chinese customers in the mainstream language (English) rather than Mandarin or Cantonese. As noted by Mark Cleveland, an entrepreneur and business executive:<sup>510</sup>

*The reason they [Chinese communities] wanted to bank with this Canadian bank was because it was felt it was trustworthy and that it had the virtues that were desirable in the host population. They didn't want to be targeted in their own language. They just said, 'You know, you're not trying to sell me food here or trying to sell me clothing. That's when you want to target me in [Mandarin or Cantonese] ... not when you're trying to sell me financial products' ... When you're targeting with mixed marketing messages you really have to consider not only the context – the geographical context where they're living – but also the product category as a context.*

2.266 In terms of service adaptation, new migrants may need more assistance as customers to understand, say, an insurance product or a banking facility. So, planning 30 minutes per customer may not work for some new migrants as they may require double this time. Further, the best target for the greater assistance or explanation may not be migrant parents who may have limited English, but their children who tend to learn English very rapidly once in New Zealand (see also the discussion of 1.5 generation migrants at [1.45]). As noted by Ikuro Takahashi, a Professor of Marketing at Keio University in Japan:<sup>511</sup>

*Our parents teach us their values and attitudes, what is good, what is acceptable behaviour, the aesthetics of life. Perhaps we don't forget those things regardless of whether we migrate to another country or stay in our home country. Ethnic groups will remain different from other ethnic groups.*

2.267 A study on the experience of migrant children in New Zealand found that language acquisition was the primary factor in their parents' adjustment difficulties:<sup>512</sup>

*Many of these young people had been called upon to serve their families as interpreters: if phone calls needed to be made to the bank, insurance brokers, or real estate agents, they did the talking. They also did much of the shopping, or at least were required to accompany their parents, in the event that they might be needed to interact with English speakers.*

2.268 It is also important for businesses not to spread their efforts too widely. As observed by Morag McCay, Beachheads adviser to NZTE, in an article for the *New Zealand Herald*:<sup>513</sup>

*"New Zealand can't produce enough in any context to be anything other than a very small player and the crunch point is finding a way to make that sustainable, which is actually about understanding the channel to market that will get you to that niche in a way that is cost effective and is defensible." Doing something well in a "narrow way" ... could be a more successful strategy for a New Zealand business ...*

2.269 Although McCay agreed that it was important for businesses not to have all their eggs in one basket, she remarked that it was also possible to "spread yourself too thinly internationally, and be only average as a result".

## Recommendations

- In terms of diverse customers, businesses may need to target the lowest hanging fruit, but should consider adapting their services and/or products to reflect the needs of their changing ethnic customer base, after direct engagement with customers about what they want.
- To communicate with, and access, ethnic markets, businesses should consider implementing the following measures:
  - a. Recruiting for cultural intelligence and linguistic ability. Ethnic customers may feel more comfortable dealing with people similar to them, who speak the same language;
  - b. Providing cultural intelligence training for employees;
  - c. Translating print and online material into other languages and/or basic English; and
  - d. Making use of ethnic media outlets and companies with expertise in diverse communications. Consumption of ethnic media is very high in communities where ethnic options are available. This is the case even with migrants who have been living in New Zealand for long periods of time. So using ethnic media to communicate with diverse New Zealanders matters for reaching that customer segment.

## Key Point Six: Superdiversity is a New Zealand-Wide Phenomenon Not Just an Auckland Phenomenon – Regions and the Rural Sector

### Regional New Zealand

2.270 A 2012 study found that the majority of Asian migrants seeking permanent residence in New Zealand enter the country through Auckland, New Zealand's gateway city, and settle there rather than dispersing throughout the rest of New Zealand.<sup>514</sup> However, an Asia New Zealand Foundation report, which was yet to be released at the time of writing, on Invercargill (and Southland), Queenstown, Nelson, Napier-Hastings, Rotorua and Tauranga (and Western Bay of Plenty) confirms that, while Auckland's population is changing at a faster rate and to a greater extent, superdiversity is also diffusing to New Zealand's regions and smaller urban centres.<sup>515</sup> The rapid growth and diversification of Asian populations in these areas has resulted from the arrival of permanent residents, students, workers on temporary permits, and in some cases, refugees. Although Asian populations are smaller in these regions than in the

larger cities, they have had significant tangible and less tangible impacts on the ethnoscapes of these cities and adjacent towns and rural areas.

2.271 The Government's recently unveiled proposal to introduce new immigration rules will help speed the spread of migrants to the regions. The new rules are designed to boost local economies by increasing bonus points used to calculate whether residency requests should be approved or denied. Skilled migrant workers who take jobs in the regions will have bonus points bumped up from an extra 10 points to an extra 30 points, and entrepreneurial migrants who set up or expand their businesses outside of Auckland will be eligible for 40 bonus points towards their visa requirements, up from 20.<sup>516</sup> This means that the benefits and challenges of superdiversity are not solely relevant to Auckland, and will apply to the rest of New Zealand. Immigration policy is discussed further at [3.3].

## The Rural Sector

2.272 The critical challenge facing New Zealand's agricultural sector – which is mainly dairy farming, followed by beef and sheep farming and horticulture – is the lack of succession as the current generation of farmers retires.<sup>517</sup> For every 10 people leaving the agricultural sector, there are around three to five people entering the industry.<sup>518</sup> The 2015 Federated Farmers Farm Confidence Survey found that 20.6 per cent of dairy farmers had found it difficult to find skilled and motivated staff over the preceding six months.<sup>519</sup> This is exacerbated by New Zealand's ageing population and the trend of internal migration away from the regions to urban centres, in particular Auckland.<sup>520</sup> Research also suggests that young New Zealanders do not find farming to be an attractive career prospect, due to the long hours and labour-intensive nature of farming.<sup>521</sup>

2.273 As a result, many farm managers use migrants from countries such as the Philippines to meet growing labour shortages. Most New Zealand farms are staffed by migrants of Asian (primarily Filipinos, Indians and Sri Lankans) and South American descent.<sup>522</sup> It has been reported that around a quarter of dairy workers in the Canterbury region are migrants on temporary visas, 42 per cent of whom are Filipino.<sup>523</sup> Until the 2014/15 reporting year, the number of visas for dairy cattle farmers approved by Immigration New Zealand was steadily increasing. In 2009/10, 1,423 visas were approved, growing to 1,785 in 2013/14 (but then declining to 1,249 approvals in 2014/15).<sup>524</sup> A similar trend is evident for dairy cattle farm workers, with 366 approvals in 2009/10, increasing to 966 approvals in 2013/14 (but declining to 813 approvals in 2014/15).<sup>525</sup> Since the early 1990s, the decline in traditional North Island family-owned and run farms with few labour needs and the growth of large South Island herd dairy farming, "often of a corporate nature", has led to demand for greater numbers of farm workers.<sup>526</sup> However, although temporary migrants provide a short-term stop-gap as farm workers, particularly in the dairy sector, they do not necessarily provide a secure, sustainable workforce for the future.<sup>527</sup>

2.274 Migrant farm workers are generally only eligible for temporary work visas.<sup>528</sup> Migrants on these visas do not have the same rights as citizens and permanent residents to access certain public services, such as health care and public housing.<sup>529</sup> This in turn creates difficulties for employers, for example if their employees become sick and cannot work. Migrants on temporary visas are required to pay international student fees at tertiary institutions, and are ineligible for benefits such as student allowance and student loans, jobseeker support, Working for Families and New Zealand superannuation.<sup>530</sup> Farm owners report that they want migrant workers to stay on and to buy into their farms, but this is difficult because they are not permanent residents. Farm owners also struggle to get workers' visas extended by Immigration New Zealand, which in turn makes it difficult for them to sustainably grow their farms for the future because their workforce is not secure.<sup>531</sup> Many farm owners nevertheless prefer migrant staff because they are loyal and hardworking.<sup>532</sup> A large number of migrants live on farms in accommodation provided by their employers and come to be treated as family members.<sup>533</sup>

2.275 The Government has recently announced plans to help 600 long-term foreign workers who have been rolling over short-term temporary visas for more than five years to secure a permanent future in the South Island. This may go some way to addressing farmers' concerns around the struggle to renew temporary visas and the lack of succession potential

for migrants on temporary visas. However, the new policy applies to only 600 migrant workers at this stage, and does not come into force until November this year.<sup>534</sup> The current succession issues will therefore continue, unless the Government expands the number of eligible migrants beyond 600.

2.276 Migrant workers are also part of the Canterbury Mayoral Forum's economic development strategy for the region.<sup>535</sup> The Strategy notes that, for the Canterbury region to sustain its "economy and way of life", it needs to "attract and retain skilled migrants/newcomers and their families, and ensure they can settle quickly and well, and integrate into cohesive, resilient communities".<sup>536</sup>

2.277 A 2014 study analysing retention of migrant workers on dairy farms identified the following six factors as the most important factors motivating migrants to remain in New Zealand:<sup>537</sup>

- a. Pride in the industry;
- b. Career advancement opportunities;
- c. The opportunity to enhance skills and knowledge;
- d. Commitment to the industry;
- e. Enjoyment of the job; and
- f. A good relationship with supervisors and co-workers.

2.278 Other important factors included general life satisfaction, whether employers cared about employees' wellbeing, and feeling connected to the local community.<sup>538</sup> Accordingly, effective and sustainable deployment of migrants on farms requires:<sup>539</sup>

- a. the recruitment of capable and skilled employees;
- b. the need for farm management to be sensitive to, understand and resolve, cross-cultural and relationship issues; and
- c. workplace and community acceptance and support of migrants and their ability to integrate into community life.

2.279 Competition for skilled workers in other industries and from other countries also represents a threat to the supply of migrant workers in the agricultural industry. However, this threat may be mitigated if the industry ensures it has a reputation as a "caring and socially responsible industry".<sup>540</sup> Corrupt practices by overseas recruitment companies which help prospective migrants locate work and handle the visa application process is another issue which has been highlighted in the media.<sup>541</sup>

2.280 The high level of migrant workers in the agricultural sector requires farm owners and operators to learn CQ. For example, an Immigration New Zealand guide for dairy farmers recruiting migrant workers noted that:<sup>542</sup>

*Migrants might be used to different employer-worker relationships than we have in New Zealand, so your style of managing them might need to differ from that used for a New Zealand employee ... Some migrants may not be used to a female manager. Some migrant dairy farm workers come from countries where they are used to being told exactly what to do and they find Kiwi workers and managers very different from what they're used to. [Most] Filipinos ... like being told exactly what to do ... [Most] Kiwis ... like to be left to get on with the job.*

*Some cultures think status is very important and might find it difficult to speak freely to the boss. When they do speak to the boss they can be very formal, and they often don't say what they really think.*

2.281 Migrants may have limited experience of working on New Zealand dairy farms and might need additional training, particularly where their English proficiency is limited.<sup>543</sup>

The issue is that migrant workers are not eligible for government-funded ESOL classes until they gain permanent residence.<sup>544</sup> Yet English language proficiency is a requirement for entry under the skilled migrant category.<sup>545</sup> Understanding English and having the confidence to

converse with people in the local community underpin migrants' ability to access social services and integrate into the community, "which in turn reduces social isolation and influence of this isolation on mental health and farm safety".<sup>546</sup>

2.282 In addition, Filipino migrant workers often bring their families with them to New Zealand,<sup>547</sup> as they are permitted to do so under Immigration New Zealand's skilled migrant policy for the duration of their visa.<sup>548</sup> It is also common practice for Filipinos to send remittance payments back to their extended families in their home countries.<sup>549</sup>

2.283 Immigration New Zealand's guide for dairy farmers recruiting migrant workers includes the following strategies:<sup>550</sup>

- a. Employ migrant workers before workload peaks so they have time to settle in;
- b. Provide migrant workers with some information about living and working on the farm and about the local area and community, including use of slang and/or technical terms on farms;
- c. Give migrant workers training about working on dairy farms, and inform existing staff so that they can assist migrant workers to adapt;
- d. Find out how migrants prefer to be managed;
- e. Be aware that migrants usually arrive with only a suitcase, so providing fully-equipped accommodation is helpful (including appliances like rice cookers);
- f. Advise prospective migrant workers about the need for lots of warm clothing in New Zealand and how to adapt to living conditions in New Zealand generally; and
- g. Be aware that migrant workers may want to bring their family to live with them on the farm.

2.284 Federated Farmers also has an Immigration Pack with information and application forms related to the visa and permanent residency process to assist dairy farmers with migrant recruitment.<sup>551</sup> It provides position specific information for dairy farmers looking to hire migrants as dairy farm assistants, assistant herd managers, herd managers and farm managers, and market salary information for migrant workers.

2.285 Other implications of superdiversity for the agricultural sector include foreign direct investment into farm purchases (as discussed at [2.357]) and changes in domestic and overseas consumption of agricultural products. For example, there is high overseas demand for goats' milk infant formula because of the high rates of lactose intolerance in Asian populations.<sup>552</sup> Demand from China for such products remains strong.<sup>553</sup>

## Survey on Rural Sector with the Assistance of Federated Farmers and SIDE

### Methodology

2.286 This survey was sent to farm managers in New Zealand on the Federated Farmers and SIDE (South Island Dairy Event) databases. It consisted of qualitative questions on the ethnic composition of the farm's employees, the key benefits and opportunities from a diverse workforce (where applicable), the key challenges faced (if any), and the best practice for maximising the benefits and opportunities from a diverse workforce. A copy of the survey questions is set out at Appendix One.

### Limitations

2.287 Altogether, 415 farms responded to the survey. There was a drop-off rate of 90 respondents after the first question, which related to whether the farm employed migrant employees. There were also minor differences between the surveys sent out to SIDE and Federated Farmers, which may affect the accuracy of some responses.

### Findings

2.288 Of farms surveyed, 72.3 per cent had migrant employees or had employed migrants in the past; 37.1 per cent of farms surveyed employed Filipinos, followed by South

Americans (15.9 per cent) and Indians (11.6 per cent).

2.289 A significant proportion of migrant employees (35.4 per cent) at the farms surveyed intended on staying in New Zealand for five years or more, and 43.6 per cent of farms reported that their migrant employees had applied for permanent residence.

2.290 Almost a third (29.6 per cent) of total farms surveyed indicated that their migrant employees brought their family with them to New Zealand.<sup>554</sup> The amount migrant employees sent home in remittances varied depending on migrants' personal circumstances from between around 15 per cent of their total wages to as much as 80 per cent of their wages.

2.291 Commonly cited benefits of employing migrant staff included:

- a. Migrant staff were loyal, hardworking and keen to learn;
- b. They fill a gap and do jobs Kiwis do not want to do;
- c. They bring diverse cultural perspectives; and
- d. They bring technical skills.

2.292 Commonly cited challenges for farms from employing migrant staff were as follows:<sup>555</sup>

- a. Issues around the renewal and transfer of work visas (which are generally only valid for a short time and only issued in respect of certain categories of farm worker, such as "dairy farm manager"), proving the need to hire migrant staff as opposed to New Zealanders, obtaining a pathway to permanent residence and liaising with officials in migrants' home countries. This, in turn, created uncertainty for farms around staffing levels and difficulties in employing migrants on short notice;
- b. Communication issues around language and culture;
- c. Behavioural differences compared to Kiwi workers, for example Filipinos tended to adopt a non-confrontational working manner, which sometimes meant they failed to speak up when issues arose;
- d. Expense of accommodating staff on farms;
- e. The need to provide time off work for English classes;
- f. Migrant employees sometimes struggled to adapt to the tough working conditions involved in farming;
- g. Distance from family and friends overseas; and
- h. Sometimes migrant workers displayed a lack of initiative, so farm managers did not see these workers as valuable in terms of succession potential.

2.293 In order to address the challenges of having migrant staff, measures adopted by farms included:

- a. More written instructions, photographs and welcome folders;
- b. Supporting the visa application process and other support services upon arrival, including providing warmer clothing, transport, accommodation, home appliances, and help setting up bank accounts and IRD payments (including helping send remittance payments home), arranging health care, and finding play centres or schools for their children;
- c. Adopting a different communication and/or managerial style, for example repeating instructions, refraining from using swear words and/or farm jargon, providing greater oversight, training managers in CQ and learning non-English phrases;
- d. Using existing or past migrant employees to source new migrant employees. These employees also provided support to new migrants in the local community upon their arrival. Many farms mentioned facilitating introductions to established migrant communities in the area who could provide support;
- e. Including migrant employees and their families in family dinners, celebrations and events

such as Christmas, and local community events (particularly sports clubs and church). Several respondents mentioned specific community events designed to welcome migrants to the region;

- f. Giving migrant employees more time off to visit home (some even funded trips home or loaned their employees funds for fares) and/or helping them to access Skype to easily contact their families;
- g. Providing time off for religious holidays and/or church attendance;
- h. Providing more extensive onsite farm training;
- i. Adapting meals to meet religious and/or cultural requirements; and
- j. Only employing staff with good English proficiency, providing financial assistance with English lessons and/or having a translator available.

### Recommendations

- There should be a regular review of numbers of migrants to the regions.
- Migrants should also be consulted on their settlement needs on a regular basis. This data should then be used to inform policy development.
- There should be greater funding available for migrants to access ESOL classes, so they can be more effective workers on farms. Currently, government funding is available for permanent residents, but English proficiency is a requirement for entry under the skilled migrant category.

## Key Point Seven: Superdiversity Can Challenge New Zealand's Business Culture

2.294 New Zealand has a well-earned reputation for low levels of corruption in the public sector and in business. In 2014, New Zealand ranked second on the Transparency International Corruption Perceptions Index.<sup>556</sup> In contrast, the ratings of the top source countries of skilled principal immigrants to New Zealand<sup>557</sup> have mixed results on the Index.<sup>558</sup> For example, China was ranked at 100, India and the Philippines at 85 equal, the United Kingdom at 14, and South Africa at 67.<sup>559</sup>

2.295 An MBIE survey of investor migrants found the key reasons why investor migrants left their home countries included the state of investors' home countries (including the economy, environment, policy and politics) and fear that their circumstances would worsen.<sup>560</sup> Around 90 per cent reported that New Zealand's financial and business culture was an important factor in their choosing to invest here, with 63 per cent citing political stability and 52 per cent mentioning transparent investment options as factors behind their choice to invest in New Zealand.

2.296 However, there is concern that some immigrants might bring corrupt practices from their home country to New Zealand, especially in the business and environmental contexts. There is research indicating that migration can have an impact on corruption in destination countries and that immigration from corruption-ridden countries boosts corruption in destination countries.<sup>561</sup>

2.297 A 2014 Deloitte survey of 269 public and private organisations across New Zealand and Australia found that companies with overseas operations had experienced an increase in corruption outside of New Zealand.<sup>562</sup> Only 31 per cent of companies conducting business overseas had a proper understanding of relevant overseas bribery and corruption laws, and 40 per cent reported not having a formal bribery and corruption compliance programme in place.<sup>563</sup> Deloitte's Associate Director Ian Tuke said that one possible explanation for the increase was due to the influx of migrants from countries with negative ratings on the Transparency International Corruption Perceptions Index, such as China: "Where people are migrating to New Zealand from countries with high corruption levels, they may expect New Zealanders to

behave in a similar way as they did back home”.<sup>564</sup>

2.298 However, it is important to bear in mind that not all migrants' source countries are corrupt, and not all migrants will necessarily bring corrupt practices with them when they arrive in New Zealand. For example, Singapore has consistently ranked in the top 10 countries on the Transparency Index, and in 2014 was ranked 7th.<sup>565</sup>

2.299 From my own experience acting for clients in private practice, issues arise from new migrants not understanding that bribing government is illegal, and that the rule of law culture in New Zealand means laws will be enforced. Issues arise from new migrants not understanding what the law means, especially in a different cultural context, and thus how to apply the law in order to act legally. Problems have included signing false declarations, not complying with legal requirements to hold professional licences, wanting to make backhanded payments instead of complying, and not submitting the right documentation to get professional registration.

2.300 This represents a possible risk for businesses and government agencies employing and dealing with new migrant customers, which businesses and agencies need to plan for. For example, the Serious Fraud Office (“SFO”) recently charged a Chinese man, Johnson Yuejun Li, with corruption and bribery of an official for allegedly attempting to influence the decision of an Auckland Council resource consents officer on his application to subdivide a property.<sup>566</sup> The SFO also recently charged an Immigration New Zealand border control officer, Meng Yam Lim, a Singapore-born migrant who had lived in New Zealand for the past 40 years, and his associate, Hong Kong national Kooi Leng Pan, with corruption and bribery for allegedly receiving \$26,500 to assist with immigration.<sup>567</sup> In response to the case, SFO Director, Julie Read, commented that:

*Bribery is bad for New Zealand businesses and citizens and bad for New Zealand Inc. This is plain in the case where a bribe is paid to secure a contract – but a bribe paid to circumvent the rules also causes significant harm. The rules, whether they are about immigration or anything else, are intended to apply to everyone equally. Circumvention of the rules undermines any fairness in society. The SFO is committed to ensuring that corruption does not flourish and will pursue cases such as this to send that message to all those who may be tempted to engage in corrupt conduct.*

2.301 The SFO has emphasised the importance of educating migrants about appropriate business culture in New Zealand so that they understand corruption is not acceptable.<sup>568</sup> Read has said that “cooperation between government agencies in these matters is critical to ensure we prevent corruption from flourishing and to protect New Zealand’s reputation as a safe place to invest and do business”.<sup>569</sup>

2.302 A study by IRD in 2014 found that:<sup>570</sup>

*Regarding tax compliance attitudes, Chinese and Indian business owners reported higher levels of trust, generally held more positive perceptions of Inland Revenue, and were more likely to believe that Inland Revenue would be effective in “catching” tax cheats. Believing that others were not necessarily honest with their tax obligations was one of the strongest predictors of Hidden Economy participation. Other predictors included: specific demographic characteristics (e.g., age, gender, ethnicity); having received cash payments; seeking tax information from one’s own migrant/ethnic/industry group; and having received overseas income ...*

2.303 In order to facilitate tax compliance by Chinese and Indian business owners, participants in the study recommended greater customer engagement by IRD, and the provision of tax information through multimodal and multilingual channels.<sup>571</sup>

2.304 A Chartered Accountants Australia New Zealand report released this year warned that complacency was not an option for business and government, and that increased regulation was unlikely to resolve corruption.<sup>572</sup> The report recommended the following measures to prevent and mitigate corruption:

- a. Increasing transparency in awarding public sector contracts, including not awarding contracts to those with past convictions for fraud and/or corruption and not awarding contracts to companies without anti-corruption policies;

- b. Increasing the use of asset confiscation;
- c. Encouraging anti-bribery and corruption policies and practices in the private sector;
- d. Considering rewards for whistle-blowers when they disclose illegal activity;
- e. Enhancing cross-border cooperation on bribery;
- f. Applying harsher sanctions more broadly;
- g. Limiting the tax deductibility of “facilitation payments”; and
- h. Requiring anti-bribery and corruption policies in NZX listing rules.

2.305 Changes in the corruption policies and laws of migrants’ home countries may also have an impact on migrant behaviour in New Zealand. For example, following its ratification of the United Nations Convention against Corruption, China made it a criminal offence to bribe foreign officials and officials of international public organisations in 2011, and has since been enforcing these laws.<sup>573</sup> This proactive stance should in turn reinforce anti-bribery and corruption laws in New Zealand for new migrants from China. In New Zealand, at the time of writing the Organised Crime and Anti-corruption Legislation Bill had just undergone its second reading in Parliament. The Bill, which aims to strengthen the law to combat organised crime and corruption, is still facing strong lobbying to ban all “facilitation payments”. There is currently an exemption for small payments which do not give an undue advantage.<sup>574</sup>

2.306 The Chief Executive of the Financial Markets Authority (“FMA”), Rob Everett, says that the main issue the FMA has seen new migrants experience as they adjust to the business environment in New Zealand is related to English language proficiency.<sup>575</sup> The FMA’s response to New Zealand’s superdiversity is discussed below at [5.398]. As New Zealand’s regulatory framework focuses on disclosure as a way of ensuring buyers of financial products or services understand the risks of those products or services, those coming to New Zealand with limited English are exposed, as the product disclosures or offer documents will be in English. This is exacerbated by the highly technical nature of the financial jargon used in such documents.

2.307 New migrants conducting financial affairs and investments within their own ethnic community and in their native language can create problems for regulators from a monitoring perspective. For example, are those giving financial advice licensed, or do they even know that they need to be licensed, and do those customers on the receiving end of illegal behaviour know to complain to the FMA? In another example, some licensed financial advisors have expressed concern that their client base comes from one community (such as the Chinese community) and do not speak English. The documents financial advisors are required to provide are all in English, and there is no obligation to translate documents into other languages. This means clients are completely reliant on their financial advisor. This also creates difficulties for financial advisors if they have to prove they believed their client was aware of the relevant investment risks when they speak little English.

2.308 According to Everett, the FMA handles these concerns pragmatically: financial advisors will not run afoul of the FMA provided they can show they explained the investment risks to the client (through business records, such as file notes) and provided the investments are simple and make sense.

2.309 However, unscrupulous financial advisors create greater difficulties. The FMA does not have the resources to conduct extensive investigations into small organisations that operate in languages other than English. Similarly, the groups being exploited may not report such misconduct to the FMA because they do not have sufficient English proficiency, they are unaware of the legal requirements, or they are simply unaware of the FMA’s existence. There is no high level strategy across the relevant government agencies which recognises and aims to address these issues.

2.310 Everett says that offshore investment scams targeting New Zealanders have become increasingly common. Anecdotally, the FMA has seen a relatively high proportion of Indian and South East Asians who have fallen victim to scams perpetrated from outside

of New Zealand, especially those luring people into foreign exchange trading or buying foreign exchange trading software. However, it is uncertain whether these customers are New Zealand-born or migrants, and it is unclear why they seem to be more susceptible to such scams (for example, whether some cultural factor is at play). Although the FMA does not have jurisdiction over scammers operating offshore, it is considering the best way to provide education about offshore investment scams, which could include providing information in other languages.

2.311 The FMA is working on raising investor awareness through an investor portal with MBIE and other relevant agencies. These resources could potentially be made available in other languages.<sup>576</sup>

## Recommendations

- Regulatory agencies need be aware that migrants from some countries with different government and business cultures may need more education on New Zealand's government and business culture.
- More assistance and education needs to be provided to Kiwis doing business with migrants to help them recognise the cultural differences in business practice, communication and values. In turn, migrants to New Zealand should receive more information on New Zealand's business culture.

## Key Point Eight: Increased Risk of Business Conflict due to Cultural Differences

2.312 Increased dealings between ethnically diverse businesses may result in a breakdown in communication where messages have been interpreted differently by people coming from different language and cultural backgrounds.<sup>577</sup> Further, cultural differences may also shape parties' expectations and understandings of conflict and the actions required to resolve it.<sup>578</sup>

2.313 The potential for difficulty in intercultural relations has been discussed extensively in the field of mediation, as well as the importance of understanding and appreciating the role of culture when mediating disputes.<sup>579</sup> Although cross-cultural commercial mediation has tended to arise in the context of cross-border business disputes, as the population becomes more superdiverse, mediators are increasingly likely to be engaged in domestic disputes between people from different ethnic, religious, linguistic and/or cultural backgrounds.<sup>580</sup>

2.314 In mediation, culture is "a set of values and beliefs acquired from learning, experiences and social upbringing, which creates implicit social rules or a code of ethics and behaviour within a specific group".<sup>581</sup> Essentially, something which is common to one culture may not be common to another – leading to different expectations and understandings between parties. Communication issues may also stem from differences in parties' verbal and non-verbal communication, language and interpretation, eye contact, silence, space and time.<sup>582</sup> It is important for cross-cultural differences to be acknowledged and addressed at the outset of the parties' business relationship, otherwise these differences, "if ignored, can become a source of conflict at the bargaining stage or later when the relationship is established" and formalised.<sup>583</sup>

2.315 For example, I have assisted a large Chinese company to settle a contractual dispute it had with a Māori company due to different understandings as to what had been agreed. The Chinese company understood that it was entering into a land conversion agreement, and that the land in question was owned by the Māori company, who would ensure the Chinese company got ownership of the land. However, in reality, the Māori company did not own the land and in fact the land was being contested by eight hapū. The Māori company had asked for the consultancy payment for making introductions and helping the Chinese company negotiate in good faith with whichever of the eight hapū might end up owning the land.

2.316 Mediation is often preferable to litigation in cross-cultural disputes, as it allows for greater responsiveness to the particular cultural needs and expectations of the parties.

The parties' cultural background may in fact influence the choice of dispute resolution process, and how the parties engage in that process.<sup>584</sup> For example, Asian cultures have a long history of engaging in alternative dispute resolution ("ADR") in preference to litigation. Mediation has been used in China for more than a thousand years to resolve disputes, as Chinese culture is "heavily influenced by the Confucian ideology that seeks to avoid conflict and embraces collectivism in preserving harmony".<sup>585</sup>

2.317 Cross-cultural issues have the potential to undermine the efficacy of ADR processes.<sup>586</sup>

As noted above, the way in which the parties perceive conflict can influence the outcome of the mediation. For example, while parties from Western cultures tend to view conflict as something that needs a final resolution, many Aboriginal communities tend to perceive conflict as an essential part of maintaining long-term relationships.<sup>587</sup> Accordingly, seeking a final resolution is considered inappropriate. The way in which the parties engage in the mediation may also be influenced by their respective cultures. Parties from Asian cultures, for instance, tend to prefer an indirect communication style, whereby key information lies in the context and must be inferred. In contrast, parties from Western cultures tend to discuss important issues explicitly, irrespective of the sensitivity of the subject matter.<sup>588</sup>

2.318 The following table summarises the general differences between the approach of Asian and Western parties in negotiating and mediating a dispute:<sup>589</sup>

**Table: General differences between approaches in negotiating and mediating a dispute**

<b>Western</b>	<b>Asian</b>
Low context (direct) communication style	High context (indirect) communication style
Low power distance (having and maintaining power is not a critical interest)	High power distance (having and maintaining power is a critical interest)
Individualism	Collectivism
Masculinity (assertive)	Femininity (cooperative)
Short-term orientation (value short-term commitments)	Long-term orientation (value long-term commitments)
Monochromatic time (limited consideration of outside factors)	Polychromic time (consideration of outside factors)
Space – far apart	Space – close
Risk takers	Risk avoiders
Universalism (systematic imposition of rules, laws and norms on all members of a society to ensure efficiency)	Particularism (searches for what is different, unique or exceptional in order to create something incomparable/of special quality)
Achievement-oriented (respect for hierarchy/status where the superior is competent/effective)	Ascription-oriented (respect for hierarchy/status for their own sake)
Specific (direct, to the point)	Diffuse (indirect, ambiguous)
Brief rapport building time (short)	Extensive rapport building time (long)
Aggressive	Passive
Contract focussed	Relationship focussed
Win-lose approach	Win-win approach
Informal approach	Formal approach
Show emotions	Hide emotions
Preference for specific agreement	Preference for general agreement
Contract is fixed	Re-negotiation is possible
Individual decision-making	Group decision-making
Logical decision-making	Emotional decision-making
All equals	One leader
Face saving	Face giving
Inductive logic	Deductive logic
Low government involvement	High government involvement
Linear-active (good listeners, deference to others' opinions, allow ideas to develop, do one thing at a time in an organised/planned manner)	Multi-active/Reactive (unplanned, people oriented, prioritise courtesy and respect, react to others' opinions once they have established others' position and have formed their own view)

2.319 Ultimately, the ability of ADR to resolve cross-cultural disputes will be subject to the ability of the mediator, the parties and their lawyers to understand and address the different cultural issues involved in the relevant dispute at all stages of the ADR process. Cultural stereotypes may be a useful starting point, but parties may deviate from these stereotypes, so it is crucial to understand the actual people involved in the dispute.<sup>590</sup> Ideally, mediators will

bridge communication and understanding gaps between the parties in order to clarify the messages being conveyed, help the parties save face, and find a way forward.<sup>591</sup> However, more assistance and education needs to be provided to Kiwis doing business with Asians, for example, to help them recognise the cultural differences in business practice, communication and values. In turn, migrants to New Zealand should receive more information on New Zealand's business culture. Negative business relations due to cultural misunderstandings are also likely to undermine trust and social capital between different cultural groups, as both groups may feel as if they have been ripped off.

2.320 The rising popularity of and preference for ADR means that more mediation services will be needed in New Zealand. As New Zealand becomes more diverse, mediators will need to be trained in CQ. Further, as global migration increases, it is likely that there will be an increasing number of disputes with global and intercultural aspects. There may need to be a particular education module on cross-cultural communication. The criteria developed below by the International Mediation Institute for mediators to gain Inter-Cultural Certification may be a helpful starting point for New Zealand institutions offering courses in mediation:<sup>592</sup>

- a. *Cultural frameworks* – Mediators must have the ability to apply at least one recognised cultural theory in order to identify relevant Cultural Focus Areas for facilitating intercultural mediations.<sup>593</sup> The theory and approach shall include an appreciation of similarities and differences among cultures.
- b. *Self-awareness* – Mediators must have the ability to recognise one's own cultural influences and their possible effect on the mediation.
- c. *Multicultural perspectives* – Mediators should have the ability to:
  - i. Recognise each participant's culturally-shaped perspectives of behaviours or events;
  - ii. Understand and appreciate participants' similar and different cultural perspectives, and possible imbalances between them;
  - iii. Manage ambiguities and mistakes that may emerge in multicultural situations; and
  - iv. Use the mediator's understandings of these possible differences and similarities to create a workable environment for all participants, including one that optimises communication among them.
- d. *Communication* – Mediators must have the ability to adjust one's own communication style to the preferred styles of participants from other cultures, and to help participants communicate optimally with each other, including establishing suitable processes to facilitate communications.
- e. *Preparation* – Mediators must be able to prepare for mediation by identifying possible cultural patterns and preferences (for example, identifying specific Cultural Focus Areas for each mediation) and designing potentially appropriate processes and possible interventions.
- f. *Managing the process* – Mediators must have the ability to detect whether, when and how cultural considerations may impact on the mediation process as the mediation progresses, and must be capable of adapting the process accordingly and designing appropriate interventions that also encompass any settlement and compliance phases.

### Survey on Intercultural Disputes in Commercial Mediation in New Zealand

2.321 Currently, there are a limited number of mediators from ethnic minorities in New Zealand. As part of the Centre's Superdiversity Stocktake, a brief survey was sent to all mediators on the New Zealand Law Society, LEADR and AMINZ databases.

### Methodology

2.322 Respondents were asked to identify their ethnicity/ethnicities and were asked to provide observations on whether they had encountered any challenges from an

increasingly diverse population in the context of commercial mediation and, if so, to elaborate on the issues encountered in such disputes. Respondents who had already received the survey from the New Zealand Law Society, AMINZ or LEADR were asked not to complete the survey twice. The following results are based on comments from 98 respondents.

## Findings

### 2.323 The first question asked mediators to identify their ethnicity or ethnicities

- The vast majority of respondents (90.8 per cent) identified as New Zealanders, New Zealand European/Pākehā or other European;
- Only 1 per cent of respondents identified as Asian, 2 per cent identified as Middle Eastern, 3.1 per cent identified as African, 5.1 per cent identified as Māori, and 6.1 per cent identified as Pacific people.<sup>594</sup>

### 2.324 The second question asked: “Have you had to deal with an increasing number of disputes arising from intercultural misunderstandings?”

- 28.6 per cent of respondents replied “Yes” to this question and 68.4 per cent replied “No”. One per cent of respondents were unsure, and 2 per cent did not answer. One respondent commented that “people are people ... the struggle for control, monetary advantage or fairness is colour blind”.

### 2.325 In regards to the third question, which asked for further comment on intercultural disputes, the following comments were made:

- Respondents reported that Asian and European disputants displayed different perspectives in terms of:
  - a. What was agreed and done – for example, different perspectives as to the enforceability of oral agreements;
  - b. Basic concepts of business honesty and cultural expectations of commercial activity – this resulted in misunderstandings about compliance with regulations (3.1 per cent attributed this to a different regulatory environment back in migrant disputants’ source countries). One respondent said that non-European groups will assert that they did not understand the underlying deal or relationship, or their obligations, despite clear evidence they did understand;
  - c. Decision-making authority (for instance, having to refer a matter to elders);
  - d. Formality in terms of business relationships (for example, the Chinese concept of guanxi, which is about relationships, compared to the more formal Western way of doing business can result in misunderstandings and a lack of trust);
  - e. Status/who gets to sit where/matters such as loss of face (particularly in Asian cultures);
  - f. Different communication style – for example, Asians did not tend to raise matters at issue directly and spoke in hypotheticals; and
  - g. Mismatch of cultural values – parties sometimes misunderstood why another party acted the way they did due to lack of awareness of cultural matters or not placing enough importance on them. Stereotyping and prejudice also played a role.

### 2.326 The types of disputes encountered by respondents included

- a. Property and business disputes between New Zealand Europeans and Asian clients;
- b. Contractual disputes, for example when disputants speak English as a second language;
- c. Issues within cultural/ethnic groups – examples given included a Chinese migrant suing a Chinese migrant lawyer for professional negligence and an Arab man suing another Arab man regarding a contractual dispute; and

- d. Disputes between iwi and farmers around land and water issues, and other disputes arising from the conflict between Māori culture, tikanga and law.
- 2.327 Finally, when respondents were asked to comment further on the challenges diversity poses in commercial mediation, the following themes emerged:
- a. There were language and cultural barriers in the interface between the mediator and the parties to a dispute, and as between the parties themselves. This often set the “context” for the dispute. Gaining intercultural awareness (or CQ) was characterised as half the battle in mediation.
  - b. One respondent mentioned that the role of interpreters in mediation ranges from pure translation to the provision of de facto cultural advice. 3.1 per cent of respondents noted that some traditional mediation techniques may not work via an interpreter, such as reflection, questions focussed on shifting perspective from first to second person and strategies to deal with people exhibiting high conflict behaviour.
  - c. Getting the right ADR practitioner is critical. Sensitivity and the ability of the mediator are often crucial to reaching a solution. However, the mediator has a cultural perspective which may make it difficult to see the conflict as having a cultural component. One respondent mentioned that sometimes assumptions are made that the professionals supporting the process should have the same ethnic background as the parties, but this assumption can be counterproductive, as the cultures of the parties can be very different even when they are ethnically similar. Another mentioned that, while it was easy to identify possible cultural misunderstandings where disputants were visually different, non-visual and non-verbal cultural differences could be easily overlooked.
  - d. Disputants from migrant communities sometimes displayed fear of being sent home and/or fear of authorities.
- 2.328 More ethnic mediators should be encouraged to train and all mediators should have some form of CQ training. Courses in cultural competency have increased in popularity in New Zealand in the past five years as ADR practitioners have come to learn the growing importance of CQ (whereas previously such skills were seen as unnecessary).<sup>595</sup>

### Recommendation

- More people from diverse backgrounds should be encouraged to train as mediators, and all mediators would benefit from training in cultural intelligence given the likely increase in disputes exacerbated by cultural misunderstanding with New Zealand’s superdiversity.

### Key Point Nine: We Need to Increase the Business Interface between Māori and Ethnic Minorities and Migrants

- 2.329 Māori businesses have already benefited from increased trade with Asia, but there remains huge potential for growth. Deeper business relations between Asians and Māori will contribute to improved social capital between these two groups, and the socio-economic position of Māori in New Zealand, which will benefit New Zealand as a whole. As is discussed further at [5.58], research shows that Māori attitudes to immigrants and immigration are consistently less positive and more negative than those of non-Māori. Better communication of the benefits that migrants could present to Māori, including through access to lucrative markets for Māori produce, would help maintain positive social capital between these two groups. Such a strategy helps diminish the sense of threat often associated with immigration.<sup>596</sup>
- 2.330 Māori are growing in political power and wealth due to Treaty settlements and the growth of Māori businesses. Provisions in settlements providing for co-governance and first options to purchase Crown land and resources give Māori a significant advantage, as evidenced by Ngāti Whātua’s litigation against the Crown for allegedly breaching their first right of refusal to surplus Crown land in Tāmaki Makaurau.<sup>597</sup> (The potential ramifications of superdiversity for the Treaty relationship are discussed below at [5.31].)

2.331 The key contributors to the Māori asset base – fishing, forestry, agriculture and tourism – are all known to be New Zealand’s biggest export earners and have a natural interface with Asia. In 2010, the asset base of enterprises in the Māori economy totalled at least \$36.9 billion. This was an increase of \$20.4 billion from the 2006 estimate of \$16.5 billion.<sup>598</sup> Post Treaty of Waitangi settlements now see Māori in control of 37 per cent of New Zealand’s total fish quota. Māori also control 36 per cent of New Zealand’s forests. Iwi are investing in telecommunications, infrastructure, retail property and tourism.<sup>599</sup> If the Māori economy invests successfully in science and innovation, BERL predicts an additional \$12.1 billion per annum in GDP by 2061.<sup>600</sup>

2.332 In the latest Statistics New Zealand report on Māori authorities in 2015, the asset base of Māori authorities continued to grow in 2013, up 9.1 per cent from 2012 to reach \$12.5 billion.<sup>601</sup> The total income for Māori authorities increased \$430 million (18 per cent) from 2012, to reach \$2.9 billion in 2013.<sup>602</sup> In 2014, Māori authorities exported \$526 million in goods to 58 countries (up from 54 in 2013), up \$16 million (3.1 per cent) from 2013.

2.333 Kaimoana was the top export commodity, followed by dairy, and meat and fish preparations. The growth and diversification into new export markets:<sup>603</sup>

*... comes not only from a strong, responsibly-managed asset base but also from investing in business and cultural relationships in external markets. Products and services produced from the Māori asset base for export are associated with Māori branding, providing a point of difference in global markets.*

2.334 Māori are reaping benefits by welcoming immigrants from a diverse number of countries, not necessarily on the Treaty ground, but rather in the boardroom and in the entrepreneurial space.<sup>604</sup> An ANZ survey of 3,500 businesses in 2015 found that 14 per cent of Māori businesses planned to operate internationally in the next two years, compared with 5 per cent of non-Māori respondents.<sup>605</sup> Another 28 per cent had aspirations to operate internationally in the future, more than three times the number of non-Māori respondents.

2.335 In 2014, China was the top export partner for Māori authorities, representing 44 per cent of exports, a total of \$231 million.<sup>606</sup> Māori are already investing and working with Chinese businesses in a range of sectors, including:<sup>607</sup>

- a. Māori-owned New Zealand Manuka’s partnership with the Chinese pharmaceutical powerhouse Tong Ren Tang Pharmaceuticals to retail New Zealand’s Manuka’s products through 1,700 outlets in China.
- b. Ngāi Tahu has joined Sichuan Agricultural giant New Hope Group in an innovative joint venture to take an equity in New Zealand’s largest rural services company, Agria.
- c. Leaders of Ngāti Kahungunu have secured deals to send five tonnes of dried mussel meat to the Shandong Province.
- d. Māori iwi with major forestry interests have been in talks with China National Building and Materials to discuss a possible future partnership that could see major plants established and the creation of hundreds of jobs.
- e. Chinese investors through Axin New Zealand are working alongside three northern tribes, including Ngāti Whātua, on New Zealand’s first Māori-owned fibre optic network that will soon connect Auckland and Whangarei.

2.336 The Crown–Māori Economic Growth Partnership Strategy to 2040 identified the need for Māori to seek greater connectivity and new opportunities abroad to improve their socio-economic position in New Zealand – and those new opportunities will increasingly lie in Asia.<sup>608</sup> Earlier this year, China announced its plans to establish the Asian Infrastructure Investment Bank, a multilateral development bank that will invest in new infrastructure across Asia. New Zealand has already agreed to become a founding member of the Asian Infrastructure Investment Bank.<sup>609</sup>

2.337 The Government also recently announced the New Zealand Investment Attraction Strategy, a national strategy aimed at attracting overseas business investment.<sup>610</sup> The

Strategy outlines a series of “cross-cutting actions” across multiple government departments to support the underlying investment attraction infrastructure, which includes a commitment to grow the Māori economy.<sup>611</sup> The Strategy will:<sup>612</sup>

*... ensure the whole of New Zealand benefits from our investment attraction efforts by working with regional and Māori partners to progress investment opportunities and enable sufficient investment attraction capability in the regions to help draw in and connect investors to regional opportunities.*

2.338 Further, within the next seven years, China is predicted to overtake Australia as New Zealand’s biggest tourism market in terms of expenditure, increasing to 23.6 per cent of New Zealand’s tourism spending by 2021 (up from 14 per cent in 2014).<sup>613</sup> Māori already derive significant income from tourism, and New Zealand Māori Tourism aims to grow the industry from its current annual foreign exchange earnings of \$550 million to a \$2 billion target by 2025. It sees maximising links with China as key to achieving that target.<sup>614</sup>

2.339 Māori business can therefore benefit from the “diversity dividend”. The challenge for Māori is to ask: What can we turn our asset base into? How can we grow those assets? And how can we future proof our Taniwha Economy for future generations? It is in answering these questions that the importance of pathways with Asia becomes clear. Yet, a recent report by the Independent Māori Statutory Board into the Māori economy in Auckland identified potential for significant growth, but none of the report’s recommendations mentioned the need to strengthen the economic connection with Asian communities (either domestically or overseas) or to leverage off Auckland’s status as New Zealand’s gateway of migration.<sup>615</sup>

2.340 Encouragement needs to take the form of greater assistance from TPK, for example, and the OEC, to ensure that deals entered into between the parties are well understood on both sides, that there are shared understandings of the deal entered into and that the contract succeeds.

#### Recommendation

- Organisations such as Te Puni Kōkiri, the Office of Ethnic Communities, New Zealand Trade and Enterprise and the Ministry of Business, Innovation and Employment need to encourage Māori and Asian companies to do business together and to help reduce any cultural gulf which may impede or undermine business deals.

#### Key Point Ten: Business Needs Government to Keep Social Capital High so That it Can Keep Financial Capital

2.341 Business needs government to invest in social capital so that financial capital from migrants remains high, by providing settlement services, legal protections in the labour market and employment law protections for diverse employees, and ensuring New Zealanders understand the benefits migrants can bring.

2.342 Social capital has been defined as:<sup>616</sup>

*... the social resource that is embodied in the relations between people. It resides in and stems from the contact, communication, sharing, co-operation and trust that are inherent in ongoing relationships. It is described as “capital” because it can be accumulated over time and then drawn on in the future for use in achieving certain goals. Social capital is a collective resource rather than one accruing to an individual. However, the circumstances surrounding an individual or household may result in their having access to greater or lesser stocks of the community’s social capital.*

2.343 It is important for businesses to talk to their superdiverse customers and tell government they need to keep investing in social capital so that migrants keep investing, and sending their children to New Zealand to study as international students, and continue to visit as tourists.

## Social Capital, Cohesiveness and Nationhood

2.344 The Treasury has emphasised the importance of social capital and building social infrastructure in its report *Working Towards Higher Living Standards for New Zealanders*.<sup>617</sup> “Social infrastructure” describes the features of social organisation that can improve the efficiency of society by facilitating coordinated actions, such as trust, norms and networks.<sup>618</sup> It is similar to the concept of social capital, which the OECD defines as “networks, together with shared norms, values and understanding which facilitate cooperation amongst groups”.<sup>619</sup> Social capital is a “prerequisite to social cohesion because social cohesion requires high levels of cooperative social interaction amongst citizens, groups and institutions based on trust and respect”.<sup>620</sup> Accordingly, trust is typically treated as representative of the level of social infrastructure or social capital present in a community.

2.345 In 2013, the Treasury noted in its *Living Standards: A Short Guide to Social Infrastructure* that:<sup>621</sup>

*By international standards, New Zealand is seen as having relatively high levels of social infrastructure, but this should not be taken for granted and there is still room for improvement in some areas. It may be that for some key outcomes the government wants to achieve, the lack of social infrastructure is the binding constraint to improvements.*

2.346 In a report for the Chief Executives Governance Group, *Review of Central Government Policy, Implementation, Strategy and Leadership Effectiveness in Auckland*, former Auckland Council CEO, Doug Mackay, noted that:<sup>622</sup>

*... ethnic diversity can increase social distrust, crime and lead to discrimination, division and, ultimately, unrest. The result of poorly settled migrants can be generational cycles of social cost and lost economic opportunity. There are signs now in Auckland of increasing discrimination of recent migrants from Asia. As a result, they withdraw back into their communities. Should this continue, there is the potential for Auckland to become increasingly segregated.*

2.347 The Treasury noted that:<sup>623</sup>

*Low levels of social infrastructure:*

- *may limit social and economic opportunities, cause markets to work less efficiently and marginalise some groups*
- *can reinforce existing inequalities, and*
- *may lead to less growth in the level of living standards than there otherwise would be, all other things being equal.*

*Because of its impacts, social infrastructure (and variations on this theme) is increasingly being seen as important in a policy context.*

2.348 As the figures on election voting indicate, a sense of belonging is key to integration and social cohesion.<sup>624</sup> Inclusion requires adjustment by both ethnic minorities or immigrants and the host community.<sup>625</sup> Race Relations Commissioner Dame Susan Devoy has remarked that “by 2040, there will be no one majority ethnic group in Auckland, and we must prepare for these changes”.<sup>626</sup> The Royal Society of New Zealand’s report *Our Futures* asks the pertinent question whether the thinking of those of European descent has kept pace. The report’s authors state that: “A longstanding and deep-seated desire on the part of the majority community to identify all New Zealanders with a single set of values and practices will be even less apt than in the past.”<sup>627</sup>

2.349 Social cohesion also needs to be encouraged between migrants and Māori and Pacific communities. As discussed at [5.58], Māori tend to hold more negative perceptions of Asians than other New Zealanders, due in part to the lack of engagement between Māori and migrant communities, but also because Māori tend to perceive migrants as a threat for resources and political priority. Similar concerns have been reported by Pacific people in the context of resource allocation for Pacific language learning (see discussion at [3.118]).

2.350 The superdiversity challenges to social capital in Auckland are compounded by a growing divide between Auckland's rapid growth and diversity and the rest of the country's decline and lesser diversity. As discussed above at [1.17], a recent Salvation Army study found that, "in general, Aucklanders will be younger, wealthier, better skilled and more ethnically diverse than the rest of New Zealand. Within such differences are the seeds for a growing divide in values and expectations".<sup>628</sup> This increases the risks to social capital.

2.351 Official policies based on the concepts of multiculturalism and social cohesion have been criticised by some academics, who prefer the notion of "commonplace diversity".<sup>629</sup> Wessendorf defines commonplace diversity as a "normalcy of diversity", where "diversity has become habitual and part of the everyday human landscape ... rather than seeing cultural diversity as something particularly special, it forms out of the everyday reality and is not perceived as unusual".<sup>630</sup> However, as is discussed at [3.16], the current focus in New Zealand settlement policy is on social cohesion and integration.

2.352 It may be that a new concept of capital is required, one that merges the concept of trust implicit in financial investment with that of the sense of long-term common cause/ownership implicit in social capital; both are about future commitments and promises.

### Social Bridging by Longer-Term Migrants

2.353 Superdiversity raises the need to improve and accelerate the "social bridging" of minority groups.<sup>631</sup> Social bridging is where New Zealand-based ethnic minorities (who were either born in New Zealand or have migrated and integrated into local communities) act as bridges between mainstream New Zealanders and recent migrants. As discussed at [1.45], young people in particular will play an important role in New Zealand's cultural evolution, especially the 1.5 generation. We also need to better utilise Asian New Zealanders who have lived in New Zealand for a significant period to act as "bridges" between the mainstream Pākehā populations, the Māori and Pacific populations and new migrants.<sup>632</sup> This was the idea behind the creation of organisations such as New Zealand Asian Leaders.<sup>633</sup>

### Balmoral Shops – Dominion Road Case Study

2.354 The importance of social bridging and the need for government involvement in building social capital is illustrated by the findings of a 2015 Auckland Council study on the Balmoral shops, an ethnic precinct in Auckland with a multitude of Asian food outlets.<sup>634</sup> The study found that:

- a. Although the non-Chinese customers interviewed supported the idea of the precinct being called "Auckland's Chinatown", Chinese customers were opposed to the idea because they felt that "such branding would problematically mark Chinese people as different".<sup>635</sup>
- b. The majority of non-Chinese shoppers thought the precinct was a good place for ethnic groups to mix, but Chinese respondents were far less certain. Some Chinese respondents questioned whether eating different foods in a shared restaurant space amounted to social integration, while others were unsure whether New Zealanders really liked Chinese people and considered that the precinct did not contain enough "Kiwi stuff".
- c. Non-Chinese respondents reported that the precinct was a place for Asian or Chinese people rather than the broader community. Although some interviewed viewed this in a positive sense, others considered it "alienating" or "uninviting".

2.355 The report noted that, in contrast to other countries such as Australia and Canada, there has been little attempt at either central or local government level in New Zealand to market ethnic precincts to appeal to a broad and diverse customer base. Overseas, the ethnic diversity of these areas serves as a "commodity" which can be capitalised on in order to extend economic productivity, particularly in tourist revenue, for example through ethnic

markers such as Chinese gates and lanterns.<sup>636</sup> The report concluded that, in order to ensure that all Aucklanders could participate equally in the city's growing and diverse economy and enjoy its benefits (that is, obtain financial capital), Auckland Council needed to foster a stronger sense of community and belonging (that is, build social capital). Recommendations included promoting local cultural events and projects, engaging with the local community to find out how to improve perceptions of safety in the area, and working with the business community when planning events so as to leverage the expertise of local business owners and ensure their active participation in such events.<sup>637</sup> The potential to promote opportunities for social cohesion through "place-space" initiatives in urban governance is also being examined as part of the Max Planck Institute's global diversity study.<sup>638</sup>

2.356 Various local and central government initiatives that aim to promote social cohesion and integration are either being developed or have already been implemented, as discussed at in the Stocktake of public agencies in **Chapter Five**. A sense of security and acceptance of migrants by Māori is a vital precursor to New Zealand as a whole embracing multiculturalism.<sup>639</sup>

## Overseas Investment

2.357 Foreign investment in New Zealand, and how it is regulated, is a key example of how the financial capital benefits from superdiversity can challenge social capital.

2.358 On the one hand, New Zealand benefits from access to foreign capital for investment. Foreign investors enable asset holders in New Zealand, such as farmers, to obtain prices for their property they would not be able to obtain from an exclusively domestic market. New Zealand has obtained over \$100 billion in investment since 2005 that would otherwise not have been available to New Zealanders.

2.359 On the other hand, foreign investment in New Zealand, if not well managed, threatens social capital because of public concerns about losing control of strategic assets, changes to New Zealand's value system, and xenophobia.

## Access to Financial Capital

2.360 It has been claimed that the "relaxation" of the rules in 2005 – whereby Overseas Investment Office ("OIO") involvement was only required when foreign investment involved expenditure of more than \$100 million – has seen foreign ownership in New Zealand increase from \$9.7 billion in 1989 to \$101 billion in 2014.<sup>640</sup> Between 1989 and 2007, foreign ownership of the New Zealand share market increased from 19 per cent to 41 per cent but has since dropped back to 33 per cent.<sup>641</sup>

2.361 It is difficult to accurately measure foreign direct investment ("FDI") for a number of reasons, including:<sup>642</sup>

- a. A number of OIO transactions are deemed confidential;
- b. Some New Zealand listed companies may be included in data sets because their share register contains overseas investors;
- c. Takeovers occurring in overseas markets and initial public offerings can trigger OIO applications because of a change in control;
- d. Certain Australian investors are no longer required to make an OIO application where the consideration is less than \$477 million, and the investment does not include sensitive land or fishing quota;
- e. Not all OIO decisions necessarily proceed to settlement or result in investment;
- f. In small markets such as New Zealand, just one large investment can change which country tops the list of FDI by source country.

2.362 According to KPMG, Canada was New Zealand's most significant source of FDI for the 2013/2014 period (comprising 22 per cent of total FDI).<sup>643</sup> This was the result of two major transactions, namely the sale of a property portfolio of 18 assets held by AMP Capital

Property Portfolio to the Public Sector Pension Investment Board (“PSP”), and an increase in PSP’s investment in Kaingaroa Timberlands Limited. Approximately 59 per cent of FDI originated from the United States, Canada, Australia and Europe, with Asia accounting for 33 per cent of total FDI (up from 16 per cent since 2012). China and Japan remained the key sources of FDI from Asia, making up 42 per cent and 20 per cent of total investment from Asia.<sup>644</sup> The focus of Chinese investment was on agribusiness (49 per cent of total agribusiness investment), while Canada and the United States made significant confidential investments in forestry in the reporting period.<sup>645</sup> The United States was the largest acquirer of land for the 2013–2014 period (46 per cent of land acquisitions), followed by China (11 per cent) and The Netherlands (9 per cent).

### Threats to Social Capital from Overseas Investment

2.363 The controversy surrounding the volume of land, business and strategic assets approved for purchase by foreigners has eroded trust, and thus social capital.

2.364 Higher levels of foreign investment have generated public controversy. At the time of writing, the Government had just declined the sale of Lochinver Station, a farming station near Taupo, to China’s Shanghai Pengxin Group, against the recommendation of the OIO (though Chinese investors are still expressing interest in New Zealand farmland, despite the decision).<sup>646</sup> That decision did not involve any changes to the rules governing overseas investments in sensitive land. But it did appear to signal a change in approach, with Ministers using the discretion conferred on them under the Overseas Investment Act 2005 to decline the application on the grounds that it would not generate sufficient benefits for New Zealand. In particular, the decision raises questions about how the OIO will apply the counter-factual test used for assessing the benefits of a proposed transaction.

2.365 The decision is likely to deter some overseas investors from purchasing sensitive land. The cost and delay of seeking consent is already a disincentive, and an increase in regulatory uncertainty will increase the perception that it is too difficult to buy sensitive land in New Zealand. But it should be borne in mind that the Lochinver decision was highly unusual in its scale (it involved over 13,000 ha of land) and it therefore remains to be seen whether the decision will have any long-term consequences.

2.366 An Asia New Zealand Foundation survey undertaken in 2014 reported that fewer New Zealanders believed that investment from Asia would have positive impacts on New Zealand’s economy – down from 74 per cent the previous year to 64 per cent.<sup>647</sup> Forty-one per cent of respondents also thought that New Zealand was allowing too much investment from Asia, up from 36 per cent the previous year.<sup>648</sup> This is despite the fact that, as discussed above, the majority of FDI in New Zealand comes from Australia, Europe, the United States, Canada and the United Kingdom. According to a BNZ survey, 54 per cent of overseas home buyers come from Australia, Europe, the United Kingdom and South Africa, not Asia.<sup>649</sup>

2.367 Auckland’s housing shortage has also been in the media spotlight this year. The latest OECD economic survey on New Zealand noted that the projected annual demographic housing demand in Auckland was roughly double the pace of recent building permit issuance.<sup>650</sup>

2.368 Although there has been a housing supply deficit for some time, migrant demand for housing has contributed to the issue.<sup>651</sup> There is concern from some members of the public that migrants coming to New Zealand, particularly from Asia, with capital to inject into the market are able to outspend New Zealand-born residents in the property market.<sup>652</sup> The decision made under this year’s Budget to more rigorously monitor existing tax rules for property traders, particularly foreign buyers, discussed in more detail below, reflects the political tension among some Auckland MPs in this area.<sup>653</sup>

2.369 In July this year, Labour’s housing spokesman, Phil Twyford, released leaked real estate data to the media suggesting that people of Chinese descent accounted for 39.5 per cent of the property transactions in Auckland between February and April 2015.<sup>654</sup> Many expressed concern not only about the legitimacy and accuracy of the data (which was compiled by comparing Census data to buyers’ surnames on the electoral roll), but about Labour’s approach to the issue of foreign ownership, which was seen to target the entire Chinese

community, not just foreign buyers.<sup>655</sup> This illustrates the difficulty in ensuring that financial capital does not come at the expense of social capital.

2.370 Professor Paul Spoonley has remarked that, while the media has exaggerated the extent of the issue, increasing migrant demand for housing has nevertheless added a new dimension to the housing market. Around half of the growth in households between 2011 and 2031 is projected to take place in Auckland.<sup>656</sup> If the high rates of migration are the new norm, then Auckland in particular will need to adjust its housing policies, as the status quo is unsustainable.<sup>657</sup> However, as discussed at [1.8], New Zealand's net migration is volatile, and in the past 20 years has ranged between a net gain of 41,600 one year to a net loss of 12,600. As noted in a Productivity Commission inquiry into using land for housing, "this volatility can result in unpredictable fluctuations in housing demand".<sup>658</sup> Other factors such as the increase in demand for one-person and couple-only households, driven in part by New Zealand's ageing population, has also contributed to the growing imbalance between supply and demand and rising house prices.<sup>659</sup> The issue is, ultimately, a multifaceted one.

2.371 The Government also recently proposed to release several hundred hectares of Crown land in the Auckland region for development. In addition, the Government is considering opening up the skilled migrant category to allow migrant carpenters and builders to assist with the development, as was done in the Canterbury rebuild.<sup>660</sup>

2.372 Historically, there have been three key drivers behind controversy concerning overseas investment in New Zealand and consequent regulatory change: strategic assets, national identity and xenophobia.

### Strategic Assets

2.373 Control of assets perceived as "strategic", such as airports, has caused public concern in the past. This concern is not unusual. Governments, such as those in Australia and the United States, tend to be extremely anxious to retain control over key assets which are important to national security.<sup>661</sup> For example, foreign investors were recently ordered to sell six properties valued between A\$152,000 and A\$1.86 million in Sydney, Brisbane and Perth.<sup>662</sup> The buyers broke Australia's prohibition on foreign investors purchasing existing homes. New Zealand's legislation, however, does not identify what assets might be considered strategic, or clearly address how concerns about ownership might be dealt with. This raises the question, should we be more concerned about overseas investors being able to control certain industries?

### Value System/National Identity

2.374 The large-scale "buying-up" of land by foreigners, as the media often portrays it, taps into fears informed by a settler mentality held by New Zealanders that they are losing control over their own land. With no chance of owning land in Britain, British settlers came to New Zealand to secure land and work hard. The freedom with which land was acquired and subsequently farmed informs New Zealanders' relationship with the land. When large tracts of land are acquired by foreigners, New Zealanders feel they are losing control and autonomy – tapping into a fear of being locked out again. Local communities, especially, want to know that they are not losing control when foreign investors buy up rural land around them – they want to be reassured that their futures are secure.

### Xenophobia

2.375 Finally, controversy surrounding overseas investment proposals in the past appears to have been informed, at least in part, by a sense of xenophobia – a fear of losing control over our land to people who "look different", and thus do not understand our culture.

2.376 Overall, what we have seen over the course of the OIO's operation are periodic changes to the overseas investment regulations and rules to add more criteria in a process of "accretion". There are now around 30 criteria requirements to meet in the law and regulations. In practice, this does not necessarily mean that the bar is higher for applicants, but it does mean that applications are more complicated. This has been accompanied by a tightening up of compliance monitoring by the OIO: the OIO is actively checking whether the relevant

investor is complying with the conditions of its consent, and is making compulsory divestment a condition for failure to do so.<sup>663</sup>

2.377 As part of its Budget package, the Government has announced changes to property taxation rules, including requiring the registration of foreign investors.<sup>664</sup> From 1 October 2015, the following changes will be implemented:

- All non-residents buying and selling property other than their main home must provide a New Zealand IRD number as part of the land transfer process with Land Information New Zealand;
- All non-resident buyers and sellers must provide their tax identification number from their home country, along with current identification requirements such as a passport; and
- Non-residents must have a New Zealand bank account before they can get a New Zealand IRD number, so as to ensure all New Zealand's anti-money laundering rules apply.

2.378 Despite this, concerns have been raised by some MPs and the banking industry that foreign buyers may be able to get around the Government's attempts to gather information by opening bank accounts which are then never used.<sup>665</sup> The Government has since indicated that, depending on whether the data collected indicates that high numbers of foreigners are buying in New Zealand, it may be open to following Australia's approach of imposing restrictions on foreign buyers.<sup>666</sup>

## Recommendations

- Government agencies such as the OEC and MBIE should publish information about the value of diversity for business, and should increase initiatives such as conferences and knowledge workshops to encourage interface between ethnic and mainstream businesses as New Zealand's superdiversity grows.
- Presently, financial or physical capital is officially defined as "fixed assets in production processes, which can be tangible (for example, machinery, buildings, houses, roads) or intangible (for example, computer software, intellectual property)" and includes "equities, assets and liabilities that have a degree of liquidity, such as bank deposits, debt, and government bonds".<sup>667</sup> The potential for low social capital to undermine financial capital indicates the need to develop a new definition of "financial capital" with a social capital component in order to reflect the interrelationship between the two concepts.
- There needs to be an active investment by government to ensure racial harmony in a superdiverse society. This includes ensuring the HRC is adequately funded to carry out its primary statutory function to advocate and promote respect for, and an understanding and appreciation of, human rights, and to encourage the maintenance and development of harmonious relations among diverse groups in New Zealand society.<sup>668</sup> This role will be more challenging as New Zealand's superdiversity grows. Superdiversity can create multiple potential challenge points.



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- 328 See M Nathan "The economics of cultural diversity" (presentation to Pathways, Circuits and Crossroads Conference, Westpac Stadium, Wellington, 23 July 2015). High rates of migrant entrepreneurship have also been observed overseas, though there has been little quantitative analysis on this subject to date. For studies on Chinese businesses, see C Meares, E Ho, R Peace and P Spoonley *Bamboo Networks: Chinese Employers and Employees in Auckland* (Integration of Immigrants Programme, Massey University, 2010); P Spoonley and C Meares *Chinese Businesses and the Transformation of Auckland* (Asia New Zealand Foundation, 2009); W Liu *An Exploratory Case Study of Chinese Immigrant Entrepreneurship in New Zealand* (Massey University Research Report (MBS), 2000); H Peter de Vries "The influence of migration, settlement, cultural and business factors on immigrant entrepreneurship in New Zealand" (PhD thesis (Management), University

- of Canterbury, 2007); Z Zhang "The home-country's role in shaping Chinese immigrant entrepreneurship" (PhD thesis, Auckland University of Technology, 2010). Similar challenges have been reported by Korean and Indian businesses. For studies on Korean businesses, see H Yoon and S Yim "An analysis of occupations of Korean immigrants in Auckland, New Zealand" (1997) 32(4) *Journal of the Korean Geographical Society* 129; J Lidgard and HK Yoon "The employment experiences of recent Korean immigrants in New Zealand" in PS Morrison (ed) *Labour, Employment and Work in New Zealand: Proceedings of the English Conference* (8th Conference, 1998) 263; DC Kim and HK Yoon "Reality in paradise: A pilot study of Korean immigrants in New Zealand using the 1996 census" in Y Ishikawa and A Montanari (eds) *The New Geography of Human Mobility – Inequality Trends* (IGU Home of Geography, Rome, 2003) 85; C Meares, E Ho, R Peace and P Spoonley *Kimchi Networks: Korean Employers and Employees in Auckland* (Integration of Immigrants Programme, Massey University, 2010). For studies on Indian businesses, see E Pio and C Essers "Professional migrant women decentring otherness: A transnational perspective" (2014) 25 *British Journal of Management* 252; J Lewin and others *Namaste New Zealand: Indian Employers and Employees in Auckland* (Research Report No 5, Massey University/Waikato University, 2011); A Paulose "Motivation to become entrepreneurs: The case of Indian immigrants to New Zealand" (Master's thesis in Business, Unitec, 2011); H Peter de Vries "The influence of migration, settlement, cultural and business factors on immigrant entrepreneurship in New Zealand" (PhD thesis (Management), University of Canterbury, 2007); E Pio "Indian women entrepreneurs in New Zealand" (2007) 1(3) *International Journal of Business and Globalisation* 345; H Peter de Vries "Do Indian immigrant entrepreneurs residing in different host countries display the same behavioural patterns?" (2012) 6(2) *Journal of Enterprising Communities* 138.
- 329 S Yuan, T Cain and P Spoonley *Immigrant Entrepreneurship and Tax Compliance* (Inland Revenue Department, June 2013) at 20. Similar challenges were reported by ethnic migrant female entrepreneurs in a 2014 study. See V Wei Verheijen, H Nguyen and B Chin "The making of ethnic migrant women entrepreneurs in New Zealand" (2014) 23(3) *Int J Entrepreneurship and Small Business* 296.
- 330 S Yuan, T Cain and P Spoonley *Immigrant Entrepreneurship and Tax Compliance* (Inland Revenue Department, June 2013) at 21.
- 331 S Yuan, T Cain and P Spoonley *Immigrant Entrepreneurship and Tax Compliance* (Inland Revenue Department, June 2013) at 21.
- 332 See Statistics New Zealand "2013 Census ethnic group profiles" <[www.stats.govt.nz](http://www.stats.govt.nz)>.
- 333 T Cain and others *Half Way House: The Dominion Road Ethnic Precinct* (Massey University/Waikato University, 2011) at 45.
- 334 T Cain and P Spoonley *Making it Work: The Mixed Embeddedness of Immigrant Entrepreneurs in New Zealand* (IZA Discussion Paper No 7332, Institute for the Study of Labor, 2013) at 22–23.
- 335 T Cain and P Spoonley *Making it Work: The Mixed Embeddedness of Immigrant Entrepreneurs in New Zealand* (IZA Discussion Paper No 7332, Institute for the Study of Labor, 2013) at 23.
- 336 Inland Revenue Department *Understanding Migrant Businesses* (2015) at 1.
- 337 C Meares, E Ho, R Peace and P Spoonley *Bamboo Networks: Chinese Employers and Employees in Auckland* (Integration of Immigrants Programme, Massey University, 2010).
- 338 T Cain and P Spoonley *Making it Work: The Mixed Embeddedness of Immigrant Entrepreneurs in New Zealand* (IZA Discussion Paper No 7332, Institute for the Study of Labor, 2013) at 23.
- 339 B Watson and others *Bangers 'n' Mash: British Employers and Employees in Auckland and Hamilton* (Integration of Immigrants Programme Research Report No 7, 2011) at 11.
- 340 Immigration New Zealand "Points scale for an Entrepreneur Work Visa" (27 November 2014) <[www.immigration.govt.nz](http://www.immigration.govt.nz)>.
- 341 C Taylor "Immigration Outcomes of International Tertiary Students in New Zealand" (presentation to Pathways, Circuits and Crossroads Conference, Westpac Stadium, Wellington, 24 July 2015).
- 342 The number of Indian students transitioning overtook the number of Chinese students transitioning in 2009.
- 343 A full list of the prohibited grounds of discrimination in New Zealand is located under s 21 of the Human Rights Act 1993. See also s 19 of the New Zealand Bill of Rights Act 1990. The legal framework for the protection of minority rights is discussed in Chapter Four.
- 344 *McAlister v Air New Zealand Ltd* [2009] NZSC 78, [2012] 1 NZLR 153.
- 345 Statistics New Zealand "New Zealand General Social Survey: 2014" (26 May 2015) <[www.stats.govt.nz](http://www.stats.govt.nz)>.
- 346 Interview with Pele Walker, Chief Mediator, Human Rights Commission, regarding cross-cultural disputes in New Zealand (27 July 2015).
- 347 Interview with Pele Walker, Chief Mediator, Human Rights Commission, regarding cross-cultural disputes in New Zealand (27 July 2015).
- 348 Email from Dame Susan Devoy (Race Relations Commissioner) to Mai Chen regarding discrimination

- statistics (10 August 2015). For a discussion of the controversy surrounding the Auckland housing market and overseas buyers, see [2.363].
- 349 For example, 42 per cent of complainants to the HRC did not report their ethnic identity in 2014; Email from Pele Walker, Chief Mediator, Human Rights Commission to Mai Chen (7 August 2015).
- 350 This has been documented in a number of contexts. See for example Parliamentary and Health Service Ombudsman (UK) "Ombudsman encourages South Asian and Muslim women to complain for change" (press release, 24 September 2014); E Ngai and others "Consumer complaint behaviour of Asians and non-Asians about hotel services: An empirical analysis" (2007) 41 *European Journal of Marketing* 1375; E Ekiz and N Au "Comparing Chinese and American attitudes towards complaining" (2011) 23(3) *International Journal of Contemporary Hospitality Management* 327; M Bismark and others "Relationship between complaints and quality of care in New Zealand: A descriptive analysis of complainants and non-complainants following adverse events" (2006) 15(1) *Qual Saf Health Care* 17; A Tae-Hyun Kim "Culture matters: Cultural differences in the reporting of employment discrimination claims" (2012) 20 *Wm & Mary Bill Rts J* 405.
- 351 Statistics New Zealand "Working together: Racial discrimination in New Zealand" (10 September 2012) <[www.stats.govt.nz](http://www.stats.govt.nz)>.
- 352 Human Rights Commission *UMR Omnibus Results Late November 2011* (November 2011) at 8.
- 353 Race Relations Commissioner Susan Devoy "Racism – does it impact on Auckland as a diverse city?" (speech to Ethnic Peoples Advisory Panel Conference on Racism, Auckland University of Technology, 27 April 2013).
- 354 Mediaworks "Kiwis Say NZ is a Racist Country on TV3's the Vote" (press release, 26 April 2013).
- 355 AN Girling, JH Liu and C Ward *Confident, Equal and Proud? A Discussion Paper on the Barriers Asians Face to Equality in New Zealand* (Human Rights Commission, August 2010) at 9.
- 356 See generally AN Girling, JH Liu and C Ward *Confident, Equal and Proud? A Discussion Paper on the Barriers Asians Face to Equality in New Zealand* (Human Rights Commission, August 2010). For example, 81 per cent of Asians in the Nelson Tasman area had experienced racism personally, and 86 per cent had witnessed racist incidents.
- 357 Ethnic Peoples Advisory Panel *Open Agenda* (18 April 2013) at 4.
- 358 See M Jasperse and C Ward "Identity, perceived religious discrimination, and psychological well-being in Muslim immigrant women" (2011) 61 *Applied Psychology* 250 at 253.
- 359 See for instance N Papatsoumas "Attack on tourist as crash fury escalates" *New Zealand Herald* (online ed, 28 February 2015).
- 360 See A Graycar *Racism and the Tertiary Student Experience in Australia* (Academy of the Social Sciences in Australia, Occasional Paper 5/2010, Canberra, 2010) at 3–4.
- 361 Ministry of Education *New Zealand PTE Sector: International Student Private Providers Barometer Academic Year 2012* (2012) at [11]; Ministry of Education *New Zealand Universities: The International Student Barometer 2011* (2011) at 5; Ministry of Education *New Zealand ITP Sector: The International Student Barometer 2011* (2011) at 6; Ministry of Education *New Zealand School Sector: Student Survey for Schools Academic Year 2012* (2012) at [14]; Ministry of Education *New Zealand ILP Sector: English Language Barometer Academic Year 2012* (2012) at [9]. See also A Gererosa and others *The Satisfaction of International Students in New Zealand Universities and ITPs* (Ministry of Education, January 2013); Department of Labour *Life After Study: International Students' Settlement Experiences in New Zealand* (2010) at 27.
- 362 W Friesen *Asian Auckland: The Multiple Meanings of Diversity* (Asia New Zealand Foundation, February 2015) at 9. For a complete index of laws and policies affecting the Chinese population between 1871 and 1997, see N Murphy *Guide to Laws and Policies Relating to the Chinese in New Zealand 1871–1997* (New Zealand Chinese Association, Wellington, 2008). See R Bedford "Review of Sean Mallon, Kolokesa Mahina-Tuai and Damon Salesa (eds) *Tangata o le Moana: New Zealand and the People of the Pacific* (Te Papa Press, Wellington, 2012)" (2015) 30(1) *New Zealand Sociology* 215 for a discussion of discriminatory laws against Pacific people in New Zealand.
- 363 Interview with Dr Anwar Ghani, President of the Federation of Islamic Associations of New Zealand (27 March 2015).
- 364 United Nations Committee on the Elimination of Racial Discrimination *Concluding Observations of the Committee on the Elimination of Racial Discrimination CER/C/NZL/CO/18-20* (2013) at [16]. See also Ethnic Peoples Advisory Panel *Open Addendum Agenda* (23 May 2013) at 1, where the Auckland Council Ethnic Peoples Advisory Panel remarked that "discrimination in employment is one of the biggest issues facing migrant communities and those from refugee backgrounds".
- 365 Human Rights Commission *Annual Report 2014* (2014) at 29; Email from Pele Walker, Chief Mediator, Human Rights Commission to Mai Chen regarding unlawful discrimination statistics (7 August 2015).
- 366 Tracking Equality at Work "Complaints pre-employment by grounds of discrimination" (2014) <[tracking-equality.hrc.co.nz](http://tracking-equality.hrc.co.nz)>.

- 367 Tracking Equality at Work "Complaints in employment by grounds of discrimination" (2014) <tracking-equality.hrc.co.nz>.
- 368 Email from Pele Walker, Chief Mediator, Human Rights Commission to Mai Chen (7 August 2015).
- 369 B Daldy, J Poot and M Roskrug "Perception of workplace discrimination among immigrants and native born New Zealanders (2013) 16(1) Australian Journal of Labour Economics 137.
- 370 B Daldy, J Poot and M Roskrug "Perception of workplace discrimination among immigrants and native born New Zealanders (2013) 16(1) Australian Journal of Labour Economics 137 at 146. Although there were no major differences between the regions, discrimination levels were lower in the Wellington region, which the authors of the survey attributed to the fact that the public service (which makes up around 30 per cent of employment) is more likely to "adhere more strongly to equal employment opportunities and human rights legislation": at 148.
- 371 B Daldy, J Poot and M Roskrug "Perception of workplace discrimination among immigrants and native born New Zealanders (2013) 16(1) Australian Journal of Labour Economics 137 at 151. There is considerable academic literature documenting the "double disadvantage" migrant women face in a variety of contexts, although experience varies depending on country. For example, see Ascend Pan-Asian Leaders *Hidden in Plain Sight: Asian American Leaders in Silicon Valley* (May 2015); Vanderbilt University "The new 'double disadvantage': Where you're born doesn't matter as much as whether you're married and a woman" *ScienceDaily* (online ed, 9 October 2014); R Rajiman "Gender, ethnicity and immigration: Double-disadvantage and triple-disadvantage among recent immigrant women in the Israeli labor market" (1997) 11(1) *Gender & Society* 108.
- 372 See also M Roskrug and others "Social capital formation and immigrant integration in New Zealand" (paper presented at Pathways to Metropolis in the 21st Century, 2012); J Poot and S Stillman *The Importance of Heterogeneity when Examining Immigrant Education Occupation Mismatch: Evidence from New Zealand* (Centre for Research and Analysis of Migration, Discussion Paper No 23/10, 2010) at 18.
- 373 A Girling, J Liu and C Ward *Confident, Equal and Proud? A Discussion Paper on the Barriers Asians Face to Equality in New Zealand* (Human Rights Commission, August 2010) at 10–13.
- 374 See M Gee Wilson, P Gahlout, L Liu and S Mouly "A rose by any other name: The effect of ethnicity and name on access to employment" (2005) 7(2) *University of Auckland Business Review* 65.
- 375 Ethnic Peoples Advisory Panel *Open Addendum Agenda* (23 May 2013) at 4. See also C Ward and A-M Masgoret "Immigrant entry into the workforce: A research note from New Zealand" (2007) 31 *International Journal of Intercultural Relations* 525.
- 376 Victoria University of Wellington "Research finds strategies to overcome ethnic discrimination in accounting industry" (press release, 14 May 2015).
- 377 T Ranjit Singh "If you're not feeling too well just consult your taxi driver" *New Zealand Herald* (online ed, 12 September 2006); D Kemeys "Taxi drivers face worst prejudice" *North Shore Times* (online ed, 29 December 2009); T Clayton "Highly skilled migrants turned away from Kiwi jobs" *3News* (online ed, 15 May 2014).
- 378 Department of Labour *The Asian Workforce: A Critical Part of New Zealand's Current and Future Labour Market* (June 2010) at 4.
- 379 Department of Labour *Labour Market Outcomes for Immigrants and the New Zealand-born 1997–2009* (2011) at 18.
- 380 See Statistics New Zealand "Earnings for people in paid employment by total response according to ethnic group and gender" data set, available at <www.stats.govt.nz>. In 2014, the average weekly income for New Zealand European men was \$1,250 and \$842 for New Zealand European women. In contrast, the average weekly income was \$900 for Pacific men, \$710 for Pacific women, \$919 for Asian men and \$782 for Asian women.
- 381 L Bolton "Factors explaining the low income return for education among Asian New Zealanders" (presentation to COMPASS Colloquium, 28 July 2015).
- 382 Office of Ethnic Affairs *Language and Integration in New Zealand* (2014) at 1.
- 383 L Bolton "Factors explaining the low income return for education among Asian New Zealanders" (presentation to COMPASS Colloquium, 28 July 2015).
- 384 See Department of Labour *The Asian Workforce: A Critical Part of New Zealand's Current and Future Labour Market* (June 2010). See also Dr A Podsiadlowski *Facilitating Migrant Entry and Integration into the New Zealand Workforce* (Centre for Applied Cross-cultural Research, May 2007).
- 385 See Statistics New Zealand "New Zealand social indicators – unemployment" (February 2015) <www.stats.govt.nz> at Figure 3.
- 386 See New Zealand Asian Leaders "Welcome to NZ Asian Leaders" <www.nzasianleaders.com>.
- 387 The Treasury "Director breakdown by gender and ethnic origin as at 1 May 2015" <www.treasury.govt.nz>.
- 388 See State Services Commission *Human Resource Capability in the New Zealand State Services* (December 2014) at 5; Multicultural New Zealand "Ethnic minorities under-represented and under-paid" (press release, 8 December 2014).

- 389 Email from Richard Selave, Ministry of Pacific Island Affairs, regarding Pacific peoples on boards to Mai Chen (4 August 2015). Data on the proportion of ethnic board members is not required to be collected by firms in the private sector only gender data. See the discussion at [2.142].
- 390 This information only needs to be released to shareholders and NZX Limited. See Companies Act 1993, ss 208 and 209; NZX Limited Main Board/Debt Market Listing Rules 2015, rr 10.4.1, 10.4.5(g) and 10.4.5(k). The notes to r 10.4.5 state that companies may choose to disclose in their annual report any diversity policy or any other matter relating to its diversity practices or position (including, in particular, in relation to diversity other than gender). Companies should also endeavour to comply with the NZX's *Guidance Note on Diversity Policies and Disclosure* (February 2015), which recommends that companies should implement a diversity policy. In contrast, all public service departments in New Zealand must provide annual data to the State Services Commission's Human Resource Capability survey. The mandate for the survey has been established through Cabinet Minutes from 1994 to 1998. The survey is also consistent with the State Services Commission's role under the State Sector Act 1988. See State Services Commission "Human Resource Capability – Survey Instructions, Checklist and FAQs" (June 2015) <www.ssc.govt.nz>.
- 391 See r 4.10.3 of the ASX Listing Rules 2014. Principle 6 of the ASX Corporate Governance Council's *Corporate Governance Principles and Recommendations* (3rd ed, 2014) states that listed companies should include links on their website to copies of their annual reports, corporate governance policies and financial statements. Recommendation 1.5(a) states that listed entities should have a diversity policy which includes requirements for the board to set measurable objectives for achieving gender diversity and to annually assess the entity's progress in achieving those objectives. It also sets out suggestions for the content of a listed entity's diversity policy (see Box 1.5).
- 392 J Ruth "Are there enough board-ready women in New Zealand" *National Business Review* (online ed, 13 July 2015).
- 393 All private employers with 100 or more employees are subject to Title VII of the Civil Rights Act 1964 (US), and are required to file a confidential EEO-1 report with the US Equal Employment Opportunity Commission on an annual basis. See Ascend Pan-Asian Leaders *Hidden in Plain Sight: Asian American Leaders in Silicon Valley* (May 2015) at 7.
- 394 See Apple "Inclusion inspires Innovation: A Message from Tim Cook" (2014) <www.apple.com>.
- 395 Deloitte *Diversity and Inclusion in Canada: The Current State* (August 2014); A Klarsfeld, E Ng and A Tatli "Social regulation and diversity management: A comparative study of France, Canada and the UK" (2012) 18(4) *European Journal of Industrial Relations* 309 at 310.
- 396 Credit Suisse Research Institute *The CS Gender 3000: Women in Senior Management* (September 2014) at 27; M Bertrand and others *Breaking the Glass Ceiling? The Effect of Board Quotas on Female Labor Market Outcomes in Norway* (IZA DP No 8266, June 2014).
- 397 For discussion on resources published by the Office of Ethnic Communities, see [5.310].
- 398 The weekly gender pay gap is greater because women are more likely to be in casual and part-time work than men. See New Zealand Council of Trade Unions "The pay equity challenge" (2010) <union.org.nz>.
- 399 M Towle "Gender pay gap balloons to almost 12%" *Radio New Zealand News* (online ed, 2 October 2015).
- 400 The double disadvantage has also been reported on overseas. For example, see Ascend Pan-Asian Leaders *Hidden in Plain Sight: Asian American Leaders in Silicon Valley* (May 2015); Vanderbilt University "The new 'double disadvantage': Where you're born doesn't matter as much as whether you're married and a woman" *ScienceDaily* (online ed, 9 October 2014); R Rajiman "Gender, ethnicity and immigration: Double-disadvantage and triple-disadvantage among recent immigrant women in the Israeli labor market" (1997) 11(1) *Gender & Society* 108.
- 401 Statistics New Zealand *New Zealand Income Survey: June 2014 quarter* (October 2014).
- 403 Statistics New Zealand *New Zealand Income Survey: June 2014 quarter* (October 2014).
- 404 J McGregor "Keys to diversity and women's leadership" (speech to the FY2014 NWEI International Symposium, Tokyo, 21 November 2014).
- 405 B Daldy, J Poot and M Roskrug "Perception of workplace discrimination among immigrants and native born New Zealanders" (2013) 16(1) *Australian Journal of Labour Economics* 137 at 144.
- 406 B Daldy, J Poot and M Roskrug "Perception of workplace discrimination among immigrants and native born New Zealanders" (2013) 16(1) *Australian Journal of Labour Economics* 137 at 152.
- 407 C Meares, A Bell and R Peace "Migration, gender and economic integration: International scholarship (2006–09) and an Aotearoa New Zealand research agenda" (2010) 5(2) *Kōtuitui: New Zealand Journal of Social Sciences Online* 61 at 72.
- 408 C Meares, A Bell and R Peace "Migration, gender and economic integration: International scholarship (2006–09) and an Aotearoa New Zealand research agenda" (2010) 5(2) *Kōtuitui: New Zealand Journal of Social Sciences Online* 61 at 73.

- 409 *Concluding Observations of the Committee on the Elimination of Discrimination Against Women* (9–27 July 2012) CEDAW/C/NZL/CO/7 at [43].
- 410 M Chen “The double disadvantage” (presentation to the YWCA Equal Pay Award Workshop, Auckland, 28 July 2015).
- 411 *Terranova Homes & Care Ltd v Service and Food Workers Union Nga Ringa Tota Inc* [2014] NZCA 516, [2015] 2 NZLR 437. The Supreme Court refused Terranova Homes & Care Ltd’s application for leave to appeal against the Court of Appeal’s decision in *Terranova Homes & Care Ltd v Service and Food Workers Union Nga Ringa Tota Inc* [2014] NZSC 196, [2015] 2 NZLR 437.
- 412 Section 9 of the Equal Pay Act 1972 permits the Employment Court to state the general principles to be observed for the implementation of equal pay in accordance with ss 3–8 of the Act.
- 413 Equal Pay Act 1972, s 2A(1).
- 414 B Brown *New Zealand in World Affairs III 1972–1990* (Victoria University Press, Wellington, 1999) at 21–22.
- 415 B Brown *New Zealand in World Affairs III 1972–1990* (Victoria University Press, Wellington, 1999) at 22.
- 416 New Zealand Trade and Enterprise See “Exports – Top 20 countries” (31 December 2014) <www.nzte.govt.nz>. As at December 2014, China was New Zealand’s top export destination for goods, but Australia remained the top destination for services.
- 417 See the discussion at [1.45].
- 418 Hays Recruitment *The Balancing Act: Creating a Diverse Workforce – Research and Insights that Impact Your World at Work* (2014).
- 419 Diversity Council Australia *Leading in the Asian Century: A National Scorecard of Australia’s Workforce Asia Capability* (2015).
- 420 Diversity Council Australia *Leading in the Asian Century: A National Scorecard of Australia’s Workforce Asia Capability* (2015) at 8.
- 421 Diversity Council Australia *Leading in the Asian Century: A National Scorecard of Australia’s Workforce Asia Capability* (2015) at 7.
- 422 This aligns with the results of a survey by the EEO Trust and Auckland Chamber of Commerce, which found that a significant proportion of businesses had no formal policy, programme or initiative in place to address bias or ethnicity (58 per cent and 48 per cent respectively). See New Zealand Work Institute *The New Zealand Diversity Survey: April 2015* (24 April 2015). The survey is run bi-annually, but does not specifically focus on issues relating to ethnic diversity. For discussion on “diversity management” in New Zealand, see C Houkama and P Boxall “The incidence and impacts of diversity management: A survey of New Zealand employees” (2011) 49 *Asia Pacific Journal of Human Resources* 440; B Watson, P Spoonley and E Fitzgerald “Managing diversity: A twenty-first century agenda” (2009) 34 *New Zealand Journal of Employment Relations* 61.
- 423 Thirty-five respondents said that they did not collect ethnicity data, but only 31 participants gave a reason for why they did not collect this data.
- 424 Only 44 organisations responded to this question.
- 425 Seventy-four survey participants responded to this question.
- 426 Ninety-four of the 98 organisations surveyed responded to the question regarding recruiting for CQ, and 92 responded to the question regarding training on CQ.
- 427 Fifty-three survey participants responded to this question.
- 428 For this question, respondents could select multiple answers.
- 429 Forty-four survey participants responded to this question.
- 431 Deloitte *Diversity and Inclusion in Canada: The Current State* (August 2014) at 37.
- 432 United Kingdom Civil Service *Good Practice Guide: Diversity in Recruitment to the SCS* (2011) at 5.
- 433 International Labour Organisation *Promoting Equity – Ethnic Diversity in the Workplace: A Step-by-Step Guide* (Geneva, 2014) at 12–14.
- 434 Human Rights Commission “Tracking Equality at Work – Indicators (Discrimination)” (2014) <tracking-equality.hrc.co.nz>.
- 435 Statistics New Zealand *Ethnicity New Zealand Standard Classification* (ETHNIC05, V1.0m, 1 June 2005).
- 436 United Kingdom Civil Service *Best Practice Guidance on Monitoring Equality and Diversity in Employment* (March 2012) at [5.9]–[5.10].
- 437 United Kingdom Civil Service *Good Practice Guide: Diversity in Recruitment to the SCS* (2011) at 6 and 18.
- 438 United Kingdom Civil Service *Good Practice Guide: Diversity in Recruitment to the SCS* (2011) at 20.
- 439 So too can “reward and recognition” activities, which reinforce that the organisation or business values diversity. This can be as simple as internal promotions of ethnic celebrations, for example Matariki, Diwali or Chinese New Year.
- 440 United Kingdom Civil Service *Good Practice Guide: Diversity in Recruitment to the SCS* (2011) at 6.
- 441 United Kingdom Civil Service *Good Practice Guide: Diversity in Recruitment to the SCS* (2011) at 5.

- 442 Royal College of Nursing *Working Well Initiative: Diversity Appraisal Resource Guide* (October 2002) at 5.
- 443 United Kingdom Civil Service *Best Practice Guidance on Monitoring Equality and Diversity in Employment* (March 2012) at [2.2].
- 444 United Kingdom Civil Service *Good Practice Guide: Diversity in Recruitment to the SCS* (2011) at 5.
- 445 United Kingdom Civil Service *Good Practice Guide: Diversity in Recruitment to the SCS* (2011) at 20.
- 446 International Labour Organisation *Promoting Equity – Ethnic Diversity in the Workplace: A Step-by-Step Guide* (Geneva, 2014) at 49. Businesses should look to other companies more generally to learn new and better techniques for dealing with and promoting ethnic diversity.
- 448 See for example Helen Twose “Knowing your market is path to growth” *New Zealand Herald* (18 September 2015) at 11. When Morag McCay, Beachheads adviser to NZTE, needs a tasting panel for her Asian food products, she heads down the road to sample Auckland University students.
- 449 ASX Corporate Governance Council *Corporate Governance Principles and Recommendations* (3rd ed, 2014).
- 450 ASX Corporate Governance Council *Progress Report 2014 – Male Champions of Change* (March 2015) at 8.
- 451 Hays Recruitment *The Balancing Act: Creating a Diverse Workforce – Research and Insights that Impact Your World at Work* (2014) at 14.
- 452 J Ruth “Are there enough board-ready women in New Zealand” *National Business Review* (online ed, 13 July 2015).
- 453 These are the diversity goals of the United Kingdom’s Home Office as part of its 2013–2016 diversity strategy. See United Kingdom Home Office *Diversity Strategy 2013–2016: Making the Most of Our Diversity* (2013) at 4.
- 456 United Kingdom Civil Service *Best Practice Guidance on Monitoring Equality and Diversity in Employment* (March 2012) at [5.5]. This may include staff and customer representatives, as well as human resources managers within an organisation.
- 457 Canadian organisations are increasingly being statutorily compelled to publicly report diversity and inclusion practices and policies. For example, Canadian publicly listed companies must report on their diversity and inclusion practices through Corporate Responsibility Statements. With information obtained from these reporting requirements, consumers and investors are increasingly better positioned to scrutinise organisations’ diversity and inclusion practices and outcomes. See Deloitte *Diversity and Inclusion in Canada: The Current State* (August 2014) at 9.
- 458 International Labour Organisation *Promoting Equity – Ethnic Diversity in the Workplace: A Step-by-Step Guide* (Geneva, 2014) at 65.
- 459 See Human Rights Act 1993, s 73; New Zealand Bill of Rights Act 1990, s 19(2). For a general discussion on the legality of positive action measures in the United Kingdom, see Race for Opportunity *How to Conduct Diverse Recruitment* (2012) at 5.
- 460 Hays Recruitment *The Balancing Act: Creating a Diverse Workforce – Research and Insights that Impact Your World at Work* (2014) at 20.
- 461 Gender Equality Act 1979 (NO); Public Limited Liabilities Companies Act 1997 (NO). As at 1 January 2008, firms were penalised first with fines, then with deregistration from the Oslo Stock Exchange, and finally dissolution.
- 462 N Clark “Getting Women Into Boardrooms, by Law” *New York Times* (online ed, 27 January 2010). Firms must have at least 33 to 50 per cent representation of each gender. The total number of men and women on each board depends on the board size, and the 40 per cent quota relates specifically to boards with over 10 directors. See L Kilday and others “Women on boards of directors: the case study of Norway” (MBA paper, University of St Gallen, 2009). Similar policies have subsequently been enacted in Hong Kong and across other European Union countries. See Initiative for Responsible Investment “Current corporate social responsibility disclosure efforts by national governments and stock exchanges (26 June 2014) <hausercentre.org>.
- 463 See P Drexler “The trouble with gender quotas” *The Daily Beast* (online ed, 7 July 2013) for a discussion of this phenomena with respect to gender quotas.
- 464 Race for Opportunity *Best Practice Tips for Recruitment Agencies: Ensuring Equal Access to Opportunities for Diverse Job Applicants* (2011) at 1.
- 465 Hays Recruitment *The Balancing Act: Creating a Diverse Workforce – Research and Insights that Impact Your World at Work* (2014) at 15.
- 467 H Grant Halvorson and D Rock “Beyond Bias” *Strategy + Business* (online ed, 13 July 2015). Organisations such as Common Purpose and the Systems Centred Training and Research Institute have developed training programmes designed to mitigate unconscious bias, help employers manage conflicts and assist employees to work with those who are different.
- 468 G Cartman “To Recruit Better Candidates, Stop Talking About Company Values” (11 June 2013) Brazen Careerist <www.brazencareerist.com>; National Health Service “Recruiting for values – is your organisation ready?” available at <nhsemployers.org>.
- 469 H Grant Halvorson and D Rock “Beyond Bias” *Strategy + Business* (online ed, 13 July 2015).

- 470 H Grant Halvorson and D Rock "Beyond Bias" *Strategy + Business* (online ed, 13 July 2015).
- 472 Hays Recruitment *The Balancing Act: Creating a Diverse Workforce – Research and Insights that Impact Your World at Work* (2014) at 22.
- 475 Hays Recruitment *The Balancing Act: Creating a Diverse Workforce – Research and Insights that Impact Your World at Work* (2014) at 23.
- 476 Confederation of British Industry *Building on Progress: Boosting Diversity in our Workplaces* (2014) at 5–6.
- 477 Race for Opportunity "Mentoring and Mentoring Circles" (2012) <[www.raceforopportunity.bitc.org.uk](http://www.raceforopportunity.bitc.org.uk)>.
- 478 Deloitte *Diversity and Inclusion in Canada: The Current State* (August 2014) at 19.
- 479 Royal College of Nursing *Working Well Initiative: Diversity Appraisal Resource Guide* (October 2002) at 14; Confederation of British Industry *Building on Progress: Boosting Diversity in our Workplaces* (2014); Deloitte *Diversity and Inclusion in Canada: The Current State* (August 2014).
- 480 United Kingdom Civil Service *Good Practice Guide: Diversity in Recruitment to the SCS* (2011) at 4.
- 481 United Kingdom Civil Service *Good Practice Guide: Diversity in Recruitment to the SCS* (2011) at 19.
- 482 United Kingdom Civil Service *Good Practice Guide: Diversity in Recruitment to the SCS* (2011) at 4.
- 483 United Kingdom Civil Service *Good Practice Guide: Diversity in Recruitment to the SCS* (2011) at 18.
- 485 "Getting the MIAWs purring" *Sunday Star Times* (9 August 2015) at D5.
- 489 G Pires and J Stanton *Ethnic Marketing: Culturally Sensitive Theory and Practice* (Routledge, New York, 2015) at 337; S Nwankwo and A Lindridge "Marketing to ethnic minorities in Britain" (1998) 4(7) *Journal of Marketing Practice* 200 at 200. Some American companies, such as Pepsi, however, were targeting advertising campaigns to African-Americans as early as the 1940s. See L Krishna Jayasanker *Sameness in Diversity: Food Culture and Globalization in the San Francisco Bay Area and America, 1965–2005* (ProQuest, United States, 2008) at 71.
- 490 G Pires and J Stanton *Ethnic Marketing: Culturally Sensitive Theory and Practice* (Routledge, New York, 2015) at 337.
- 491 G Pires and J Stanton *Ethnic Marketing: Culturally Sensitive Theory and Practice* (Routledge, New York, 2015) at 271.
- 492 G Pires and J Stanton *Ethnic Marketing: Culturally Sensitive Theory and Practice* (Routledge, New York, 2015) at 272.
- 493 G Pires and J Stanton *Ethnic Marketing: Culturally Sensitive Theory and Practice* (Routledge, New York, 2015) at 274.
- 494 G Pires and J Stanton *Ethnic Marketing: Culturally Sensitive Theory and Practice* (Routledge, New York, 2015) at 273.
- 495 G Pires and J Stanton *Ethnic Marketing: Culturally Sensitive Theory and Practice* (Routledge, New York, 2015) at 274.
- 497 For discussion of the 1.5 generation, see [1.45].
- 498 N Siu "The Local Asian Treasure Chest: How & Why Businesses should Unlock the Domestic 'Diversity Dividend'" (forthcoming).
- 499 W Friesen *Asian Auckland: The Multiple Meanings of Diversity* (Asia New Zealand Foundation, February 2015) at 42.
- 500 See S Karnow *In our Image: America's Empire in the Philippines* (Random House, New York, 2010).
- 501 See N Jayapalan *History of India (from National Movement to Present Day)* (Atlantic Publishers, India, 2001).
- 502 TP London "The language holding Malays, Tamils and Chinese together" *The Economist* (online ed, 28 January 2011).
- 503 Office of Ethnic Affairs *Language and Integration in New Zealand* (2014) at 1.
- 504 M Chen "NZ melting pot needs special cooks" *New Zealand Herald* (online ed, 4 June 2015).
- 505 Chartered Accountants *Australia and New Zealand Fast Forward: Leading in a Brave New World of Diversity* (2 June 2015) at 31.
- 506 N Siu "The Local Asian Treasure Chest: How & Why Businesses should Unlock the Domestic 'Diversity Dividend'" (forthcoming).
- 507 For further examples of glocalisation, see <[www.casestudyinc.com/glocalization](http://www.casestudyinc.com/glocalization)>.
- 508 L Walters "Muslim woman turns to financial institutions for Islam-friendly mortgages" *Stuff.co.nz* (online ed, 30 April 2015).
- 509 For an overview of Sharia principles relating to finance, see A Saeed "Sharia and Finance" in P Bearman and R Peters (eds) *Ashgate Research Companion to Islamic Law* (Ashgate Publishing, London, 2014) 249.
- 510 G Pires and J Stanton *Ethnic Marketing: Culturally Sensitive Theory and Practice* (Routledge, New York, 2015) at 272. See also Yujun Qiu "Understanding Chinese Consumers" *China Business Review* (online ed, 1 July 2011).

- 511 G Pires and J Stanton *Ethnic Marketing: Culturally Sensitive Theory and Practice* (Routledge, New York, 2015) at 334.
- 512 A Bartley and P Spoonley "Intergenerational Transnationalism: 1.5 Generation Asian Migrants in New Zealand" (2008) 46 *International Migration Review* 63 at 75. For further discussion on the 1.5 generation, see [1.45].
- 513 Helen Twose "Knowing your market is path to growth" *New Zealand Herald* (18 September 2015) at 11.
- 514 W Friesen and A Reid "International and Internal Migration Dynamics in a Pacific Gateway City: Asian Migrants into and out of Auckland" (2012) 38 *New Zealand Population Review* 1.
- 515 W Friesen *Beyond the Metropolises: The Asian Presence in Small City New Zealand* (Asia New Zealand Foundation, 2015). The report also considers the role of local governments, tertiary education institutions, and migrant-refugee settlement agencies.
- 516 Rt Hon John Key, Prime Minister "Address to the National Party Conference" (National Party Conference 2015, Auckland Sky Centre Convention Centre, 26 July 2015); J Stanford "Immigration changes expected to boost regions" *New Zealand Herald* (online ed, 27 July 2015). Migrants will need to stay in the regions for at least 12 months, up from three months.
- 517 See R Tipples, S Trafford and P Callister "The factors which have resulted in migrant workers being 'essential' workers on New Zealand dairy farms" (presentation to Labour, Employment and Work Conference, 2010). The agricultural industry, particularly the dairy sector, makes a significant contribution to the New Zealand economy (around 8 per cent of real GDP), particularly in terms of export and employment, accounting for over half of New Zealand's total export earnings: The Treasury *New Zealand Economic and Financial Overview 2015* (15 April 2015) at 7, 11 and 17. Similar concerns have been reported regarding continuity of trained labour supply and spread of benefits of work in Pacific communities in the context of seasonal fruit and vegetable harvesting and processing. See R Bedford and C Bedford "RSE: Just the beginning? Some reflections on a decade of managed seasonal work programmes" (presentation to Pathways, Circuits and Crossroads Conference, Westpac Stadium, Wellington, 23 July 2015).
- 518 In general, industries concerned with health, community care, teaching, grain/sheep/beef farming, horticulture and transport have entry:exit ratios around 3 to 5 per 10. In contrast, industries like retail, hospitality and computer services have relatively young age structures. See N Jackson "The subnational mechanisms of the ending of population growth – towards a theory of depopulation" (presentation to IPANZ Conference, Auckland, 17 June 2015).
- 519 Federated Farmers *New Season Farm Confidence Survey* (July 2015) at 19.
- 520 N Jackson "The subnational mechanisms of the ending of population growth – towards a theory of depopulation" (presentation to IPANZ Conference, Auckland, 17 June 2015); R Tipples, S Trafford and P Callister "The factors which have resulted in migrant workers being 'essential' workers on New Zealand dairy farms" (presentation to Labour, Employment and Work Conference, 2010) at 4. See also the discussion at [1.31].
- 521 R Tipples, S Trafford and P Callister "The factors which have resulted in migrant workers being 'essential' workers on New Zealand dairy farms" (presentation to Labour, Employment and Work Conference, 2010) at 5 and 6.
- 522 Ministry of Business, Innovation and Employment *Temporary Migrants as Vulnerable Workers: A Literature Review* (March 2014) at 59.
- 523 Enterprise North Canterbury *Culverden: Enterprise North Canterbury report 2014* (2014) at 5.
- 524 Ministry of Business, Innovation and Employment *Occupation and Region of Employment for Approved Work Visa Principal Applicants* (4 April 2015) at 23.
- 525 Ministry of Business, Innovation and Employment *Occupation and Region of Employment for Approved Work Visa Principal Applicants* (4 April 2015) at 23.
- 526 R Tipples, S Trafford and P Callister "The factors which have resulted in migrant workers being 'essential' workers on New Zealand dairy farms" (presentation to Labour, Employment and Work Conference, 2010) at 2.
- 527 Agricultural workers are on the Government's immediate skill shortage list. See Ministry of Business, Innovation and Employment *Immediate Skill Shortage List* (24 March 2014, MBIE-MAKO-15171208).
- 528 Ministry of Business, Innovation and Employment *Are You Recruiting Migrant Workers? What Do You Need To Know?* (June 2015) at 4.
- 529 On a work visa that is less than two years in length, health care is charged on a pay as you go basis, although most accident costs are covered by ACC. On a work visa that is two years or more in length, individuals are eligible for publicly funded health, maternity and disability services. Immigration New Zealand "New Zealand Now – Compare Visas" (16 December 2014) <[www.newzealandnow.govt.nz](http://www.newzealandnow.govt.nz)>.
- 530 They also are ineligible to vote. See Immigration New Zealand "New Zealand Now – Compare Visas" (16 December 2014) <[www.newzealandnow.govt.nz](http://www.newzealandnow.govt.nz)>.
- 531 See for example T McClure "Criteria 'too tough' on migrant workers – Federated Farmers" *New Zealand Farmer* (online ed, 13 April 2015).

- 532 See generally Ashburton District Council *Mid Canterbury Migrants and Newcomers Research* (December 2013); R Tipples, S Trafford and P Callister "The factors which have resulted in migrant workers being 'essential' workers on New Zealand dairy farms" (presentation to Labour, Employment and Work Conference, 2010) at 8 and 9; S McAvinue "Immigrants top pick for farm work" *Southland Times* (online ed, 27 April 2012).
- 533 Immigration New Zealand "New Zealand Now – Working in Dairy Farming" <[www.newzealandnow.govt.nz](http://www.newzealandnow.govt.nz)>.
- 534 E Cropper "More certainty for long-term migrants after immigration changes" *3News* (27 July 2015).
- 535 *Canterbury Regional Economic Development Strategy* (August 2015).
- 536 In order to achieve this, the following initiatives will be implemented, taking into account population statistics and needs assessments of migrant and newcomer communities through consultation:
- (a) advocate to central government the settlement needs of newcomers and migrants, including the introduction of open work visas and increased access to primary health care;
- (b) share resources and strategies to improve efficiency and reach, and make this information publicly accessible; and
- (c) establish a newcomers and migrant advisory group, facilitate workshops and working parties to focus on migrant matters and develop memoranda of understanding between agencies involved in migrant settlement.
- 537 C Poulter "Retention of Skilled Migrants in the New Zealand Dairy Industry" (Masters of Business Administration Dissertation, Massey University, 2014) at 56.
- 538 C Poulter "Retention of Skilled Migrants in the New Zealand Dairy Industry" (Masters of Business Administration Dissertation, Massey University, 2014) at 55.
- 539 R Tipples, S Trafford and P Callister "The factors which have resulted in migrant workers being 'essential' workers on New Zealand dairy farms" (presentation to Labour, Employment and Work Conference, 2010) at 10.
- 540 R Tipples, S Trafford and P Callister "The factors which have resulted in migrant workers being 'essential' workers on New Zealand dairy farms" (presentation to Labour, Employment and Work Conference, 2010) at 10.
- 541 T McClure "Hundreds of Filipinos could be forced home after working with faked documents" *NZFarmer.co.nz* (online ed, 29 September 2015).
- 542 Ministry of Business, Innovation and Employment *Are You Recruiting Migrant Workers? What Do You Need To Know?* (June 2015) at 4 and 26.
- 543 Ministry of Business, Innovation and Employment *Are You Recruiting Migrant Workers? What Do You Need To Know?* (June 2015) at 5.
- 544 See Letter from Hon Steven Joyce (Minister of Economic Development) to John Spencer (Chair, Tertiary Education Commission) regarding determination of design of funding mechanism: specialised English for Speakers of Other Languages (ESOL) (15 December 2013); P Rawlinson and others *Migrant workers and the growth of dairy farming in Southland, New Zealand* (OneFarm, 2013) at 16–17.
- 545 See Immigration New Zealand "English language requirements" (16 July 2014) <[www.immigration.govt.nz](http://www.immigration.govt.nz)>.
- 546 P Rawlinson and others *Migrant workers and the growth of dairy farming in Southland, New Zealand* (OneFarm, 2013) at 18.
- 547 Immigration Placement Services "Philippines Now Major Source of Skilled Migrates to NZ" (press release, 3 May 2013).
- 548 Immigration New Zealand "Special visitor categories" (15 June 2015) <[www.immigration.govt.nz](http://www.immigration.govt.nz)>; Immigration New Zealand "Can I apply under the Skilled Migrant Category?" (29 November 2010) <[www.immigration.govt.nz](http://www.immigration.govt.nz)>.
- 549 See J Alayon (Masters of Philosophy (MPhil) dissertation, Auckland University of Technology, 2009). Alayon concludes that most Filipino migrants in New Zealand have their immediate family living with them and they send individual remittances to the Philippines either as gifts for parents to maintain their livelihood, for investment, and support for the education of nephews and nieces. Filipino family obligations are extensive, and older siblings are expected to provide financial support for younger siblings and their dependants, such as their nieces and nephews, as well as their parents: Immigration Research Programme *Family Structures* (July 2000).
- 550 Immigration New Zealand also issues a specific multilingual resource for migrant workers on dairy farms on how to adapt to living in New Zealand. See Immigration New Zealand *Living and Working on a New Zealand Dairy Farm* (June 2015).
- 551 See Federated Farmers of New Zealand "National Policy – Immigration and Labour" (2015) <[www.fedfarm.org.nz](http://www.fedfarm.org.nz)>. The pack costs \$200 plus GST for members and \$700 plus GST for non-members.
- 552 See G Piddock "New player in dairy goat industry makes its mark" *NZFarmer.co.nz* (online ed, 11 July 2015).

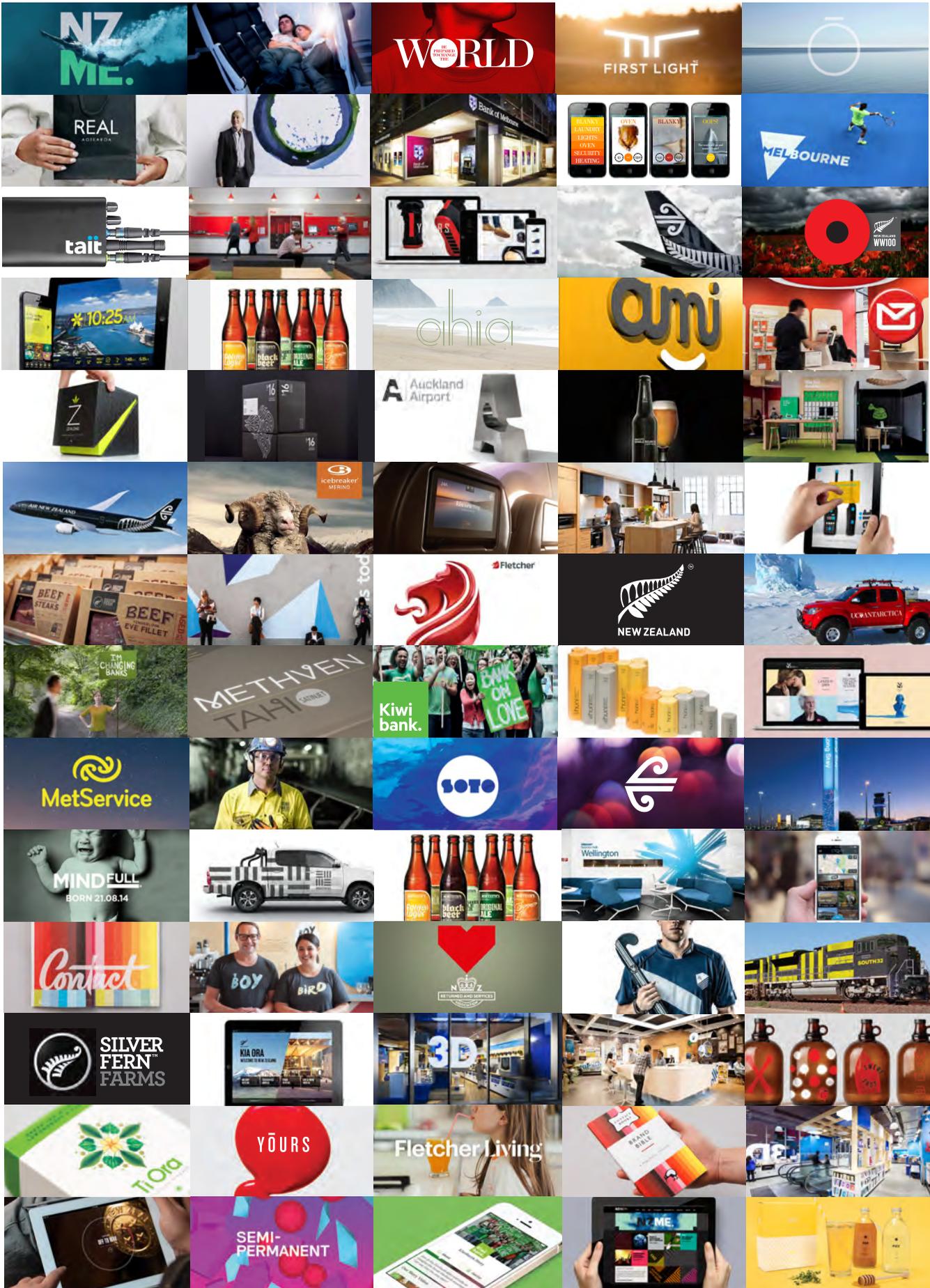
- 553 G Wheeler "The significance of dairy to the New Zealand Economy" (presentation to DairyNZ, Hamilton, 7 May 2014). There has also been greater demand from China for products such as mozzarella. Two new mozzarella lines have been added to South Canterbury's Clandeboye dairy farmer co-operative. See T Cronshaw "Chinese pizza lovers boost Clandeboye" *NZFarmer* (online ed, 17 July 2015).
- 556 See Transparency International *Corruption Perceptions Index 2014 (December 2014)* at 1.
- 557 Ministry of Business, Innovation and Employment *Migration Trends and Outlook – 2013/2014* (2014) at 24.
- 558 Transparency International *Corruption Perceptions Index 2014 (December 2014)* at 1–2.
- 559 Transparency International *Corruption Perceptions Index 2014 (December 2014)* at 1–2.
- 560 Ministry of Business, Innovation and Employment *Investor Migrant Research 2013/2014* (2014).
- 561 See E Dimant, T Krieger and M Redlin *A Crook is a Crook ... But is He Still a Crook Abroad? On the Effect of Immigration on Destination – Country Corruption* (CESIFO Working Paper No 5032, October 2014), which compared data from OECD countries for the period 1984–2008.
- 562 Deloitte *Bribery and Corruption Survey 2015 Australia & New Zealand* (2015) at 9.
- 563 Deloitte *Bribery and Corruption Survey 2015 Australia & New Zealand* (2015) at 9.
- 564 R Meadows "Rising bribery and corruption tarnishing NZ image: Deloitte" *Stuff.co.nz* (26 March 2015).
- 565 Transparency International *Corruption Perceptions Index 2014 (December 2014)* at 1–2.
- 566 L Walters "Man in court over alleged bribery attempt" *Stuff.co.nz* (24 March 2015).
- 567 H McNicol "Alleged bribery of public official a 'serious issue'" *National Business Review* (online ed, 19 May 2015). See also Ministry for Primary Industries "Shellfish poacher forfeits car" (press release, 8 May 2015). A Chinese woman was convicted this year of poaching a huge haul of shellfish. The Government's approach has been to deal with this type of conduct through criminal prosecution rather than education.
- 568 Interview with Julie Read, Chief Executive and Director, SFO, and Nick Paterson, General Manager, Investigations, SFO (31 March 2015).
- 569 H McNicol "Alleged bribery of public official a 'serious issue'" *National Business Review* (online ed, 19 May 2015).
- 570 Inland Revenue Department *Understanding Migrant Businesses* (2015) at 1. Businesses operating in a hidden economy are more likely to deal in cash so they have a greater opportunity to understate their income, overstate their expenses or operate entirely outside the tax system: Inland Revenue Department "The Hidden Economy" <[www.ird.govt.nz](http://www.ird.govt.nz)>.
- 571 Inland Revenue Department *Understanding Migrant Businesses* (2015) at 2.
- 572 Chartered Accountants Australia New Zealand *Are Australia and New Zealand corrupt?* (2015) at 32–33.
- 573 Norton Rose Fulbright *Business Ethics and Anti-corruption* (October 2014) at 43; Thomas Fox "International Anti-Corruption Enforcement Efforts" (10 April 2015) FPCA Compliance and Ethics Blog <[www.tfoxlaw.wordpress.com](http://www.tfoxlaw.wordpress.com)>.
- 574 Clause 6 of the Organised Crime and Anti-corruption Legislation Bill 2014 (219-2) does not amend s 105C(3) of the Crimes Act 1961, which states that bribery of a public official does not constitute an offence if:
- (a) the act that is alleged to constitute the offence was committed for the sole or primary purpose of ensuring or expediting the performance by a foreign public official of a routine government action; and
- (b) the value of the benefit is small.
- 575 Email from Rob Everitt, Chief Executive, Financial Markets Authority, to Mai Chen regarding whether the Financial Markets Authority is experiencing issues from adjustment of new migrants to a different business environment in New Zealand (21 July 2015).
- 576 Interview with Rob Everitt, Chief Executive, Financial Markets Authority (29 July 2015).
- 577 K Lau "Mediation in a cross-cultural setting: What a mediator should know" (2014) 25 ADRJ 221 at 222. For discussion on legal pluralism and the operation of different cultural norms in relationship property and family law arbitration and in criminal litigation, see from [4.129].
- 578 K Lau "Mediation in a cross-cultural setting: What a mediator should know" (2014) 25 ADRJ 221 at 222.
- 579 See generally K Lau "Mediation in a cross-cultural setting: What a mediator should know" (2014) 25 ADRJ 221; G Apollon "Cross-Cultural Deal Mediation as a New ADR Method for International Business Transactions" (2014) 20 Law & Bus Rev Am 255; Siew Fang Law "Culturally sensitive mediation: The importance of culture in mediation accreditation" (2009) 20 ADRJ 162; J Barkai "What's a Cross-Cultural Mediator to Do – A Low-Context Solution for a High-Context Problem" (2009) 10 Cardozo Journal of Conflict Resolution 43; J A Gold "ADR through a Cultural Lens: How Cultural Values Shape Our Disputing Processes" [2005] Journal of Dispute Resolution 289; M LeBaron and Z Zumeta "Windows on Diversity: Lawyers, Culture, and Mediation Practice" (2003) 20(4) Conflict Resolution Quarterly 463; M Brigg "Mediation, Power,

- and Cultural Difference" (2003) 20(3) Conflict Resolution Quarterly 287.
- 580 J Barkai "What's a Cross-Cultural Mediator to Do – A Low-Context Solution for a High-Context Problem" (2009) 10 Cardozo Journal of Conflict Resolution 43 at 43.
- 581 Siew Fang Law "Culturally sensitive mediation: The importance of culture in mediation accreditation" (2009) 20 ADRJ 162 at 163.
- 582 K Lau "Mediation in a cross-cultural setting: What a mediator should know" (2014) 25 ADRJ 221 at 226.
- 583 G Apollon "Cross-Cultural Deal Mediation as a New ADR Method for International Business Transactions" (2014) 20 Law & Bus Rev Am 255 at 259.
- 584 K Lau "Mediation in a cross-cultural setting: What a mediator should know" (2014) 25 ADRJ 221 at 222.
- 585 K Lau "Mediation in a cross-cultural setting: What a mediator should know" (2014) 25 ADRJ 221 at 225.
- 586 The other typical ADR processes apart from mediation are negotiation and arbitration, although ADR is usually defined as any process that allows the parties to resolve the dispute without going to court. See G Apollon "Cross-Cultural Deal Mediation as a New ADR Method for International Business Transactions" (2014) 20 Law & Bus Rev Am 255 at 263.
- 587 K Lau "Mediation in a cross-cultural setting: What a mediator should know" (2014) 25 ADRJ 221 at 227.
- 588 G Apollon "Cross-Cultural Deal Mediation as a New ADR Method for International Business Transactions" (2014) 20 Law & Bus Rev Am 255 at 256–257.
- 589 See J Barkai "What's a Cross-Cultural Mediator to Do – A Low-Context Solution for a High-Context Problem" (2009) 10 Cardozo Journal of Conflict Resolution 43 at 85.
- 590 J Barkai "What's a Cross-Cultural Mediator to Do – A Low-Context Solution for a High-Context Problem" (2009) 10 Cardozo Journal of Conflict Resolution 43 at 88–89.
- 591 J Barkai "What's a Cross-Cultural Mediator to Do – A Low-Context Solution for a High-Context Problem" (2009) 10 Cardozo Journal of Conflict Resolution 43 at 60. Saving face is particularly important in Asian cultures, and is usually achieved by the mediator holding private meetings with only one of the parties in the dispute, known as "mediation caucuses". See also G Apollon "Cross-Cultural Deal Mediation as a New ADR Method for International Business Transactions" (2014) 20 Law & Bus Rev Am 255 at 297.
- 592 International Mediation Institute *Criteria for Approving Programs to Qualify Mediators for IMI Inter-Cultural Certification* (2011).
- 593 The cultural focus areas identified by the International Mediation Institute include relatedness and communication styles, mind-set toward conflict, the mediation process (for example, expectations around role of mediator and participants, predictability of the process and social protocols), orientation towards exchanging information, time orientation (for example, expected timelines for reaching outcomes) and decision-making approaches.
- 594 One respondent identified as one-fifth Māori.
- 595 Interview with Deborah Hart, Executive Director, AMINZ (28 July 2015).
- 596 C Ward and A-M Masgoret "Attitudes toward Immigrants, Immigration and Multiculturalism in New Zealand: A Social Psychological Analysis" (2008) 42 International Migration Review 227 at 243.
- 597 Ngāti Whātua, one of the collective group of iwi forming part of Ngā Mana Whenua o Tāmaki Makaurau under s 9 of the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014 filed judicial review proceedings against recent decisions and announcements around the Auckland Crown Land Programme to address Auckland's housing crisis, to clarify the extent of their 172-year first right of refusal. As explained by a spokesperson for the iwi, "unlike hapū and iwi in many other parts of the country, land in our rohe is extremely scarce and so the integrity of the RFR [right of first refusal] is vitally important": "Ngati Whatua Files Statement of Claim in Auckland High Court" (press release, 26 June 2015). Eventually, an agreement was reached between the Government and Ngā Mana Whenua o Tāmaki Makaurau, and the legal proceedings were withdrawn: National Party "Crown-Iwi Agreement on Auckland Housing Programme" (press release, 3 September 2015). However, the matter shows the growing political power of iwi. According to Building and Housing Minister Dr Nick Smith, the agreement enables the Government to "get on and use vacant public land for housing while at the same time ensuring Treaty settlements covering the Auckland region are respected and upheld". The agreement includes a joint objective to provide "Māori with the opportunity to meaningfully participate as developers" in the Government's Auckland Vacant and Underutilised Crown Land Development Programme.
- 598 BERL Economics *The Asset Base, Income, Expenditure and GDP of the 2010 Māori Economy* (Te Puni Kōkiri, 2010) at 4.
- 599 Hon Dr Pita Sharples, Minister of Māori Affairs "Talking Trade: The Hong Kong Dragon and The New Zealand Taniwha" (speech to the New Zealand China Trade Association, 3 May 2012).
- 600 BERL Economics *The Asset Base, Income, Expenditure and GDP of the 2010 Māori Economy* (Te Puni Kōkiri, 2010) at 6.
- 601 A "Māori authority" is an entity that aligns to a subgrouping of "entities for the collective management of assets" in the Māori economy.

- 602 Statistics New Zealand *Tatauranga Umanga Māori 2015: Updated Statistics on Māori Authorities* (June 2015).
- 603 Statistics New Zealand *Tatauranga Umanga Māori 2015: Updated Statistics on Māori Authorities* (June 2015) at 16.
- 604 See New Zealand Trade and Enterprise and Ministry of Foreign Affairs *Opening the Doors to China: New Zealand's 2015 Vision* (February 2012) at 29.
- 605 ANZ *Te Tirohanga Whānui: The ANZ Privately-Owned Business Barometer* (2015) at 13.
- 606 Statistics New Zealand "Māori authorities export to the world 2014" (19 June 2015) <www.stats.govt.nz>.
- 607 Hon Dr Pita Sharples, Minister of Māori Affairs "Talking Trade: The Hong Kong Dragon and The New Zealand Taniwha" (speech to the New Zealand China Trade Association, 3 May 2012); M Chen "Enter the Taniwha and the Dragon" *New Zealand Herald* (online ed, 3 May 2013).
- 608 Māori Economic Development Panel *The Crown–Māori Economic Growth Partnership* (November 2012) at 15.
- 609 New Zealand Government "NZ to Join Asian Infrastructure Investment Bank" (press release, 15 June 2015).
- 610 National Party "Strategy targets international investors" (press release, 7 July 2015).
- 611 Cabinet Paper *New Zealand Investment Attraction Strategy* (Cabinet Economic Growth and Infrastructure Committee, 2015) at [17]–[18].
- 612 Cabinet Paper *New Zealand Investment Attraction Strategy* (Cabinet Economic Growth and Infrastructure Committee, 2015) at [50].
- 613 "China tourism tipped to soon outstrip Australia" *New Zealand Herald* (online ed, 18 May 2015).
- 614 New Zealand Māori Tourism *Annual Report 2014* (2014).
- 615 See Independent Māori Statutory Board *The Auckland Māori Economy* (July 2015).
- 616 Statistics New Zealand *The Measurement of Social Capital in New Zealand* (2002) at 3.
- 617 The Treasury *Working Towards Higher Living Standards for New Zealanders* (Treasury Paper 11/02, May 2011) at 24, quoting *The Treasury Towards an Inclusive Economy* (Treasury Working Paper 01/16, 2001).
- 618 The Treasury *Living Standards: A Short Guide to Social Infrastructure* (2013) at 1.
- 619 OECD *The Well-Being of Nations: The Role of Human and Social Capital* (2001).
- 620 P Spoonley and others "Social cohesion: A policy and indicator framework for assessing immigrant and host outcomes" (2005) 24 *Social Policy Journal of New Zealand* 85 at 93.
- 621 The Treasury *Living Standards: A Short Guide to Social Infrastructure* (2013) at 1.
- 622 D McKay *Review of Central Government Policy, Implementation, Strategy and Leadership Effectiveness in Auckland: Report for Chief Executives Governance Group* (August 2014) at 6.
- 623 The Treasury *Living Standards: A Short Guide to Social Infrastructure* (2013) at 3.
- 624 N McMillan and A Gray *Long-term Settlement of Refugees: An Annotated Bibliography of New Zealand and International Literature* (Department of Labour, Wellington, 2009) at 27. For discussion of migrant voting habits in New Zealand, see Superdiversity Centre *Superdiversity, Democracy and Electoral Laws* (New Zealand Law Foundation, forthcoming).
- 625 Historian David Fisher identifies in *Fairness and Freedom: A History of Two Open Societies: New Zealand and the United States* (Oxford University Press, London, 2012) that New Zealand's core value was fairness, as opposed to the United States' core value of freedom, even though both New Zealand and the United States are open societies. Many new migrants come to New Zealand from countries which are not open societies and in which neither freedom nor fairness are core values. Social cohesion is vital to ensure that new migrants reap the benefits of the positive aspects of New Zealand culture.
- 626 Ethnic Peoples Advisory Panel *Open Agenda* (23 May 2013) at 3.
- 627 The Royal Society of New Zealand *Our Futures Te Pai Tāwhiri: The 2013 Census and New Zealand's Changing Population* (2013) at 8.
- 628 A Johnson *Mixed Fortunes: The Geography of Advantage and Disadvantage in New Zealand* (Salvation Army, Social Policy and Parliamentary Unit, May 2015) at 11.
- 629 A Praat and R Peace "Commonplace Diversity – So What?" (presentation to Pathways, Circuits and Crossroads Conference, Westpac Stadium, Wellington, 24 July 2015).
- 630 S Wessendorf *Commonplace Diversity: Social Relations in a Super-Diverse Context* (Palgrave Macmillan, London, 2014) at 2. See also S Wessendorf "Commonplace diversity and the 'ethos of mixing': Perceptions of difference in a London neighbourhood" (2013) 20(4) *Identities: Global Studies in Culture and Power* 407.
- 631 N McMillan and A Gray *Long-term Settlement of Refugees: An Annotated Bibliography of New Zealand and International Literature* (Department of Labour, Wellington, 2009) at 26. The idea of "cultural sameness" nested within a larger diverse mix has also been discussed in the literature. See M Nathan "The economics of cultural diversity" (presentation to Pathways, Circuits and Crossroads Conference, Westpac Stadium, Wellington, 23 July 2015).

- 632 M Chen "Cultural diversity in cities a challenge to decision-making" *New Zealand Herald* (online ed, 17 April 2015). Members of the Indian community in New Zealand have used websites such as NZ Ek NaZar to report their experience of New Zealand to prospective visitors and migrants back in India and Fiji, though these experiences have not always been positive. For example, some have warned about the difficulty of finding suitable housing and employment. See W Friesen, L Murphy and R Kearns "Spiced-Up Sandringham: Indian Transnationalism and New Suburban Spaces in Auckland, New Zealand" (2005) 31(2) *Journal of Ethnic and Migration Studies* 385 at 390; W Friesen "The Evolution of 'Indian' Identity and Transnationalism in New Zealand" (2008) 39(1) *Australian Geographer* 45.
- 633 For further information on New Zealand Asian Leaders, see <[www.nzasianleaders.com](http://www.nzasianleaders.com)>.
- 634 C Meares and others *Ethnic Precincts in Auckland: Understanding the Role and Function of the Balmoral Shops* (Auckland Council, Technical Report 2015/015, June 2015). See also C Meares and T Cain "The Balmoral shops: Bridging the gap between knowing and doing" (presentation to Pathways, Circuits and Crossroads Conference, Westpac Stadium, Wellington, 24 July 2015); C Meares and A Gilbertson "*We all get along*" – *Social Cohesion in Three Auckland Suburbs* (Auckland Council, Technical Report 2013/052, 2013).
- 635 See T Cain and others *Half Way House: The Dominion Road Ethnic Precinct* (Massey University/Waikato University, 2011) at 39–40; P Spoonley and C Meares "Laissez-faire multiculturalism and relational embeddedness: Ethnic precincts in Auckland" (2011) 3 *Cosmopolitan Civil Societies* 42 at 62; P Spoonley and others *The Changing Immigrant Cartography of Auckland New Zealand: An Asian Ethnic Precinct* (Max Planck Institute for the Study of Religious and Ethnic Diversity, 2014) at 26.
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