

16 October 2024

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New Zealand

Requesters name  
redacted for proactive  
release

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Tēnā koe Requesters name redacted for proactive  
release

Thank you for your request for information to the Department of the Prime Minister and Cabinet. Parts 1 and 4 of your request were partially transferred to the Ministry of Foreign Affairs and Trade (the Ministry) on 4 September 2024, under the Official Information Act 1982 (OIA):

- *Part - [1] Formal briefings produced by MFAT on the Australian 501 policy since 21 July 2024.*
- *Part - [4] Internal communications produced by MFAT on the Australian 501 policy since 21 July 2024.*

On 2 October 2024, the timeframes for responding to your request were extended by an additional 20 working days because responding to your request necessitated the review of a large quantity of information, and due to the consultations necessary to make a decision on your request (section 15A(1) of the OIA refers).

We have identified 8 documents as being in scope of your request. Please refer to **Annex 1** for a document schedule.

Part 4 of your request has been interpreted as being for *formal/decision making communications on the Australian 501 policy since 21 July 2024.*

The information relevant to your request is attached. We have withheld some information under the following sections of the OIA:

- 6(a): to avoid prejudicing the security or defence of New Zealand or the international relations of the New Zealand Government;
- 6(b)(i): to protect the passing of information from another government on a confidential basis;
- 9(2)(a): to protect individuals' privacy; and
- 9(2)(g)(i): to protect the free and frank expression of opinions by departments.

Where the information has been withheld under section 9 of the OIA, we have identified no public interest in releasing the information that would override the reasons for withholding it.

Please note that it is our policy to proactively release our responses to official information requests where possible. Therefore, our response to your request (with your personal information

removed) may be published on the Ministry website: [www.mfat.govt.nz/en/about-us/contact-us/official-information-act-responses/](http://www.mfat.govt.nz/en/about-us/contact-us/official-information-act-responses/)

If you have any questions about this decision, you can contact us by email at: [DM-ESD@mfat.govt.nz](mailto:DM-ESD@mfat.govt.nz). You have the right to seek an investigation and review by the Ombudsman of this decision by contacting [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or freephone 0800 802 602.

Nāku noa, nā

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a horizontal line that ends in a small upward curve.

Sarah Corbett  
for Secretary of Foreign Affairs and Trade

**Annex 1**

| <b>Document schedule for Part 1: "Formal briefings produced by MFAT on the Australian 501 policy since 21 July 2024."</b> |   |
|---|---|
| <b>Document</b>   | <b>Action</b>   |
| <i>ANZLM background briefing pack</i>   | Partially in scope. Please refer to collated documents page 1.<br>Partially withheld under section 6(a) of the OIA. |
| <i>Australian '501' policy changes – next steps for New Zealand</i>   | Please refer to collated documents pages 2-8.<br>Partially withheld under sections 6(a) and 9(2)(a) of the OIA.     |

| <b>Document schedule for Part 4: "Formal briefings produced by MFAT on the Australian 501 policy since 21 July 2024."</b>                           |   |
|---|---|
| <b>Document</b>   | <b>Action</b>   |
| <i>Formal Message: HOM Intro Meeting with Home Affairs Secretary – 23 July 2024</i>   | Partially in scope. Fully withheld under 6(a): to avoid prejudicing the security or defence of New Zealand or the international relations of the New Zealand Government.  |
| <i>RE: Sharing of Information</i>   | Withheld in full under section 6(a) of the OIA.   |
| <i>Home affairs deportation engagement with Home Affairs</i>  | Partially in scope. Fully withheld under section 6(a) of the OIA.   |
| <i>RE: People issues at FCM?</i>  | Partially in scope. Please refer to collated documents page 10-11.<br>Partially withheld under sections 6(a) and 9(2)(g)(i) of the OIA.   |
| Title withheld under 6(a): to avoid prejudicing the security or defence of New Zealand or the international relations of the New Zealand Government | Please refer to collated documents page 12-14.<br>Partially withheld under sections 6(a) and 9(2)(g)(i) of the OIA.   |
| <i>File Note: Australia – New Zealand Leaders' Meeting (ANZLM) 2024</i>   | Partially in scope.<br>Partially withheld under sections 6(a) and 6(b)(i) of the OIA.<br>Extract provided of in scope portion (section 16(1)(e) of the OIA refers):<br><i>PM Luxon raised <b>deportations</b>. He noted New Zealand respected Australia's right as a sovereign state to make its own rules. However, New Zealand expected a 'common sense' approach to deportations to be used.</i> |

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Page 66 of 74

## People Issues

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1. February 2022, Cabinet agreed to **resettle up to 150 refugees annually** (450 over three years) <sup>s6(a)</sup>
  
2. The Arrangement expires on 30 June 2025. <sup>s6(a)</sup>
  
3. <sup>s6(a)</sup>
  
- 4.
  
5. In March 2023, Australia issued a policy direction (“Ministerial Directive (MD) 99”) that family connections to Australia should be considered when assessing **deportation** cases under s. 501 of the Migration Act. This reflected a commitment by Prime Minister Albanese to a “common sense” approach to those who had spent their formative years in Australia.
  
6. On 7 June 2024, Australia announced a new policy direction (“Ministerial Directive (MD) 110”) <sup>s6(a)</sup> MD110 retains strength and duration of ties to Australia as a primary consideration, but Australian decision makers are directed to give greater weight to protecting the Australian community than any other consideration. MD110 was a response to domestic political and media pressure.
  
7. <sup>s6(a)</sup>

New Zealand has conveyed our disappointment to Australia at all levels, including via the Prime Minister and Deputy Prime Minister.

<sup>s6(a)</sup>

*Australia Division, Ministry of Foreign Affairs and Trade  
July 2024*

RESTRICTED



30 July 2024

Minister of Foreign Affairs

For approval by

5 August 2024

## Australian “501” policy changes – next steps for New Zealand

**BRIEFING** Overview Submission

**PURPOSE** To provide advice on recent changes in Australian deportations policy and their likely impact, and propose a posture for New Zealand to take on the issue with Australia in the months ahead.

### Recommended referrals

|                              |                    |               |
|------------------------------|--------------------|---------------|
| Prime Minister               | For information by | 6 August 2024 |
| Associate Minister of Police | For information by | 6 August 2024 |
| Minister of Police           | For information by | 6 August 2024 |
| Minister of Justice          | For information by | 6 August 2024 |
| Minister of Immigration      | For information by | 6 August 2024 |
| Minister of Corrections      | For information by | 6 August 2024 |

### Contact details

| NAME            | ROLE                      | DIVISION                      | WORK PHONE |
|-----------------|---------------------------|-------------------------------|------------|
| Rosalind Dawson | Acting Lead Adviser       | Australia Division            | s9(2)(a)   |
| Andrew Robinson | Acting Divisional Manager | Europe Middle East and Africa |            |

### Prime Minister’s Office to complete

- |  |   |                                    |
|--|---|------------------------------------|
| <input type="checkbox"/> Approved            | <input type="checkbox"/> Noted                | <input type="checkbox"/> Referred  |
| <input type="checkbox"/> Needs amendment     | <input type="checkbox"/> Declined             | <input type="checkbox"/> Withdrawn |
| <input type="checkbox"/> Overtaken by events | <input type="checkbox"/> See Minister’s notes |                                    |

#### Comments

## Australian “501” policy changes – next steps for New Zealand

### Key points

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- In March 2023, Australia issued a policy direction (“Ministerial Directive (MD) 99”) that family connections to Australia should be considered when assessing deportation cases under s. 501 of the Migration Act. This reflected a commitment by Prime Minister Albanese to a “common sense” approach to those who had spent their formative years in Australia.
- On 7 June 2024, Australia announced a new policy direction (“Ministerial Directive (MD) 110”)<sup>s6(a)</sup>

MD110 was a response to domestic political and media pressure.

- <sup>s6(a)</sup>  
New Zealand citizens comprise around fifty percent of all Australia’s deportees.<sup>s9(2)(g)(i)</sup>
- New Zealand has conveyed our disappointment to Australia at all levels, including via the Prime Minister and Deputy Prime Minister.<sup>s6(a)</sup>
- New Zealand continues to have an ongoing interest in reducing the number of deportations of those who are Australian in all but birth.<sup>s6(a)</sup>

- <sup>s6(a)</sup>

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Nicole Robertson,  
for Secretary of Foreign Affairs and Trade

## Australian “501” policy changes – next steps for New Zealand Recommendations

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It is recommended that you:

- |   |   |          |
|---|---|----------|
| 1 | <sup>s6(a)</sup>  | Yes / No |
| 2 |   | Yes / No |
| 3 |   | Yes / No |
| 4 |   | Yes / No |
| 5 |   | Yes / No |
| 6 | <b>Refer</b> a copy of this submission for information to the Prime Minister, Minister of Police, Associate Minister of Police, Minister of Justice, Minister of Corrections and Minister of Immigration. | Yes / No |

Minister of Foreign Affairs

Date:        /        /

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## Australian “501” policy changes – next steps for New Zealand Report

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s6(a)

1. In early engagements, Prime Minister Albanese made a public commitment that his Government would take a “common-sense” approach with respect to the deportation of people who had effectively spent their entire lives in Australia. In March 2023 then Immigration Minister Andrew Giles updated the ministerial direction that guides decision-makers’ interpretation of section 501 of the Migration Act, which provides for mandatory deportation and visa cancellations.<sup>1</sup> Ministerial Direction 99 (MD99) instructed decision-makers to view an offender’s ties to Australia as a “primary consideration” and to give formative years spent in Australia “considerable weight.”

2. s6(a)

3. s6(a)

4. On 7 June, the Australian Government announced new Ministerial Direction 110 (MD110) to replace MD99. s6(a)

MD110 emphasises “the safety of the Australian Community is the highest priority of the Australian Government”, and “protection from criminal or other serious conduct is generally to be given greater weight than other primary considerations”. It retains “strength, nature, and duration of ties to Australia” as a primary consideration, but no longer directs “considerable weight” be given to formative experiences in Australia.

s6(a)

5. s6(a)

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<sup>1</sup> Section 501 of Australia’s Migration Act 1958 was amended in 2014 to apply a twelve-month criminal sentence threshold for *mandatory* deportations and gave responsible ministers considerable *discretionary* power to cancel visas. Section 501 also does not apply time limits.



## Australian “501” policy changes – next steps for New Zealand

s6(a)

6. Prime Minister Albanese and then-Minister Giles have also emphasised their Government is committed to the new pathway to citizenship for New Zealand citizens, introduced in July 2023. Australian citizenship provides immunity from deportation. <sup>s6(a)</sup>

### *Implications for New Zealand*

7. New Zealand has conveyed our disappointment to the Australian system, including via the Prime Minister and Deputy Prime Minister. <sup>s6(a)</sup>

8. <sup>s6(a)</sup>

9.

10.

11.

12.

### *Next steps*

13. <sup>s6(a)</sup>

14.

Australian “501” policy changes – next steps for New Zealand  
<sup>s6(a)</sup>

15.

16. <sup>s6(a)</sup>

The New Zealand Government is focused on enhancing the trans-Tasman relationship across foreign policy, security and defence, and trade and economic domains. Australia has welcomed this. <sup>s6(a)</sup>

*Ministerial engagement*

17. <sup>s6(a) - 1 page withheld</sup>

18.

19.

Released under the Official Information Act 1982

Released under the Official Information Act 1982

Out of scope

Released under the Official Information Act 1982

Out of scope

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**From:** DAWSON, Rosalind (AUS)  
**Sent:** Wednesday, August 14, 2024 10:07 AM  
**To:** MACFARLANE, Kate (AUS) <Kate.Macfarlane@mfat.govt.nz>  
**Subject:** RE: People issues at FCM?

Out of scope

### *People issues*

- Note that Prime Minister Luxon raised the issue of 501 deportations with Prime Minister Albanese when they met in Canberra on 16 August. New Zealand is closely monitoring the impacts of Australia's recent policy change.
- We expect the Australian Government live up to its commitment to a 'common sense' approach to deportations. This means we do not want to see deportation of people with little or no connection to New Zealand, whose formative experiences were nearly all in Australia.

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**From:** MACFARLANE, Kate (AUS) <[Kate.Macfarlane@mfat.govt.nz](mailto:Kate.Macfarlane@mfat.govt.nz)>  
**Sent:** Wednesday, 14 August 2024 9:57 am  
**To:** DAWSON, Rosalind (AUS) <[Rosalind.Dawson@mfat.govt.nz](mailto:Rosalind.Dawson@mfat.govt.nz)>  
**Subject:** People issues at FCM?

[RESTRICTED]

Hi Ros!

Out of scope

Kate

*People issues*

- Note that Prime Minister Luxon raised people issues with Prime Minister Albanese when they met in Canberra on 16 August and that you wish to also discuss these with Minister Burke. [TBC post ANZLM].
- Note that Australia and New Zealand have a strong relationship based on trust and Australia is well within its rights as a sovereign state to make its own rules. We have appreciated the step forward on the pathway to citizenship.
- Register New Zealand's expectation that the Australian Government live up to its commitment to a 'common sense' approach to deportations. This means we do not want to see deportation of people with little or no connection to New Zealand, whose formative experiences were nearly all in Australia.

- s6(a)

We will be monitoring how Australia's new deportations policy is implemented and the impacts on New Zealand.

- s6(a)

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Released under the Official Information Act 1982

Out of scope

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**From:** DAWSON, Rosalind (AUS)  
**Sent:** Wednesday, August 14, 2024 5:09 PM  
**To:** ROBERTON, Nicole (DS EMA Office) <Nicole.Roberton@mfat.govt.nz>  
**Cc:** ROBINSON, Andrew (AUS) <Andrew.Robinson@mfat.govt.nz>; DE WIT, Matt (CBA) <Matthew.deWit@mfat.govt.nz>; O'SHAUGHNESSY, Eamonn (CBA) <Eamonn.O'Shaughnessy@mfat.govt.nz>; NEEDS, Andrew (CBA) <Andrew.Needs@mfat.govt.nz>; GOOD, Rebecca (AUS) <Rebecca.Good@mfat.govt.nz>; ROBSON, Sarah (CMD) <Sarah.Robson@mfat.govt.nz>  
**Subject:** <sup>s6(a)</sup>

s6(a)

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**From:** ROBERTON, Nicole (DS EMA Office) <[Nicole.Roberton@mfat.govt.nz](mailto:Nicole.Roberton@mfat.govt.nz)>  
**Sent:** Wednesday, 14 August 2024 5:06 pm  
**To:** DAWSON, Rosalind (AUS) <[Rosalind.Dawson@mfat.govt.nz](mailto:Rosalind.Dawson@mfat.govt.nz)>  
**Cc:** ROBINSON, Andrew (AUS) <[Andrew.Robinson@mfat.govt.nz](mailto:Andrew.Robinson@mfat.govt.nz)>; DE WIT, Matt (CBA) <[Matthew.deWit@mfat.govt.nz](mailto:Matthew.deWit@mfat.govt.nz)>; O'SHAUGHNESSY, Eamonn (CBA) <[Eamonn.O'Shaughnessy@mfat.govt.nz](mailto:Eamonn.O'Shaughnessy@mfat.govt.nz)>; NEEDS, Andrew (CBA) <[Andrew.Needs@mfat.govt.nz](mailto:Andrew.Needs@mfat.govt.nz)>; GOOD, Rebecca (AUS) <[Rebecca.Good@mfat.govt.nz](mailto:Rebecca.Good@mfat.govt.nz)>; ROBSON, Sarah (CMD) <[Sarah.Robson@mfat.govt.nz](mailto:Sarah.Robson@mfat.govt.nz)>  
**Subject:** <sup>s6(a)</sup>

[SENSITIVE]

s9(2)(g)(i)

● s9(2)(g)(i)

●

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**From:** DAWSON, Rosalind (AUS) <[Rosalind.Dawson@mfat.govt.nz](mailto:Rosalind.Dawson@mfat.govt.nz)>

**Sent:** Wednesday, 14 August 2024 4:28 pm

**To:** ROBERTON, Nicole (DS EMA Office) <[Nicole.Roberton@mfat.govt.nz](mailto:Nicole.Roberton@mfat.govt.nz)>

**Cc:** ROBINSON, Andrew (AUS) <[Andrew.Robinson@mfat.govt.nz](mailto:Andrew.Robinson@mfat.govt.nz)>; DE WIT, Matt (CBA) <[Matthew.deWit@mfat.govt.nz](mailto:Matthew.deWit@mfat.govt.nz)>; O'SHAUGHNESSY, Eamonn (CBA) <[Eamonn.O'Shaughnessy@mfat.govt.nz](mailto:Eamonn.O'Shaughnessy@mfat.govt.nz)>; NEEDS, Andrew (CBA) <[Andrew.Needs@mfat.govt.nz](mailto:Andrew.Needs@mfat.govt.nz)>; GOOD, Rebecca (AUS) <[Rebecca.Good@mfat.govt.nz](mailto:Rebecca.Good@mfat.govt.nz)>; ROBSON, Sarah (CMD) <[Sarah.Robson@mfat.govt.nz](mailto:Sarah.Robson@mfat.govt.nz)>

**Subject:** s6(a)

[SENSITIVE]

Hi Nicole

s6(a)

Thanks

Ros

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**From:** DAWSON, Rosalind (AUS)

**Sent:** Wednesday, 14 August 2024 3:40 pm

**To:** ROBERTON, Nicole (DS EMA Office) <[Nicole.Roberton@mfat.govt.nz](mailto:Nicole.Roberton@mfat.govt.nz)>

**Cc:** ROBINSON, Andrew (AUS) <[Andrew.Robinson@mfat.govt.nz](mailto:Andrew.Robinson@mfat.govt.nz)>; DE WIT, Matt (CBA) <[Matthew.deWit@mfat.govt.nz](mailto:Matthew.deWit@mfat.govt.nz)>; O'SHAUGHNESSY, Eamonn (CBA)



<Eamonn.O'Shaughnessy@mfat.govt.nz>; NEEDS, Andrew (CBA)  
<[Andrew.Needs@mfat.govt.nz](mailto:Andrew.Needs@mfat.govt.nz)>; GOOD, Rebecca (AUS) <[Rebecca.Good@mfat.govt.nz](mailto:Rebecca.Good@mfat.govt.nz)>;  
ROBSON, Sarah (CMD) <[Sarah.Robson@mfat.govt.nz](mailto:Sarah.Robson@mfat.govt.nz)>  
**Subject:** <sup>s6(a)</sup>

Hi Nicole

s6(a)

Thanks and speak soon

Ros

For background: current NZ media lines

*501 deportations*

- Australia and New Zealand have a strong relationship based on trust and Australia is well within its rights as a sovereign state to make its own rules.
  - We expect the Australian Government to live up to its commitment to a 'common sense' approach to deportations. This means we do not want to see deportation of people with little or no connection to New Zealand, whose formative experiences were nearly all in Australia.
  - We will continue dialogue with Australia. We will be monitoring how Ministerial Direction 110 is implemented and the impacts on New Zealand.
  - The trans-Tasman travel Arrangement remains a critical enabler of the bilateral relationship. One that enables trade, people-to-people, and cultural connections to flourish.
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