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Seasonal change

Inquiry into the Seasonal Worker Programme

Joint Standing Committee on Migration

May 2016
Canberra

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Foreword

The Seasonal Worker Programme is extremely important to both the developing nations of the Pacific islands and Timor Leste as well as the Australian horticulture industry. It assists these nations by providing valuable employment opportunities, economic development through remittances and new skills and training for seasonal workers. It also supports the Australian horticulture industry by filling a significant industry labour shortage with hard working, reliable, and productive employees. 2,801 Seasonal Worker Programme places were taken up between 1 July 2014 to 31 May 2015 with over half of the participants having returned.

Overall submitters were very supportive of the programme and its objectives to contribute to economic development and support Australian employers in the horticulture industry. However, the Committee received evidence that there were a number of impediments preventing the programme from reaching its full potential.

Most notably is the horticulture industry's significant reliance on Working Holiday Maker visa holders. Over 41,000 second Working Holiday visas were granted in the last financial year (2014-15) and over 92 per cent indicated that they had engaged in agricultural work.

While the impetus for establishing the working holiday visa is for cultural exchange, the reality is it fills a significant labour gap within the industry and is in direct competition with the Seasonal Worker Programme.

The Committee has therefore recommended that the Australian Government undertake a comprehensive review of the changes to the seasonal worker and working holiday maker programmes by December 2017 to ensure they are meeting their stated goals, and not adversely impacting on each other or the local labour market.

Other possible impediments that submitters suggested were preventing greater employer participation included the requirement to undertake labour market testing, administration for superannuation payments, and travel and up front costs. In order to reduce inconsistencies and additional regulatory burden on employers, the Committee recommended that the Australian Government:

- standardise the labour market testing requirements across the range of temporary work visas; and
- undertake a review of current superannuation requirements for Seasonal Worker Programme participants.

Before employers can engage seasonal workers, they must first check the local labour market. Providing job opportunities for Australians, particularly in areas of labour shortages, is fundamentally important. Currently, there appears to be a poor perception surrounding the agriculture industry and in particular, that it lacks viable career pathways. More needs to be done to change this misconception and to support youth employment pathways. The Committee therefore recommended the Australian Government allocate funds to establish a three year pilot programme for 17-24 year olds to train and work in the agricultural sector, a *Future Force*, similar to the Green Army programme model with appropriate adjustments.

Female participation in the programme remains very low with only thirteen per cent of participants in the 1 July 2014 to 31 May 2015 period. Gender equality and empowering women has been shown to contribute to economic growth, development, stability and poverty reduction. The Committee has made a number of recommendations aimed at increasing gender equality and providing women greater employment opportunities.

Lastly, the Seasonal Worker Programme has the potential to provide a significant benefit to industries that have experienced long-term labour shortages. The programme could advance beyond the level of an unskilled labour migration scheme to address these labour shortages in additional industry sectors such as aged care, child care, and disability care.

Some of these sectors, however, require relevant qualifications in which to work. Enhancing the programme to broaden its remit to provide new skills and training would be a considerable advantage to Seasonal Worker Programme participants, their home countries and these Australian industry sectors that struggle to find appropriate workers.

The Australia Pacific Technical College currently offers Australian qualifications to Pacific Islanders from 14 Pacific Island Countries in the health and community services industry sectors. This important mechanism can provide a valuable employment pathway for Australia Pacific Technical College graduates.

The Committee would like to sincerely thank all of the stakeholders, the Governments of Seasonal Worker Programme participating countries, approved employers and growers, peak bodies, government departments, academics, unions, organisations and individuals for their time, effort and resources to make submissions and appear at public hearings. I would also like to thank my hard working colleagues on the Committee.

Mrs Louise Markus MP
Chair



Membership of the Committee

Chair Mrs Louise Markus MP

Deputy Chair Ms Maria Vamvakinou MP

Members	Senator Chris Back <i>(from 26/6/14)</i>	Hon Kevin Andrews MP <i>(from 19/10/15)</i>
	Senator Sam Dastyari	Mr Craig Kelly MP
	Senator Sean Edwards	Mr Craig Laundy MP <i>(until 13/10/15)</i>
	Senator Sarah Hanson-Young	Hon Matt Thistlethwaite MP
	Senator John Williams <i>(until 26/6/14)</i>	Mr Tony Zappia MP

Committee Secretariat

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Terms of reference

The Joint Standing Committee on Migration shall inquire into the Seasonal Worker Programme. In conducting its inquiry, the Committee shall have particular regard to:

- The role of seasonal workers in the horticulture industry;
- Expanding the Seasonal Worker Programme to other countries and sectors;
- The current and projected future workforce requirements for sectors that may benefit from seasonal workers;
- The impact on the Australian labour force of the current and projected Seasonal Worker Programme;
- The merits and challenges of increased recruitment of overseas workers, in particular providing increased access for women and youth workers;
- The role of the Seasonal Worker Programme in supporting development assistance in the Pacific;
- Any legislative and other impediments in attracting seasonal workers;
- The visa regime for seasonal workers, including compliance and related issues.



List of abbreviations

ABS	Australian Bureau of Statistics
ADF	Australian Dairy Farmers
ACFA	Aged Care Financing Authority
ACTU	Australian Council of Trade Unions
APAL	Apple & Pear Australia Limited
APTC	Australia Pacific Technical College
CPH	Census of Population and Housing
DoA	Department of Agriculture
DoE	Department of Employment
DFAT	Department of Foreign Affairs and Trade
DIBP	Department of Immigration and Border Protection
DPC	Development Policy Centre
EAS	Economic Activity Survey
FIC	Forum Island Countries
FWO	Fair Work Ombudsman
HLS	Harvest Labour Services
ILO	International Labour Organisation
LFS	Labour Force Survey

LMU	Labour Mobility Unit
MFAET	Ministry of Foreign Affairs and External Trade
NFF	National Farmers' Federation
NHLIS	National Harvest Labour Information Service
NUW	National Union of Workers
OCTA	Office of the Chief Trade Advisor
OPW	Owen Pacific Workforce Pty Ltd
PACER	Pacific Agreement on Closer Economic Relations
PNG	Papua New Guinea
PSWPS	Pacific Seasonal Worker Pilot Scheme
RSE	Recognised Seasonal Employer
SSGMP	State, Society and Governance in Melanesia Program
SSPTEP	Secretary of State for Professional Training and Employment Policy
SWP	Seasonal Worker Programme
TAA	Tourism Accommodation Australia
TSA	Tourism Satellite Account
TTF	Tourism and Transport Forum
TQ	TAFE Queensland
UAB	Union Aid Abroad - APHEDA
UCA	Uniting Church Australia
VFF	Victorian Farmers Federation
WHM	Working Holiday Maker



List of recommendations

3 Role of seasonal workers in the horticulture industry

Recommendation 1

The Committee recommends that a comprehensive review of the changes to the seasonal worker and working holiday maker programmes be undertaken by December 2017 to ensure they are meeting their stated goals, and not impacting on each other or the local labour market in unintended ways.

4 Workforce requirements for sectors that may benefit from seasonal workers

Recommendation 2

The Committee recommends that the Australian Government undertake improved qualitative and quantitative research on full-time, part-time and seasonal labour workforce requirements to better inform Government policy.

5 Expanding the Seasonal Worker Programme

Recommendation 3

The Committee recommends the Australian Government consider expanding the Seasonal Worker Programme to include the aged, child, and disability care sectors, which have already been included in the White Paper on Developing Northern Australia.

6 Impact on the Australian labour force

Recommendation 4

The Committee recommends that the Australian Government allocate funds to establish a three year pilot programme for 17-24 year olds to train and work in the agricultural sector, a 'Future Force', similar to the Green Army programme model with appropriate adjustments.

7 Increased access for women and youth workers

Recommendation 5

The Committee recommends that the Australian Government implement the following measures to increase gender equality and provide women greater employment opportunities:

- The Department of Employment review the memorandums of understanding with Seasonal Worker Programme participating countries;
- The Australian Government assist interested countries in the establishment and development of programmes focused on gender equality;
- That Pacific Agreement on Closer Economic Relations Plus negotiations include discussions on gender equality.

8 Development outcomes in the Pacific

Recommendation 6

The Committee recommends that the Seasonal Worker Programme provide an employment pathway for Australia Pacific Technical College health and community services industry sector graduates.

9 Possible legislative and other impediments

Recommendation 7

That the Australian Government standardise the labour market testing requirements across the range of temporary work visas.

Recommendation 8

The Committee recommends that the Department of Treasury undertake a review of current superannuation arrangements for Seasonal Worker Programme participants, having regard to:

- whether or not current arrangements meet the objectives of the Seasonal Worker Programme;
- the barriers to accessing accumulated superannuation funds for seasonal workers and measures to improve access.

The review should be conducted primarily with a view to ensuring seasonal workers receive their full entitlements as efficiently and quickly as possible.

10 Compliance and related issues

Recommendation 9

The Committee recommends that the Australian Government implement Recommendation 32 of the Senate Education and Employment References Committee report on the impact of Australia's temporary work visa programs on the Australian labour market and on the temporary work visa holders.

Introduction

Conduct of the inquiry

- 1.1 On 17 May 2015, the Minister for Immigration and Border Protection, the Hon Peter Dutton MP, asked the Committee to inquire into and report on the Seasonal Worker Programme. The terms of reference of the inquiry were to have particular regard to:
- The role of seasonal workers in the horticulture industry;
 - Expanding the Seasonal Worker Programme to other countries and sectors;
 - The current and projected future workforce requirements for sectors that may benefit from seasonal workers;
 - The impact on the Australian labour force of the current and projected Seasonal Worker Programme;
 - The merits and challenges of increased recruitment of overseas workers, in particular providing increased access for women and youth workers;
 - The role of the Seasonal Worker Programme in supporting development assistance in the Pacific;
 - Any legislative and other impediments in attracting seasonal workers;
 - The visa regime for seasonal workers, including compliance and related issues.

- 1.2 The Committee invited an array of stakeholders, groups and individuals to submit to the inquiry, including relevant Federal government departments, peak bodies, industry groups, approved employers under the Seasonal Worker Programme, and countries who participate in the Season Worker Programme.
- 1.3 The Committee received 44 submissions and seven exhibits from a range of overseas government departments, Federal, State and Territory government departments, peak bodies, academics and farmers, unions, a TAFE and church group.
- 1.4 The Committee also took evidence from 33 organisations and individuals at ten public hearings held in Canberra and Victoria over the course of the inquiry.¹

Structure of the report

- 1.5 The Committee's report is structured around the inquiry's terms of reference. This introductory chapter provides an outline of the conduct of the inquiry.
- 1.6 Chapter 2 provides some factual background information on the Seasonal Worker Programme including the role of approved providers, visa requirements, and participation rates.
- 1.7 The role of seasonal workers in the horticulture industry and an examination of the current workforce requirements for sectors that may benefit from seasonal workers is explored in Chapters 3 and 4 respectively
- 1.8 Chapter 5 considers whether the programme should be expanded into other sectors or regions and Chapter 6 looks at whether the Seasonal Worker Programme is impacting on the Australian labour force.
- 1.9 Chapter 7 focuses on the merits and challenges of providing increased access for women and youth workers.
- 1.10 The role of the Seasonal Worker Programme in supporting development outcomes in the Pacific is considered in Chapter 8.
- 1.11 Chapters 9 and 10, respectively, examine the legislative and other impediments in attracting seasonal workers and compliance within the programme.

1 See appendices A, B and C.

Background

- 2.1 In August 2008 the then Government announced that it would establish a Pacific Seasonal Worker Pilot Scheme which intended to:
- ... alleviate labour shortages for the Australian horticultural industry by providing opportunities for workers from Kiribati, Papua New Guinea, Tonga, and Vanuatu to undertake seasonal work.¹
- 2.2 The objectives of the pilot scheme were to:
- Contribute to Australia's economic development objectives in the Pacific region, in particular by enabling workers to contribute to economic development in their home countries through remittances, employment experience and training gained from participating in the Pilot.
 - Assist Australian employers in the horticulture industry who have demonstrated unmet demand for labour.²
- 2.3 The pilot scheme ran for three and a half years and concluded on 30 June 2012.³ In a final evaluation of the pilot scheme, it was recommended that a low-skilled seasonal labour mobility program be established to meet the needs of the Australian horticulture industry.⁴
- 2.4 The Seasonal Worker Programme (SWP) commenced on 1 July 2012 with a focus on providing:

1 University of Waikato, *Australia's Pacific Seasonal Worker Pilot Scheme (PSWPS): Development Impacts in the First Two Years*, June 2011, p. 2.

2 TNS Consultants, *Final Evaluation of the Pacific Seasonal Worker Pilot Scheme*, September 2011, p. 4.

3 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 3.

4 TNS Consultants, *Final Evaluation of the Pacific Seasonal Worker Pilot Scheme*, September 2011, p. 9.

... small island countries with opportunities for economic development. The programme provides eligible citizens from eligible countries with the opportunity to undertake low and unskilled seasonal work in Australia.⁵

- 2.5 Participating countries that have entered into a Memoranda of Understanding for the SWP include: the Republic of Fiji; the Republic of Kiribati; the Republic of Nauru; the Independent State of Papua New Guinea; the Independent State of Samoa; the Solomon Islands; the Democratic Republic of Timor-Leste; the Kingdom of Tonga; Tuvalu; and the Republic of Vanuatu.⁶
- 2.6 In its joint submission to the Committee, the Department of Employment (DoE), Department of Immigration and Border Protection (DIBP), and Department of Agriculture (DoA) stated that the SWP was established because:
- many Pacific island countries and Timor-Leste have limited economic opportunities; and
 - Australian employers in the horticulture sector have difficulties in filling seasonal vacancies with suitable local labour.⁷
- 2.7 The Department's added that the SWP is based on the following principles:
- the opportunity for seasonal workers to benefit financially from their participation in the programme
 - meeting the needs of approved employers, who can demonstrate an unmet demand for labour and a commitment to employing Australian job seekers
 - mutual contribution by approved employers and seasonal workers, leading to a shared investment in positive outcomes for participants
 - circular migration to provide for the return of seasonal workers in subsequent seasons and to further develop productivity outcomes for participants; and
 - to provide protection, community and government support that maximises the potential benefits for seasonal workers and minimises the potential for exploitation of seasonal workers.⁸
-

5 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 3.

6 Details of the implementation arrangements for the seasonal worker programme are available at Appendix D. The document is a subsidiary to the Memorandum of Understanding in support of Australia's Seasonal Worker Programme.

7 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 3.

8 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 3.

- 2.8 At a public hearing the DoE stated that the SWP has two key objectives: firstly, to contribute to the economic development of participating countries through the provision of employment experience, skills and knowledge transfer, and being able to send money back to their home country through remittances; and, secondly, to assist Australian producers and employers who are unable to source enough local Australian workers to meet their seasonal labour needs by providing access to a reliable seasonal workforce, able to return in future seasons.⁹
- 2.9 On 18 June 2015, the Government released its White Paper on Developing Northern Australia: *Our North, Our Future*.¹⁰ A number of changes were made to the delivery of the SWP as part of the announcement:
- expand to the broader agriculture sector across Australia and also the accommodation sector in eligible locations. The Northern Australia tourism industry will be invited to put forward proposals to trial seasonal labour mobility arrangements in the tourism sectors beyond accommodation
 - remove the annual cap on programme places while maintaining safeguards for the Australian labour market. This includes delegating discretion to the Minister for Employment to cap, exclude and review the placement of seasonal workers in geographical locations, including metropolitan areas and areas with high unemployment and low workforce participation rates. As well, a review by the Department of Employment will be undertaken by mid-2017 into whether Australian job seekers are disadvantaged by the expansion of the programme
 - expand the programme to other Pacific Island countries which are members of the Pacific Island Forum
 - reduce red tape associated with the programme. This includes removing the minimum stay requirement of fourteen weeks, simplifying cost sharing arrangements by combining the employer's contribution to the seasonal worker's international and domestic airfare to a total of \$500 and a commitment to review the training component for seasonal workers
 - allow citizens of Kiribati, Nauru and Tuvalu to be granted a longer-term visa enabling them to undertake seasonal work in Australia for up to nine months.¹¹

9 Ms Durbin, Department of Employment, *Transcript*, 24 June 2015, p. 1.

10 The Hon Tony Abbott MP, Prime Minister; the Hon Warren Truss MP, Deputy Prime Minister; the Hon Andrew Robb MP, Minister for Trade and Investment; 'Our North, Our Future: A Vision for Developing North Australia', Joint Media Release, 18 June 2015.

11 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 4.

2.10 On 8 February 2016, the Government announced that the SWP would be expanded ‘from primarily horticulture to the broader agricultural sector.’¹² The DoE stated:

Only low and unskilled positions covered by the Pastoral Award 2010 are part of the expanded SWP. This Award covers all employers and employees working in:

- dairying
- hatchery work
- sowing, raising or harvesting of crops grown as part of a crop or broad acre mixed farming enterprise
- assisting with livestock management/handling
- treatment of land for crops or livestock
- clearing, fencing or assisting with well sinking, dam sinking or trenching on properties.¹³

Seasonal Worker Programme

2.11 The SWP is primarily administered by the DoE with support from the Department of Foreign Affairs and Trade (DFAT), the DIBP, DoA, Austrade and the Fair Work Ombudsman (FWO).¹⁴

2.12 Participation in the SWP is voluntary:

- countries invited to participate are not required to participate in the programme; and
- employers in Australia and seasonal workers in participating countries choose to participate in the programme.¹⁵

2.13 As noted above, participating countries enter into a Memoranda of Understanding with the Australian Government which ‘establish the labour sending and labour receiving arrangements for the Seasonal Worker Programme.’¹⁶

12 The Barnaby Joyce MP, Minister for Agriculture and Water Resources; Senator the Hon Michaelia Cash, Minister for Employment; ‘Seasonal workers expanding to greener pastures’, Joint Media Release, 8 February 2016.

13 Department of Employment, *Factsheet - the agriculture industry and the Seasonal Worker Programme*, 8 February 2016, p. 1.

14 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 4.

15 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 5.

16 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 6.

- 2.14 Each participating country has different recruitment mechanisms it uses to select labour for the SWP including: recruitment from a work-ready pool; recruitment via appointed or licensed Agents; or direct recruitment by employers.¹⁷
- 2.15 Table 2.1 provides a list of the range of work that Seasonal workers can undertake within the horticulture, cane, cotton, aquaculture and accommodation sectors.

Table 2.1 Types of work seasonal workers can undertake

Horticulture	Cane	Cotton	Aquaculture	Accommodation in locations: WA, NT, tropical QLD and Kangaroo Island
Picking	General farm work	General farm work, ground preparation	Feeding	Bar attendants
Packing	Tilling, sowing, planting, raising, irrigating, treating and testing of cane crops	Planting, irrigating, harvesting and treating cotton and other crops	Attending mooring pens	Baristas
Thinning and Pruning	Cleaning and storing equipment	Loading trucks	Washing and changing nets	Food and beverage attendants
	Harvesting and haul out work	Cleaning, storing, operating and maintaining equipment (including tractors)	Moving materials and equipment	Café workers
	Weeding, clearing, fencing and trenching, draining or otherwise preparing land, and pest and disease control	Weeding, fencing, draining or otherwise preparing land	Loading, unloading, moving, packing and construction of shellfish culture mediums	Garden labourers
		General farm maintenance	Operating boats	Housekeepers
		Tractor operations	Harvesting and husbanding fish	Kitchen hands
			Recording data	Public area cleaners
			Operating mechanical equipment such as grading machines	
			Preparing or products for market/transport (but not mechanical duties)	

Source Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 26.

17 Department of Employment, *SWP Implementation Arrangements – effective 1 August 2015*, 12 August 2015, p. 3.

Approved Employers

- 2.16 Only organisations approved by the Australian Government (approved employers) are able to recruit seasonal workers.¹⁸
- 2.17 Organisations can apply to become an approved employer to either 'recruit and place workers with their own business', or 'recruit seasonal workers to place with another business in a labour hire arrangement.'¹⁹
- 2.18 It takes approximately 12 weeks to process an application to become an approved employer and organisations can only apply twice every 12 months to be an approved employer:
- An Entity may only apply for Approved Employer status twice in any 12 month period from the date of submitting their first application. The application of an Entity that does not achieve Approved Employer status within 12 months of the date of submitting their application will lapse and the Entity will need to submit a new application if it remains interested in becoming an Approved Employer for the Seasonal Worker Programme.²⁰
- 2.19 To be eligible to become an approved employer the organisation must demonstrate that it:
- is an eligible business registered and operating in Australia in a sound financial position and has an ABN
 - is an 'Organisation' for the purposes of the Migration Regulations 1994
 - has good immigration practices and a history of compliance with immigration legislation
 - has a history of compliance with Australian workplace relations, work health and safety legislation, and other relevant laws
 - understands and will comply with the programme requirements.²¹
- 2.20 Approved employers 'might be approved for up to three years or for the period of the agreement with Department of Employment.'²²

18 Department of Employment, *Factsheet- approved employers and the Seasonal Worker Programme*, 18 June 2015, p. 1.

19 Department of Employment, *Factsheet- approved employers and the Seasonal Worker Programme*, 18 June 2015, p. 1.

20 Department of Employment, *Seasonal Worker Programme Application Form*, 22 September 2015, p. 2.

21 Department of Employment, *Seasonal Worker Programme Application Form*, 22 September 2015, p. 2. (see Appendix E for the full application form)

22 Department of Immigration and Border Protection, 'Special Program visa (subclass 416) for the seasonal worker programme', viewed on 11 March 2016, <<https://www.border.gov.au/Trav/Visa-1/416->>.

- 2.21 In its submission, the DoE stated that if an organisation's application is successful, the approved employer enters into an agreement with the DoE and DIBP:

To become an 'approved employer' to recruit seasonal workers under the Seasonal Worker Programme, Australian employers complete an application form and lodge it with the Department of Employment. Employers that meet the programme's criteria ... are offered a Deed of Agreement which comes into effect when the employer completes and receives Special Programme Sponsorship (Visa subclass 416) with the Department of Immigration and Border Protection. The Deed of Agreement sets out the employer's obligations under the Seasonal Worker Programme.²³

- 2.22 Prior to recruiting seasonal workers, approved employers must submit information on the arrangements for seasonal workers:

The Deed of Agreement between the Department of Employment and an approved employer requires the approved employer to submit certain information to the Department of Employment prior to recruiting seasonal workers. Approved employers must outline their intended recruitment arrangements for seasonal workers including how many seasonal workers they are seeking to employ, the proposed work and accommodation placement(s) of seasonal workers, the employment conditions for seasonal workers, and the proposed transportation and pastoral care arrangements for seasonal workers together with the offer of employment for seasonal workers which must also contain this stated information for approval by the Department of Employment.²⁴

- 2.23 Only after approved employers have provided evidence they have tried to recruit Australian workers to fill job vacancies can they seek to recruit seasonal workers.²⁵ Vacant positions 'must be advertised for a two week period and within three months of an employer seeking to bring seasonal workers into Australia.'²⁶

23 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 6.

24 Department of Employment, *Supplementary Submission 2.3*, p. 2.

25 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 4.

26 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 6.

2.24 In its submission, the DoE also noted that:

Approved employers must only recruit in accordance with the Department of Employment's approval of recruitment and must only employ seasonal workers in accordance with terms and conditions consistent with the offer of employment.

If an approved employer intends to alter any aspects of their arrangements for seasonal workers outlined in the approved recruitment and offer of employment, the Department of Employment must be informed and seasonal workers must agree in writing to the amendments.²⁷

2.25 The DoE then next provides 'a recruitment approval notification to the approved employer and the approved employer's nominated labour sending country,' with advice on:²⁸

... the matters considered by the department, including the work and accommodation locations, and the letter of offer of employment. It allows the labour sending officials to provide a pre-departure briefing to seasonal workers that addresses the details of who will be the seasonal workers point of contact in Australia, who is their employer, how to raise issues or concerns, where they will be working and living and a range of other matters associated with working and living in Australia.²⁹

2.26 Approved employers are responsible for:

- testing the labour market, and trying to recruit local workers before seeking access to seasonal workers
- employing seasonal workers in accordance with Australian workplace legislation
- providing briefings to seasonal workers on-arrival into Australia and before departing back home
- providing seasonal workers a minimum average of 30 hours per week for up to six months or up to nine months for seasonal workers from the microstates of Kiribati, Nauru and Tuvalu
- paying for the full cost of each seasonal workers' return international airfare and domestic transfer arrangements up front, and recouping from the combined cost any amount over \$500 from seasonal workers' pay over time
- organising accommodation and transport to and from work for each seasonal worker (at the seasonal workers' expense)
- reporting to Government

27 Department of Employment, *Supplementary Submission 2.3*, p. 2.

28 Department of Employment, *Supplementary Submission 2.3*, p. 2.

29 Department of Employment, *Supplementary Submission 2.3*, p. 2.

- providing pastoral care for workers, including opportunities for recreation and religious observance, a 24 hour contact number, and assisting workers to access services in the local community.³⁰
- 2.27 Approved employers must also meet certain visa sponsor obligations including:
- cooperate with inspectors [appointed under the *Migration Act 1958*]
 - tell us [the DIBP] when certain events occur
 - keep records
 - provide records and information to the Minister [for DIBP]
 - not recover from, transfer or charge certain costs to another person
 - pay costs to locate and remove an unlawful non-citizen.³¹
- 2.28 The DoE advised that from 1 July 2015 it had ‘made a number of administrative changes to the programme to reduce red tape and streamline processes including a new application form, referee form and a new Deed of Agreement.’³²
- 2.29 There were 58 SWP approved employers in 2014-15: eleven in Western Australia; ten in New South Wales; one in the Northern Territory; 22 in Queensland; four in South Australia; and ten in Victoria.³³
- 2.30 In its supplementary submission, the DoE pointed out that labour hire companies recruit the vast majority of seasonal workers:
- There are 48 growers and accommodation providers that have directly recruited 33 per cent of seasonal workers. The remaining 21 approved employers operate under either a labour hire or contractor model and have recruited 67 per cent of seasonal workers under the programme.³⁴

30 Department of Employment, *Factsheet- approved employers and the Seasonal Worker Programme*, 18 June 2015, p. 1

31 Department of Immigration and Border Protection, ‘Special Program visa (subclass 416) for the seasonal worker programme’, viewed on 11 March 2016, <<https://www.border.gov.au/Trav/Visa-1/416->>.

32 Department of Employment, *Supplementary Submission 2.4*, p. 6.

33 Department of Employment, *Supplementary Submission 2.2*, p. 19.

34 Department of Employment, *Supplementary Submission 2.4*, p. 1.

Seasonal Worker Programme visa (subclass 416)

2.31 The SWP (subclass 416) is a temporary special program visa which enables the visa holder to:

- do the work in Australia, as specified in your visa application (usually for 14 weeks to six months)
- stay in Australia usually for up to seven months in any 12 month period (depending on the length of your work placement)
- enter and leave Australia while your visa is valid
- work for your sponsor:
 - ⇒ anywhere in Australia if you work in horticulture
 - ⇒ in limited locations in tourism (accommodation), sugar cane farming, cotton farming or aquaculture.³⁵

2.32 In order to be eligible for the visa, applicants must:

- be invited to participate in the programme by an approved special program sponsor
- meet health and character requirements
- have health insurance for the entire period you are in Australia.
- be outside Australia when you apply for the visa and be residing in your country of citizenship
- be outside Australia when the visa is granted to participate in the programme
- meet the following requirements of the Seasonal Worker Programme:
 - ⇒ be a citizen of and resident in Timor-Leste, Fiji, Kiribati, Nauru, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu or Vanuatu
 - ⇒ be at least 21 years of age
 - ⇒ intend to enter Australia temporarily for seasonal work and return to your home country after your employment ceases.³⁶

35 Department of Immigration and Border Protection, 'Special Program visa (subclass 416) for the seasonal worker programme', viewed on 11 March 2016, <<https://www.border.gov.au/Trav/Visa-1/416->>.

36 Department of Immigration and Border Protection, 'Special Program visa (subclass 416) for the seasonal worker programme', viewed on 11 March 2016, <<https://www.border.gov.au/Trav/Visa-1/416->>.

- 2.33 Visa length is generally based on the time of employment in Australia plus additional time for the visa holder to travel to and from the place of employment.³⁷ On average it takes seven days for an applicant to be issued a visa under the SWP.³⁸
- 2.34 As part of the Government White Paper on Developing Northern Australia, up to 250 citizens of Kiribati, Nauru and Tuvalu are now able to access a longer-term visa:
- ... access to a multi-year work visa (two years, with the option of applying for an additional third year) to work in lower-skilled occupations in Northern Australia. The visa will be a Temporary Work (International Relations) subclass 403.³⁹
- 2.35 DFAT advised that they are 'coordinating policy, design, planning and implementation'⁴⁰ of the five year pilot programme in consultation with the DoE.
- 2.36 DFAT noted that the aim of the pilot was to 'target non-seasonal industries and occupations that are unable to access Australian workers, in turn supporting Northern Australia's economic development.'⁴¹
- 2.37 DFAT highlighted that it 'is currently negotiating Memoranda of Understanding setting out the terms of the pilot with counterpart governments', noting that:
- Discussions with the Government of Kiribati are well advanced, and formal discussions with the Governments of Nauru and Tuvalu are scheduled for early 2016.⁴²
- 2.38 The DoE is also:
- ... consulting with existing Approved Employers under the Seasonal Worker Programme to identify employers wishing to take workers for up to three years under the pilot. The Government is also investigating other employers specifically for the scheme and exploring a range of options that respond to the skill base of participating countries. In particular, DFAT is looking for opportunities to place graduates from the Australia Pacific Technical College (APTC) in areas such as hospitality,

37 Department of Immigration and Border Protection, 'Special Program visa (subclass 416) for the seasonal worker programme', viewed on 11 March 2016, <<https://www.border.gov.au/Trav/Visa-1/416->>.

38 Department of Immigration and Border Protection, *Supplementary Submission 39.1*, p. 13.

39 Department of Immigration and Border Protection, *Supplementary Submission 39.1*, p. 9.

40 Department of Immigration and Border Protection, *Supplementary Submission 39.1*, p. 9.

41 Department of Immigration and Border Protection, *Supplementary Submission 39.1*, p. 9.

42 Department of Immigration and Border Protection, *Supplementary Submission 39.1*, p. 9.

accommodation, various trades (automotive, electrical, plumbing, mechanical), aged care and community care.⁴³

Participation in the Seasonal Worker Programme

2.39 Up until 1 July 2015, places in the SWP were capped: '80 per cent of places to the horticulture sector and 20 per cent to four trial sectors: aquaculture, cane, cotton and accommodation.'⁴⁴

2.40 On 20 February 2015 the Minister for Employment removed the sector caps for the remainder of 2015-16. The DoE in its submission noted that:

The horticulture and trial sector caps were merged so that approved employers could draw on places from one pool. This was to address increased demand from the horticulture sector.⁴⁵

2.41 Table 2.2 below shows that demand for the SWP has increased since its establishment. 1,473 places were taken up in 2012-13 and 2,801 in 2014 until 31 May 2015.

Table 2.2 Seasonal Worker Programme places by year under the capped programme

	2012-13	2013-14	2014-15 (as at 31 May 2015) ⁴⁶
Horticulture	1452 of 1600 capped places	1979 of 2000 capped places	2755 of 2600 capped places (noting places from the trial sector have been used)
Trial sectors of aquaculture, cane, cotton and accommodation	21 of 400 capped places	35 of 500 capped places	46 of 650 capped places
Totals	1,473	2,014	2,801 (as at 31 May 2015)

Source Department of Employment, *Supplementary Submission 2.2*, p. 18.

2.42 The Kingdom of Tonga is Australia's largest participant in the SWP. As highlighted in Table 2.3, between 2012 and 31 May 2015, over 70 per cent of seasonal worker participants were from Tonga, 13 per cent from Vanuatu and 6 per cent from Samoa.

43 Department of Immigration and Border Protection, *Supplementary Submission 39.1*, p. 9.

44 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 4.

45 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 4.

46 Minister for Employment announcement on 20 February 2015 to merge horticulture and trial sector caps for the remainder of 2015-16.

Table 2.3 Seasonal Worker Programme places by year and country

Citizenship Country	2012-13	2013-14	2014-15 to 31 May 2015	Total
Fiji	0	0	< 5	< 5
Kiribati	34	14	11	59
Nauru	10	0	0	10
Papua New Guinea	26	26	35	87
Samoa	22	162	175	359
Solomon Islands	42	9	21	72
Timor-Leste	21	74	168	263
Tonga	1 199	1 497	1 883	4 579
Tuvalu	0	20	7	27
Vanuatu	119	212	497	828
Total	1 473	2 014	2 801	6 288

Source Department of Employment, *Supplementary Submission 2.1*, p. 5.

2.43 Of the Tongan participants, 12 per cent were female and 88 per cent were male. Out of total SWP participants between 2012 and 31 May 2015, 30 per cent were females. The DoE stated:

There have been 2,425 seasonal workers who are male and 376 who are female. Timor-Leste have had 168 participants, 129 of whom are male and 39 of whom are female.⁴⁷

2.44 Table 2.4 provides a detailed breakdown of the number of female and male participants by country.

47 Ms Smith, Department of Employment, *Transcript*, 24 June 2015, p. 8.

Table 2.4 Seasonal Worker Programme places by country and gender

Citizenship Country	2012-13			2013-14			2014-15 to 31/05/15		
	Female	Male	Total	Female	Male	Total	Female	Male	Total
Fiji	0	0	0	0	0	0	0	< 5	< 5
Kiribati	10	24	34	0	14	14	0	11	11
Nauru	< 5	8	10	0	0	0	0	0	0
Papua New Guinea	7	19	26	6	20	26	8	27	35
Samoa	< 5	18	22	6	156	162	< 5	172	175
Solomon Islands	13	29	42	0	9	9	0	21	21
Timor-Leste	10	11	21	19	55	74	39	129	168
Tonga	138	1 061	1 199	175	1 322	1 497	240	1 643	1 883
Tuvalu	0	0	0	13	7	20	0	7	7
Vanuatu	30	89	119	32	180	212	86	411	497
Total	214	1 259	1 473	251	1 763	2 014	376	2 425	2 801

Source Department of Employment, *Supplementary Submission 2.1*, p. 16.

2.45 Between 2012 and 31 May 2015, the vast majority of SWP participants were between 21 and 45 years old. In that period less than twelve participants were between 18 and 20 years of age and 120 were 46 years of age or older. Table 2.5 shows SWP visas granted between 2012-13 to 2014-15 to 31 May 2015 by citizenship country and age group.

Table 2.5 Seasonal Worker Programme visas by citizenship country and age group

Financial Year	Citizenship Country	18-20 years	21-30 years	31-45 years	46+ years	Unknown	Total
2012-13	Kiribati	0	23	11	0	0	34
	Nauru	0	<4	6	0	0	10
	Papua New Guinea	0	11	15	0	0	26
	Samoa	0	11	11	0	0	22
	Solomon Islands	0	20	22	0	0	42
	Timor-Leste	0	20	<4	0	0	21
	Tonga	6	608	585	0	0	1 199
	Vanuatu	0	62	57	0	0	119
2012-13 Total		6	759	708	0	0	1 473

2013-14	Kiribati	0	9	5	0	0	14
	Papua New Guinea	0	8	15	0	<4	26
	Samoa	<4	89	70	<4	0	162
	Solomon Islands	0	<4	5	0	0	9
	Timor-Leste	0	53	21	0	0	74
	Tonga	<4	736	726	24	10	1 497
	Tuvalu	<4	13	5	<4	0	20
	Vanuatu	0	113	98	<4	0	212
2013-14 Total		<4	1 025	945	28	13	2 014
2014-15 to 31/5/15	Fiji	0	<4	<4	0	0	<4
	Kiribati	0	6	5	0	0	11
	Papua New Guinea	0	20	14	<4	0	35
	Samoa	0	98	73	<4	<4	175
	Solomon Islands	<4	8	10	0	<4	21
	Timor-Leste	0	105	61	<4	<4	168
	Tonga	0	901	888	69	25	1 883
	Tuvalu	0	<4	<4	<4	0	7
	Vanuatu	0	220	254	19	<4	497
2014-15 to 31/5/15 Total		<4	1 365	1 308	92	35	2 801

Source Department of Employment, *Supplementary Submission 2.2*, p. 16.

2.46 A number of SWP participants return to Australia for further seasonal work. In 2012-13, over one third of programme participants were returning seasonal workers. In 2013-14 it was just under half and between 2014 until 31 May 2015 over half of the participants had returned.

Table 2.6 Number of seasonal workers who return for further seasonal work

Financial Year of Visa Grant	2nd visa granted	3rd visa granted	4th visa granted	5th visa granted	6th visa granted	7th visa granted	Total
2009-10	21						21
2010-11	34	16					50
2011-12	225	27	11				263
2012-13	414	142	19	7			582
2013-14	536	321	115	18	< 5		993
2014-15 to 31/05/15	582	392	233	80	19	< 5	1 089
Total	1 812	898	378	105	22	< 5	2 998

Source Department of Employment, *Supplementary Submission 2.2*, p. 21.

2.47 At a public hearing the DoE stated that it received anecdotal evidence that nearly all SWP participants wished to return to Australia for more seasonal work:

We do hear – and this is anecdotally – that 99 per cent of the seasonal workers who returned to their Pacific island nation wish to return under the SWP. We hear varying reports from employers who have participated that they would like to see around 75 per cent of those workers come back.⁴⁸

2.48 The DIBP highlighted that the visa refusal rate for SWP applicants was very low: approximately two per cent (from 1 July 2015 to 30 November 2015).⁴⁹ Table 2.7, provided by the DIBP, shows the number lodged, granted and refused.

Table 2.7 Number of subclass 416 primary visas lodged, refused, granted, and the grant rate

Financial Year	Lodged	Granted	Refused	Grant rate (%)
2012-13	1,543	1,473	27	98.2
2013-14	2,083	2,014	25	98.8
2014-15	3,171	3,177	12	99.6
2015-16 to 30/11/15	1,711	1,588	32	98.0

Source Department of Immigration and Border Protection, *Supplementary Submission 39.1*, p. 12.

48 Ms Smith, Department of Employment, *Transcript*, 24 June 2015, p. 7.

49 Department of Immigration and Border Protection, *Supplementary Submission 39.1*, p. 12.

Participation in the Seasonal Worker Programme trials

- 2.49 As noted previously, trials were undertaken in the aquaculture, cane, cotton and accommodation sectors. The trials, which concluded on 30 June 2015, comprised of eight approved employers: seven accommodation providers and one in the cotton sector. The approved employers were located in Western Australia and Queensland.⁵⁰
- 2.50 In the first year of the trial (2012-13), 21 places were filled (19 in the accommodation sector and 2 in the cotton sector). In 2013-14, 35 places were filled (33 in the accommodation sector and 2 in the cotton sector) and 46 places were filled in the in the accommodation sector in 2014-15. Of those 46 places, 23 were returning seasonal workers.⁵¹
- 2.51 Female participation in the trial programme in the accommodation sector was much stronger than the SWP overall. Over half of the participants in each year of the trial were comprised of female seasonal workers. Table 2.8 provides more detail on participation in the trial sectors including the participating countries.

50 Department of Employment, *Supplementary Submission 2.2*, p. 23.

51 Department of Employment, *Supplementary Submission 2.2*, p. 22.

Table 2.8 Participation in the trial sectors

Year	Trial Sectors
13 (Year 1)	21 places filled <ul style="list-style-type: none"> - 19 placed in accommodation sector (10 male and 9 female seasonal workers from Timor-Leste) - 2 placed in cotton sector (2 male seasonal workers from Tonga)
2013-14 (Year 2)	35 places filled <ul style="list-style-type: none"> - 33 placed in accommodation sector (18 male seasonal workers from Timor-Leste, 14 female seasonal workers from Timor-Leste and one female seasonal worker from Papua New Guinea) - 2 placed in cotton sector (2 male seasonal workers from Tonga)
2014-15 (Year 3)	46 places filled <ul style="list-style-type: none"> - 46 placed in accommodation sector (24 male seasonal workers from Timor-Leste, 17 female seasonal workers from Timor-Leste, four female seasonal workers from Vanuatu and one female seasonal worker from Papua New Guinea)

Source Department of Employment, *Supplementary Submission 2.2*, p. 22.

Role of seasonal workers in the horticulture industry

- 3.1 In its joint submission, the Department of Employment (DoE), Department of Immigration and Border Protection (DIBP), and Department of Agriculture (DoA) highlighted the need for seasonal labour in the horticulture industry:

The horticulture industry faces dramatic but predictable seasonal peaks in demand for labour. During harvest the numbers of workers required by horticulture enterprises typically increases more than ten-fold, from a small base of permanent staff.

The peak in labour demand is often regionally concentrated, as the crops of a number of enterprises across a region will ripen and require harvesting at similar times. For example, the 2006 Senate report, *Perspectives of the future of the harvest labour force*, reported that growers in the Goulburn Valley needed around 2,000 pickers per week during an eight week period to harvest a pear crop of around 140,000 tones.¹

- 3.2 The Department's added it is challenging for industry to 'develop permanent local labour pools, despite attempts to source both local job seekers and other Australian labour.'²

1 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 9.

2 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 9.

- 3.3 The DoE also noted that the Seasonal Worker Programme (SWP) provides benefits to businesses that rely on seasonal workers because they 'are provided with an opportunity to organise a team of seasonal workers in advance of the season.'³
- 3.4 The Victorian Farmers Federation (VFF) agreed that the industry relied heavily on seasonal workers which were comprised of local labour and working holiday visa holders (subclass 417 and 462).⁴
- 3.5 Mossmont Nursery Pty Ltd, Vernview Pty Ltd, Abbotsleigh Citrus, the Voice of Horticulture, and NT Farmers all emphasised the importance of seasonal workers and their reliance on working holiday visa holders to fill labour shortages.⁵
- 3.6 Growcom, the peak representative body for the fruit and vegetable growing industry in Queensland, pointed out the various challenges in obtaining seasonal workers, stating:
- Workers must be readily available, in the numbers required, at the time and place where they are needed. Climatic conditions may impose additional restrictions or requirements on particular crops - eg harvest before a major weather event may require more workers than initially thought. Market demand and conditions may also impact on needs - flexibility in hiring is imperative.⁶
- 3.7 Connect Group Pty Ltd; AUSVEG, the National Peak Industry Body representing vegetable and potato growers; and Apple and Pear Australia Limited (APAL), the peak industry body representing commercial apple and pear growers, all were of the view that seasonal workers were critical to the horticulture industry and provided a valuable source of labour.⁷
- 3.8 APAL also noted that Working Holiday Makers (WHMs) provided a 'ready supply of casual unskilled labour.'⁸

3 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 9.

4 Victorian Farmers Federation, *Submission 9*, p. 4.

5 Mossmont Nursery Pty Ltd, *Submission 8*, p. 1; Vernview Pty Ltd, *Submission 13*, p. 2; Abbotsleigh Citrus, *Submission 15*, pp. 1-2; Voice of Horticulture, *Submission 34*, p. 1; NT Farmers, *Submission 41*, p. 1.

6 Growcom, *Submission 16*, p. 2.

7 Connect Group Pty Ltd, *Submission 18*, p. 1; AUSVEG, *Submission 25*, p. 3; Apple and Pear Australia Limited, *Submission 33*, p. 1.

8 Apple and Pear Australia Limited, *Submission 33*, p. 2.

- 3.9 AUSVEG commented that SWP and working holiday visa holders 'are vital labour sources for the Australian horticulture industry during peak seasonal periods, and any improvements to one program should not come at the expense of the other.'⁹
- 3.10 Deep Creek Organics indicated that trying to find field workers in its industry 'has proven to be one of our greatest battles.'¹⁰
- 3.11 TAFE Queensland (TQ) noted the horticulture industry struggles to obtain the productivity levels needed and relies heavily on seasonal workers.¹¹
- 3.12 TQ drew attention to a 2011 Report from the Produce Marketing Association - Australia-New Zealand, *Towards a better understanding of current and future human resource needs of Australian agriculture*, which found there was a deficit of full-time employees in the horticulture industry: 'Australian production horticulture currently has a deficit of 8,300 full-time employees and this will increase to 17,800 by 2018.'¹²
- 3.13 On the skills shortage within the horticulture industry, TQ added:
Addressing capability remains a challenge which means the sector still has a skilled workforce deficit. Changing practices of horticulture production to increased use of robotics and machines means the workforce skills deficiency is likely to increase. This has implications for the long-term sustainability of the sector.¹³
- 3.14 In its submission to the inquiry, the Office of the Chief Trade Advisor (OCTA) stated that seasonal workers were critical to the production and harvesting of perishable products; helped improve workforce planning; enabled farmers to cope with critical harvest times; helped farmers offset seasonal labour shortages; and provided legal, dependable, enthusiastic and productive workers.¹⁴
- 3.15 The OCTA highlighted an evaluation of the Pacific Seasonal Workers Pilot Scheme undertaken in 2011 which found 'that Pacific Island seasonal workers could meet the seasonal labour demands for the horticulture industry.'¹⁵

9 AUSVEG, *Submission 25*, p. 4.

10 Deep Creek Organics, *Submission 12*, p. 1.

11 Mrs Berkhout, TAFE Queensland South West, *Transcript*, 13 November 2015, p. 20.

12 TAFE Queensland, *Submission 27*, p. 5.

13 TAFE Queensland, *Submission 27*, p. 5.

14 Office of the Chief Trade Advisor, *Submission 5*, p. 6.

15 Office of the Chief Trade Advisor, *Submission 5*, pp. 5-6.

3.16 The DoE stated that seasonal work in the horticulture industry is supported through three mechanisms:

- jobactive, including Harvest Labour Services and the National Harvest Labour Information Service
- the Seasonal Worker Programme¹⁶ and
- Working Holiday Makers [WHM].¹⁷

Jobactive

3.17 In March 2015, the Australian Government announced that it would establish a new employment service arrangement: *jobactive*.¹⁸ The new arrangement, which commenced on 1 July 2015, provides the following five services:

- jobactive organisations assist job seekers to find and keep a job and ensure employers are receiving candidates that meet their business needs
- Work for the Dole Coordinators source suitable Work for the Dole activities in not-for-profit organisations such as local councils, schools, community organisations and state and federal agencies to help prepare job seekers for the work environment
- the New Enterprise Incentive Scheme helps eligible job seekers to start and run their own small business with support including accredited business training, business advice and mentoring for up to 52 weeks as well as allowance for up to 39 weeks; and
- Harvest Labour Services and the National Harvest Labour Information Service.¹⁹

3.18 Of the five services, the Harvest Labour Services (HLS) provides direct support to the horticulture industry through referring workers to harvest positions:

16 Chapter 2 contains background information on the Seasonal Worker Programme.

17 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 9.

18 The Hon Tony Abbott MP, Prime Minister; Senator the Hon Eric Abetz, Minister for Employment, the Hon Luke Hartsuyker MP, Assistant Minister for Employment; 'New jobactive services to help more jobseekers into work', Joint Media Release, 31 March 2015.

19 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, pp. 9-10.

Harvest Labour Services provides between 20,000–24,000 placements annually. Harvest Labour Services operate in specific harvest locations and place people legally able to work in Australia into harvest jobs. Workers are referred by Harvest Labour Service providers to a harvest position which could involve harvesting, cleaning or packing of horticultural products and operating harvest equipment. Harvest Labour Services help with ongoing advice and information about seasonal harvest work in regions across the country and screen job seekers to make sure they are able to work in Australia and are suitable for harvest employers.²⁰

- 3.19 The DoE noted, however, that the majority of HLS placements are filled by Working Holiday Maker visa holders rather than unemployed Australians.

Working Holiday Maker visa programme

- 3.20 The DoE, in its submission, pointed out the aims of the WHM visa programme to foster ‘tourism and cultural exchange by allowing participants from Australia and partner countries to travel to one another’s country for an extended holiday, during which they may engage in short term work and study.’²¹
- 3.21 Commencing in 1975, the WHM is comprised of the Working Holiday (subclass 417) and Work and Holiday (subclass 462) visa programmes and includes 38 partner nations and regions.²² Of the 38 countries 19 are comprised of Working Holiday visa arrangements and have no cap on the amount of visas that can be granted; and 19 are Work and Holiday which have a cap of between 100 and 5,000 (excluding the United States).²³ Table 3.1 provides a summary of these arrangements.

20 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 10.

21 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 11.

22 Department of Immigration and Border Protection, *Working Holiday Maker visa programme report*, 30 June 2015, p. 7.

23 Department of Immigration and Border Protection, *Working Holiday Maker visa programme report*, 30 June 2015, p. 7.

Table 3.1 Summary of Working Holiday Maker visa arrangements

Working Holiday (Subclass 417) Agreements		
<i>Commencement Date</i>	<i>Country</i>	<i>Cap</i>
1975	United Kingdom	N/A
1975	Ireland	N/A
1975	Canada	N/A
1 December 1980	Japan	N/A
1 July 1995	South Korea	N/A
1 July 1996	Malta	N/A
1 July 2000	Germany	N/A
1 July 2001	Sweden	N/A
1 July 2001	Norway	N/A
1 July 2001	Denmark	N/A
15 September 2001	Hong Kong	N/A
1 May 2002	Finland	N/A
1 July 2002	Cyprus	N/A
2 January 2004	Italy	N/A
20 February 2004	France	N/A
1 November 2004	Taiwan	N/A
1 November 2004	Belgium	N/A
20 May 2005	Estonia	N/A
1 July 2006	Netherlands	N/A
Work and Holiday (Subclass 462) Agreements		
1 August 2005	Thailand	500
1 March 2006	Chile	1 500
31 March 2007	Turkey	100
31 October 2007	United States of America	N/A
1 February 2009	Malaysia	100
1 July 2009	Indonesia	1 000
31 December 2010	Bangladesh	100
29 February 2012	Argentina	700
1 April 2013	Uruguay	200
1 August 2014	Poland	200
23 November 2014	Portugal	200
23 November 2014	Spain	500

Work and Holiday (Subclass 462) Agreements – signed but not yet in effect		
Signed 12 October 2011 – not yet in effect	Papua New Guinea	100
Signed 14 May 2014 – not yet in effect	Greece	500
Signed 22 October 2014 – not yet in effect	Israel	500
Signed 18 March 2015 – not yet in effect	Vietnam	200
Signed 27 May 2015 – not yet in effect	Slovak Republic	200
Signed 16 June 2015 – not yet in effect	Slovenia	200
Signed 17 June 2015 – not yet in effect	China	5 000

Source Department of Immigration and Border Protection, *Submission 39*, pp. 2-3.

3.22 The DoE highlighted that there are a few industries that depend heavily on WHM visa holders to meet labour needs:

Some Australian industries, particularly highly seasonal ones such as agriculture and tourism, rely heavily on Working Holiday Maker visa holders to meet their often rapidly changing short term labour needs.²⁴

3.23 The DoE also pointed out that the Government established a second working holiday visa to assist the agricultural sector's seasonal labour needs.²⁵

3.24 The DIBP's 2014-15 Annual Report stated that there was a decline in the number of WHM visa grants over the reporting period, but that Work and Holiday visa (subclass 462) grants increased:

Total Working Holiday Maker visa (first Working Holiday visa [subclass 417], second Working Holiday visa [subclass 417] and Work and Holiday visa [subclass 462]) grants declined by 5.3 per cent in 2014-15 (226,812 grants), compared with 2013-14 (Tables 30 and 31). This was due to a decrease in the number of first and second Working Holiday visas (subclass 417) granted in 2014-15 compared with 2013-14. However, Work and Holiday visa

24 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 12.

25 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 12.

(subclass 462) grants increased by 17.3 per cent compared with the same period in 2013–14.²⁶

Second Working Holiday initiative

- 3.25 Introduced on 1 November 2005, the second working holiday visa allows subclass 417 visa holders the ability to acquire eligibility to apply for a second visa by undertaking 88 days work in the agriculture, mining and construction industries in regional Australia.²⁷
- 3.26 Second working holiday visa grants have grown significantly over the past 10 years with 2,692 visas granted in 2005-06 and 41,339 granted in 2014-15.²⁸
- 3.27 The agriculture industry has been the ‘primary beneficiary of the initiative since its inception’:²⁹
- In 2014-15, around 92 per cent of the second Working Holiday visa applicants indicated they engaged in agricultural work to acquire eligibility [for a second working holiday visa].³⁰
- 3.28 In its submission, the Development Policy Centre and World Bank (DPC) provided the following chart highlighting the reliance that Australian farms place on WHM’s compared to SWP participants.

26 Department of Immigration and Border Protection, Annual Report 2014-15, p. 87.

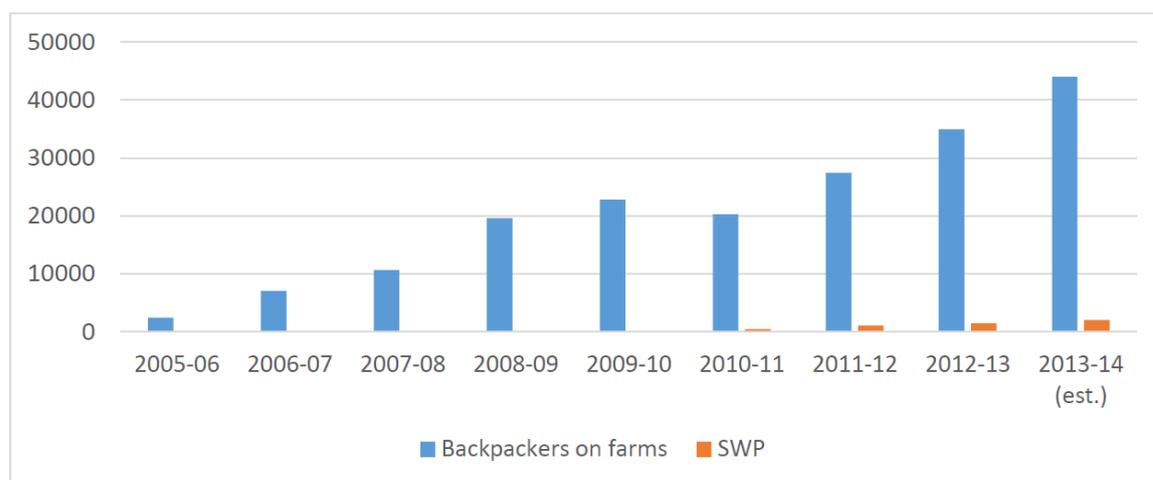
27 Department of Immigration and Border Protection, *Working Holiday Maker visa programme report*, 30 June 2015, p. 8.

28 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 12; Department of Immigration and Border Protection, *Working Holiday Maker visa programme report*, 30 June 2015, p. 11.

29 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 12.

30 Department of Immigration and Border Protection, *Working Holiday Maker visa programme report*, 30 June 2015, p. 11.

Figure 3.1 Backpackers and SWP workers on Australia's farms



Source Development Policy Centre and World Bank, *Submission 22*, p. 3.

3.29 In the 2014-15 period, the:

...top five countries for second working holiday visa grants were:

- Taiwan (down 20.5 per cent to 8,975)
- United Kingdom (up 0.5 per cent to 8,473)
- South Korea (down 14.8 per cent to 4,928)
- Italy (up 7.5 per cent to 3,387)
- France (up to 12.7 per cent to 3,129).³¹

3.30 In its White Paper on Developing Northern Australia, the Government announced that it would expand the WHM visa programme to allow:

... Working Holiday (Subclass 417) and Work and Holiday (Subclass 462) visa holders to work an additional six months with one employer in northern Australia if they work in the following high demand areas in the north:

- agriculture, forestry and fishing
- tourism and hospitality
- mining and construction
- disability and aged care.³²

3.31 The announcement also stated that 462 visa holders would be given the:

... opportunity to access a second 12 month visa if they work for three months in agriculture or tourism in the north. Working Holiday (Subclass 417) visa holders already have access to a

31 Department of Immigration and Border Protection, *Working Holiday Maker visa programme report*, 30 June 2015, p. 11.

32 The Hon Tony Abbott MP, Prime Minister; the Hon Warren Truss MP, Deputy Prime Minister; the Hon Andrew Robb MP, Minister for Trade and Investment; 'Our North, Our Future: A Vision for Developing North Australia', Joint Media Release, 18 June 2015.

second 12 month visa and this change means WHM Visa Programme participants could potentially be able to work for the entire duration of their two year stay in Australia – increasing the supply of seasonal and temporary labour in the north.³³

- 3.32 The Government also announced additional changes to the WHM visa in the 2015-16 Budget. It proposed to remove the tax free threshold for WHMs who will now be taxed at 32.5 per cent tax on every dollar they earn.³⁴
- 3.33 In response to industry concerns about the proposed measure on tax arrangements for WHMs, on 21 March 2016 the Government announced that it would undertake a review. The final proposal will be presented to the Treasurer for consideration by Cabinet.³⁵

Working holiday makers in the horticulture industry

- 3.34 A number of submitters commented on the significant contribution that WHMs make to the horticulture industry and, more specifically, how they compete with the SWP.
- 3.35 The VFF, when highlighting the growth in second working holiday visa grants, commented on the difference the seasonal workers make:
- The opportunity, introduced in November 2005, for Working Holiday visa holders to apply for a second 12 month visa, after completing ‘specified work’ for 88 days in regional Australia, has made a significant difference to seasonal labour availability for the horticulture industry.³⁶
- 3.36 The VFF did however believe that the second working holiday visa requirements contained two disadvantages:
- the visa holders are not permitted to stay with one employer for longer than six months (by operation of mandatory visa condition 8547) and

33 The Hon Tony Abbott MP, Prime Minister; the Hon Warren Truss MP, Deputy Prime Minister; the Hon Andrew Robb MP, Minister for Trade and Investment; ‘Our North, Our Future: A Vision for Developing North Australia’, Joint Media Release, 18 June 2015.

34 Australian Taxation Office, ‘Tax residency rules to change for temporary working holiday makers’, viewed on 1 April 2016, < <https://www.ato.gov.au/General/New-legislation/In-detail/Direct-taxes/Income-tax-for-individuals/Tax-residency-rules-to-change-for-temporary-working-holiday-makers/>>.

35 Senator the Hon Richard Colbeck, Minister for Tourism and International Education, ‘Industry consultations begin on Working Holiday Maker tax arrangements’, Media Release, 21 March 2016.

36 Victorian Farmers Federation, *Submission 9*, p. 4.

- the opportunity to apply for the second year visa is not open to visa holders who work in peri-urban areas although there is a large horticulture industry around Melbourne in the Yarra Valley, Cardinia, Casey and Werribee areas.³⁷
- 3.37 The VFF contended that this meant ‘a greater turnover of workers and the continual need for training new workers as well as ensuring they have the legal right to work in Australia.’³⁸
- 3.38 Vernview Pty Ltd commented on the greater turnover of second working holiday visa holders and the need to go through additional training:
- Backpacker labour has its advantage and fits in with seasonal elements of our workforce requirements, but the backpackers tend to only want to be around for short periods before heading off to the next region as many have a pre-planned itinerary of exploring Australia. This often left us short of labour and caused issues on critical days of harvest and getting the crop picked in optimum condition.³⁹
- 3.39 The Mossmont Pty Ltd and the State, Society and Governance in Melanesia Program (SSGMP) both remarked on the challenges of having to retrain labour. Mossmont Pty Ltd stated:
- The backpackers are unskilled. They generally care little for the work and are very unreliable. On average, they work for us for about a month – maybe two months if we are lucky – and then move on. Every time they leave, we have to retrain and reskill staff, which costs us money and time. Further, a lot of our trees get damaged...⁴⁰
- 3.40 The SSGMP stated:
- I know from having worked in the industry that one of the big problems with backpackers is that farmer’s feel they have to retrain them all the time. They get some people on the farm, they explain how to do it and then the backpacker says, ‘Actually, I don’t really feel like picking strawberries. It’s all too much hard work’, or whatever.⁴¹
- 3.41 Momack Produce Pty Ltd also said that they were constantly retraining and recruiting WHMs.⁴²

37 Victorian Farmers Federation, *Submission 9*, p. 4.

38 Victorian Farmers Federation, *Submission 9*, p. 4.

39 Vernview Pty Ltd, *Submission 13*, p. 2; Mrs Finger, Vernview, *Transcript*, 28 October 2015, p. 26.

40 Mr Moss, Mossmont Nursery Pty Ltd, *Transcript*, 28 October 2015, p. 41.

41 Dr Ball, State, Society and Governance in Melanesia Program, *Transcript*, 14 October 2015, p. 2.

42 Mr Birtill, Momack Produce Pty Ltd, *Transcript*, 29 October 2015, p. 10.

- 3.42 Growcom observed that working holiday visa holders have differing motivations to those in the SWP:

Seasonal Worker Program workers come to Australia for one purpose – to work. This distinguishes them from our ‘usual’ cohort of harvest workers, 417 visa Working Holiday Makers (or ‘backpackers’). The key motivation of these travellers for working in Australia is often to get their second WHM visa (which is currently only available to those working in certain industries in regional Australia), and/or to earn sufficient money to get them to their next holiday destination. This does not mean to suggest that there are not good workers amongst our backpackers, but learning about fruit and vegetable growing and harvesting is not the driving force behind their travel or their willingness to work in our industry.⁴³

- 3.43 The Australian Council of Trade Unions (ACTU) reported that the second working holiday visa extension creates difficulties:

Reports that unions receive are that employers are basing their whole business model around using the labour of working holiday makers, in some cases for free or by paying them well below Australian award standards.⁴⁴

- 3.44 As a way to address these issues, the ACTU recommended:

- the introduction of annual caps or quotas on the Working Holiday Visa Program taking into account the labour market conditions for young Australians;
- the second year working holiday visa extension be abolished;
- remodel the work rights attached to the working holiday visa so that it operates as a genuine holiday visa, rather than a visa which in practice allows visa holders to work for the entire duration of their stay in Australia.⁴⁵

- 3.45 The ACTU were of the view that the expansion of the working holiday visa announced in the White Paper would undermine any attempts to expand the SWP.⁴⁶

- 3.46 The DPC stated that the reason that the SWP was small was due to the competition with the WHM programme and illegal labour.⁴⁷

43 Growcom, *Submission 16*, p. 2.

44 Australian Council of Trade Unions, *Submission 19*, p. 12.

45 Australian Council of Trade Unions, *Submission 19*, p. 12.

46 Australian Council of Trade Unions, *Submission 19*, p. 13.

47 Professor Howes, Development Policy Centre, *Transcript*, 9 September 2015, p. 8.

- 3.47 Seasonal Labour Solutions Pty Ltd agreed with the DPC view that the WHM program was having a negative impact and competing with the SWP.⁴⁸
- 3.48 The ACTU also were of the view that the reliance of the horticulture industry on WHMs was crowding out the SWP.⁴⁹
- 3.49 The DPC recommended that either eliminating the second year visa for WHM's or removing 'the incentive to work in horticulture to obtain a second year visa by making all backpacker [WHM] visas for two years.'⁵⁰
- 3.50 The SSGMP suggested phasing out the second year visa in stages rather than all at once.⁵¹
- 3.51 The National Farmers' Federation (NFF), however, believed that the expansion of the working holiday visa would 'boost the availability of foreign labour in regional areas and supplement existing and important migration policy solutions to agricultural labour shortages'.⁵²
- 3.52 The NFF also were of the view that WHMs were not in competition for work in regional agricultural areas, stating:
- ... whilst backpackers might compete in other industries with local workers for jobs, they do not tend to compete for work in regional agricultural areas because it is not a high-demand occupation for the Australian market.⁵³
- 3.53 The NFF added that overseas workers will always play an integral part in the Australia's agricultural workforce and commented on the vital role WHMs play:⁵⁴
- The second year visa for backpackers has been vital to ensuring that our harvest labour needs can be met. We cannot afford to lose them. Having said that, there are clear issues around the success of the program and there are implications that it has had for other programs.⁵⁵
- 3.54 AUSVEG believed that while WHMs were a 'structural feature of the [horticulture] industry' they acknowledged that they were in direct competition with seasonal workers.⁵⁶

48 Mr Frankhauser, Seasonal Labour Solutions Pty Ltd, *Transcript*, 28 October 2015, p. 25.

49 Mr Shipstone, Australian Council of Trade Unions, *Transcript*, 28 October 2015, p. 52.

50 Development Policy Centre and World Bank, *Submission 22*, p. 3.

51 Dr Ball, State, Society and Governance in Melanesia Program, *Transcript*, 14 October 2015, p. 6.

52 National Farmers' Federation, *Submission 21*, p. 7.

53 Ms McKinnon, National Farmers' Federation, *Transcript*, 16 September 2015, p. 2.

54 National Farmers' Federation, *Submission 21*, p. 7.

55 Ms McKinnon, National Farmers' Federation, *Transcript*, 16 September 2015, p. 1.

56 AUSVEG, *Submission 25*, p. 5; Development Policy Centre and World Bank, *Submission 22*, p. 5.

- 3.55 APAL did not agree with the recommendation of abolishing the second year visa or the introduction of an annual cap or quotas on the WHIM visa:

We should not have a cap on the number of working holiday-makers. The horticultural sector is expanding continuously. It is a major growth area in agriculture. All of horticulture is reliant on manual labour for harvest. Everyone hand-picks—except perhaps potatoes in broad acre horticulture. And we need that labour. Well over half of the seasonal labour force across horticulture is reliant on the working holiday makers. There are about 40,000 working holiday makers a year and, I think, about 2,000 seasonal workers. About 70,000 or 80,000 people are employed in horticulture in the peak period, so over half of that labour force is reliant on the working holiday maker scheme.⁵⁷

- 3.56 APAL believed that second year WHMs were more productive than their first year counterparts⁵⁸ in addition to providing a more flexible labour hire approach:

Growers require a fair degree of flexibility and are not in a position to hire and pay for labour before they are needed in the orchard. For this reason the ability to turn-on or turn-off backpackers (417 and 462 Visas) is considered a more flexible approach to sourcing casual unskilled orchard labour.⁵⁹

- 3.57 MADEC Australia indicated that placing a cap on the working holiday visas (subclass 417) could be detrimental but introducing a cap for those on a work and holiday visa (subclass 462) would have little effect as very few 462 visa holders were working in horticulture.⁶⁰

- 3.58 The DIBP asserted that the abolition of the second working holiday visa ‘would remove a major source of short term, highly flexible labour for Australian agriculture.’⁶¹ The DIBP also warned against establishing an annual cap for the working holiday programme:

Introducing annual caps or quotas for the Working Holiday programme could potentially result in a number of adverse consequences, including:

- negatively impacting Australia’s bilateral relations with partner countries, as a change of this nature could be inconsistent with Australia’s existing agreements. It is likely that partner

57 Ms Farrow, Apple and Pear Australia Limited, *Transcript*, 28 October 2015, p. 9.

58 Ms Farrow, Apple and Pear Australia Limited, *Transcript*, 28 October 2015, p. 9.

59 Apple and Pear Australia Limited, *Submission 33*, p. 5.

60 Mr Hayes, MADEC Australia, *Transcript*, 28 October 2015, p. 59.

61 Department of Immigration and Border Protection, *Supplementary Submission 39.1*, p. 4.

countries would impose similar restrictions upon Australians;
and

- reducing the potential economic and labour market contributions of Working Holiday participants, particularly amongst regional communities and within the tourism and agriculture sectors.⁶²

3.59 The DoE were of the view that the WHM programme and SWP were not in direct competition but that they would be monitoring both visa types:

Until recently, our program has been a capped program, with a limited number of places. So I would say that we were not actually directly competing with working holiday makers, which is a much larger cohort. Obviously, we do not know what will happen in the future, but we will be monitoring the numbers with both programs and the visa types.⁶³

Proposed changes to the tax free threshold

3.60 The decision to remove the tax free threshold for WHMs was also raised by a number of organisations who put views for and against the proposed change.

3.61 APAL surmised that the change to the tax rule for WHMs would create negative behaviours among WHMs and employers:

APAL is also concerned that this new tax rule will create incentives that will drive behavioural change amongst working holiday makers and the contract labour firms that might manage them. Specifically we are concerned that the substantial tax imposition will reduce the incentive to work legally. There will be an incentive for backpackers to seek employment 'off the books' and to be paid in cash. Employers themselves may oblige because it reduces their paperwork. The change in the tax threshold could therefore encourage more employers into the black market for labour.⁶⁴

3.62 NT Farmers were also concerned that the change would increase illegal activity and reduce the number of WHMs:

62 Department of Immigration and Border Protection, *Supplementary Submission 39.1*, p. 4.

63 Ms Roach, Department of Employment, *Transcript*, 13 November 2015, p. 59.

64 Apple and Pear Australia Limited, *Submission 33*, p. 7.

This new policy, in combination with the directive being enforced since 31 August 2015⁶⁵ could substantially increase the incentives for tax evasion, fraud and the number of working holiday makers may diminish rapidly as soon as visa holders perceive there is less economic benefit to undertaking work that most Australians are reluctant to do, such as picking fruit, cleaning and casual hospitality.⁶⁶

3.63 Connect Group Pty Ltd believed that the new rule may reduce available WHMs wanting to work in the horticulture sector.⁶⁷

3.64 The DPC stated that the increased tax rate would 'make any backpacker job in Australia less attractive, and thus also help to reduce labour demand from backpackers.'⁶⁸

3.65 Mossmont Nursery Pty Ltd suggested that the change would encourage employers to pay WHMs cash in hand:

This tax rate will further encourage the cash economy that exists within rural Australia and will make it very difficult for companies such as ours, who do the right thing. To get backpackers to work for us – over the cash economy that exists – we must pay fair and the right amount. What the 35 per cent tax rate is going to do is take them from being higher paid to being lower paid.⁶⁹

3.66 MADEC Australia believed, however, that the change in taxation arrangements would not make a significant impact on the supply of WHMs:

We believe it may have some impact on supply. At the moment, we are not overly concerned. We believe there has been a significant oversupply of backpacker labour wanting to do horticulture work for a number of years. Certainly, the stats from seven or eight months from the department of immigration ago show about a 10 per cent decrease in working holiday visa grants and second-year visa grants. At that level, we do not see that there is going to be any issue with finding enough backpackers.⁷⁰

65 From 31 August 2015, all applicants for a second Working Holiday visa must provide pay slips as evidence of appropriate remuneration with their application.

66 NT Farmers, *Submission 41*, p. 2.

67 Connect Group Pty Ltd, *Submission 18*, p. 2.

68 Development Policy Centre and World Bank, *Submission 22*, p. 10.

69 Mr Moss, Mossmont Nursery Pty Ltd, *Transcript*, 28 October 2015, pp. 41-42.

70 Mr Hayes, MADEC Australia, *Transcript*, 28 October 2015, p. 58.

- 3.67 The SSGMP believed that the tax would encourage more seasonal workers and reduce the competition from WHMs.⁷¹

Committee comment

- 3.68 It is clear that the horticulture industry relies significantly on the second working holiday initiative, with over 40,000 visa holders, to fill its seasonal labour requirements.
- 3.69 While the impetus for establishing the working holiday visa was for cultural exchange, the reality is it fills a significant labour gap within the industry and is in direct competition with the seasonal worker programme.
- 3.70 The Committee is of the view that both programmes are worthwhile and each offer its own set of advantages and disadvantages. It is important, however, that we create a level playing field to ensure that each programme does not unduly impact on the other.
- 3.71 The Committee notes the Government announcements about the changes to both programmes:
- removing the caps in the seasonal worker programme and expanding it to the broader agricultural sector and the accommodation sector in eligible locations; and
 - the proposed removal of the tax free threshold for working holiday makers.
- 3.72 Given that the changes to the seasonal worker programme have only recently been implemented and the proposed tax amendments to the working holiday maker scheme is currently under review, the Committee believes that it would be beneficial for the Australian Government to undertake a review into how any changes would impact the uptake of both programmes by the end of next year.

71 Dr Ball, State, Society and Governance in Melanesia Program, *Transcript*, 14 October 2015, p. 7.

Recommendation 1

The Committee recommends that a comprehensive review of the changes to the seasonal worker and working holiday maker programmes be undertaken by December 2017 to ensure they are meeting their stated goals, and not impacting on each other or the local labour market in unintended ways.

Workforce requirements for sectors that may benefit from seasonal workers

- 4.1 As noted in Chapter 4, a number of submitters recommended expanding the Seasonal Worker Programme (SWP) to industry sectors including: hospitality; accommodation; tourism; dairy; meat and livestock; construction; fishing; and the aged and disability care sectors.
- 4.2 This chapter looks at the labour market conditions of these sectors and the limitations of this data.

Agriculture, Forestry and Fishing

- 4.3 In its submission, the Department of Employment (DoE) provided a number of employment statistics on the Agriculture, Forestry and Fishing industry:
- ranked 14th amongst the 19 broad industry groups, the industry employed an estimated 321,300 people, or 2.8 per cent of the total workforce at February 2015;
 - employment in the industry fell to a record low of 291,600 in May 2013 (in trend terms);
 - employment in the industry has increased by 29,700 persons (or 10.2 per cent) between May 2013 and February 2015;
 - employment in Agriculture remains 28,500 (or 9.2 per cent) lower than five years ago;
 - 72.1 per cent of workers in the industry work full-time (compared with 69.3 per cent across all industries);

- The median age of workers in the industry was 49 years in 2014, compared with 40 years across all industries.¹
- 4.4 The DoE commented that the age profile does vary between occupations:
 ... with Farmers tending to be older and Farm Workers tending to be younger. The median age of Crop Farm Workers (39 years) is a little lower than the median across all industries (40 years), while the median age of Livestock Farm Workers (30 years) and Mixed Crop and Livestock Farm Workers (31 years) is well below the median across all industries.²
- 4.5 Within the broader industry, the agriculture sector is the largest employer 'accounting for 87.1 per cent of employment in the industry (or 280,000 workers).'³
- 4.6 Within the agricultural sector, Sheep, Beef Cattle and Grain Farming and Fruit and Tree Nut Growing are the first and second largest employers respectively:
- Sheep, Beef Cattle and Grain Farming – 127,900 workers or 59.5 per cent of Agriculture employment at February 2015;
 - Fruit and Tree Nut Growing – 22,500 workers (10.5 per cent);
 - Dairy Cattle Farming – 20,300 workers (9.5 per cent).⁴
- 4.7 The full-time employment rate varied across the agricultural sector 'from 60.5 per cent in Nursery and Floriculture Production to 87.4 per cent in Other Crop Growing.'⁵
- 4.8 Table 4.1 provides some additional information on the employment level, the proportion of full-time employees and their median age within some sectors of the agriculture industry.

1 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, pp. 28-29.

2 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 28.

3 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 28.

4 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 28.

5 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 28.

Table 4.1 Employment characteristics, selected sectors of Agriculture

Sector	Employment level Feb 15 ('000)	Proportion employed full-time Feb 15 (%)	Median age 2014 (years)
Agriculture, Forestry and Fishing	321.3	72.1	49
Agriculture	280.0	70.7	50
Nursery and Floriculture Production	5.6	60.5	45
Mushroom and Vegetable Growing	11.0	76.8	43
Fruit and Tree Nut Growing	22.5	68.6	48
Sheep, Beef Cattle and Grain Farming	127.9	70.8	56
Other Crop Growing	3.3	87.4	48
Dairy Cattle Farming	20.3	70.0	44
Poultry Farming	6.0	63.3	44
Deer Farming	0.1	-	n/a
Other Livestock Farming	18.2	74.0	42

Source Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 28.

4.9 Of the lower skilled agricultural occupations, livestock farm workers, crop farm workers and a mixture of both:

- employment of Crop Farm Workers has declined by 70.1 per cent over the past 15 years to stand at 16,700 in February 2015;
- employment of Livestock Farm Workers fell markedly between 2000 and 2005 but has recovered strongly in recent years to stand at 41,700 in February 2015;
- employment of Mixed Crop and Livestock Farm Workers has declined by 30.0 per cent over the past 15 years to stand at 4,900 in February 2015.⁶

4.10 The DoE attributed the decline in lower skilled Agricultural occupations to technological advances in the sector.⁷

4.11 In order to collect information on the number of job advertisements for farm workers, the DoE 'counts the number of job advertisements newly lodged each month on three major job boards (SEEK, CareerOne and Australian Jobsearch, including Harvest Trail).'⁸

6 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 29.

7 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 29.

8 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 29.

4.12 Data on the DoE's Internet Vacancy Index shows:

... that the number of job advertisements for Farm Workers (Crop Farm Workers, Livestock Farm Workers and Mixed Crop and Livestock Farm Workers combined) has steadily fallen from 1,740 in February 2007 to 400 in May 2015. This suggests a marked fall in demand for seasonal farm labour.⁹

4.13 The DoE did acknowledge that relatively few lower skilled seasonal jobs were advertised on these major job boards 'because employers advertising for farm labour tend to use other recruitment methods, such as word of mouth, social media, signs in youth hostels or at bus and train stations, or websites aimed at backpackers.'¹⁰

4.14 According to the DoE's employment projections, seen in figure 4.1:

The Agriculture, Forestry and Fishing industry is projected to record a modest increase in employment over the five years to November 2019 of 12,000 or 3.7 per cent, notwithstanding continuation of the industry's long term trend of a declining employment share reflecting ongoing investment in labour-saving plant and equipment. By comparison, the projected rate of employment growth across all industries is 10.0 per cent over the same period.

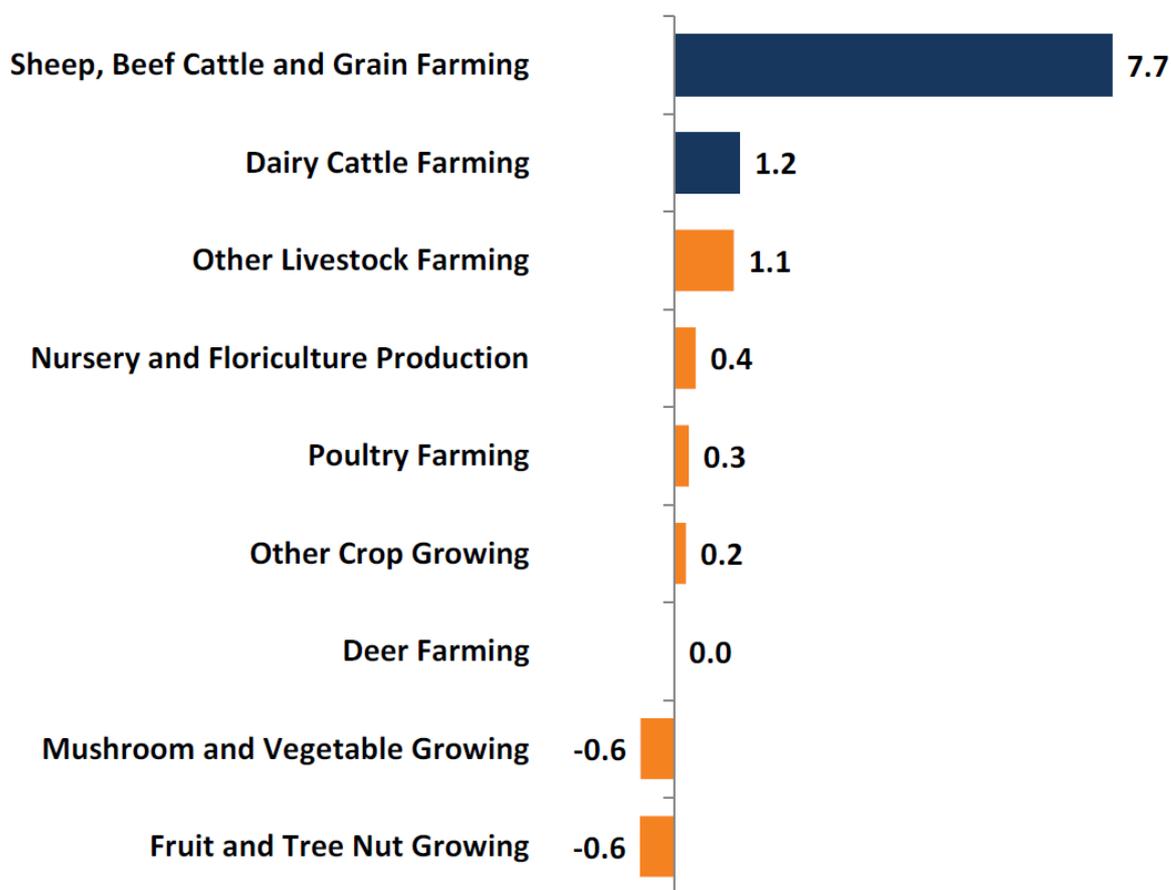
Employment in Agriculture is projected to increase by 11,700 or 4.1 per cent, with seven of the nine sectors within Agriculture expected to grow, albeit at slower rates of growth than the projected rate of employment growth across all industries.¹¹

9 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 29.

10 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 29.

11 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 30.

Figure 4.1 Agriculture sector projected employment growth ('000) - to November 2019



Source Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 30.

4.15 Of the lower skilled agricultural occupations:

- employment of Livestock Farm Workers is projected to increase by 1,900 or 4.9 per cent;
- employment of Mixed Crop and Livestock Farm Workers is expected to increase (up by 500 or 7.5 per cent);
- employment of Crop Farm Workers is projected to decline (by 3,900 or 19.2 per cent) over the five years to November 2019.¹²

12 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 30.

Tourism and accommodation

4.16 The DoE also provided employment estimates for the tourism sector which were derived from the Australian Bureau of Statistics (ABS) Tourism Satellite Account (TSA), which are 'based on the proportion of total value added of each industry which is related to Tourism.'¹³ The TSA estimates that:

- the tourism sector employed 534,000 people in 2013-14, accounting for 4.6 per cent of total employment;
- over the 10 years to 2013-14, employment in the industry grew by 17.0 per cent, a slightly slower rate of growth than the 21.7 per cent recorded for employment as a whole;
- a large proportion of employment in the industry is part time (45.6 per cent, compared with 30.0 per cent across all industries);
- a higher proportion of employment in the industry is female (53.6 per cent, compared with 45.8 per cent across all industries).¹⁴

4.17 Within the tourism sector:

- Cafés, Restaurants and Takeaway Food Services employed 144,300 people, Retail Trade employed 101,500, and Accommodation employed 69,700;
- the majority of employment is part-time.¹⁵

4.18 Table 4.2 provides a breakdown on the employment level and the proportion of full-time employees within the tourism sector.

13 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 31.

14 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 31.

15 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 32.

Table 4.2 Employment level and full time share, Tourism sectors

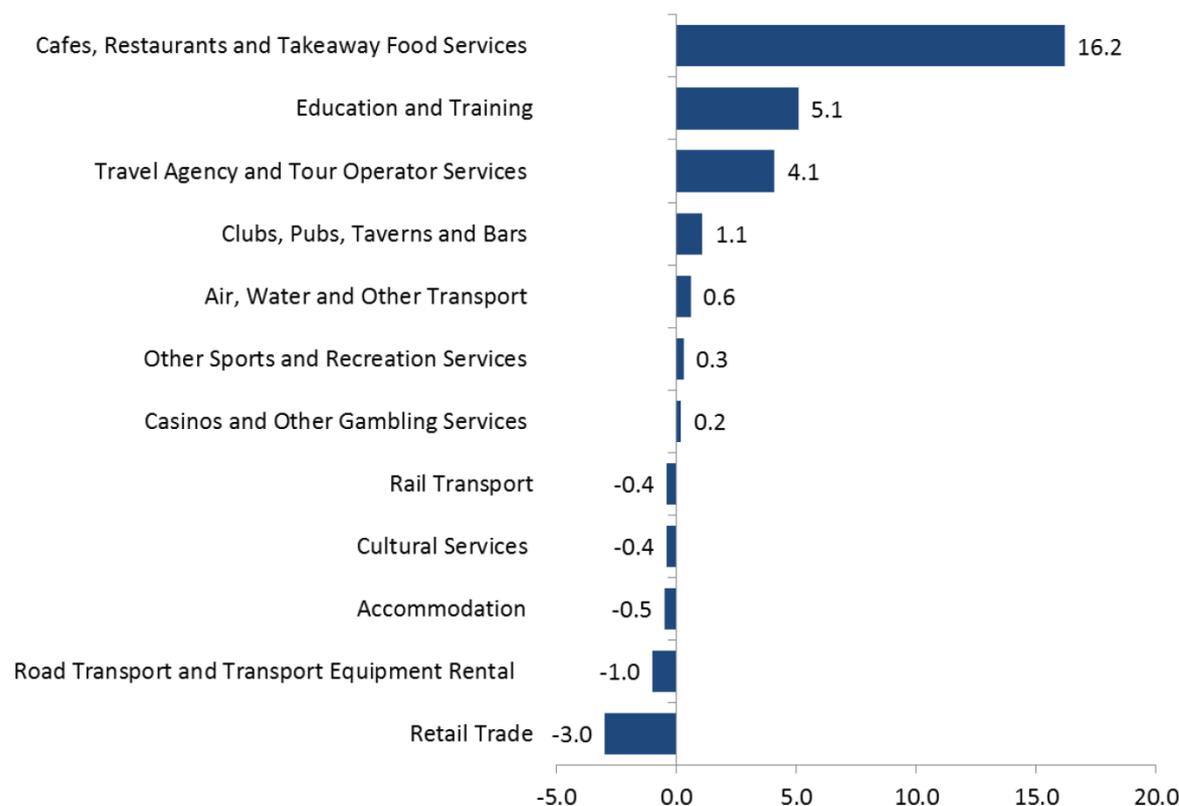
Sector	Employment level 2013-14 ('000)	Proportion employed full-time (%)
Cafés, Restaurants and Takeaway Food Services	144.3	38.2
Retail Trade	101.5	51.0
Accommodation	69.7	56.5
Education and Training	37.8	61.6
Air, Water and Other Transport	36.2	75.1
Travel Agency and Tour Operator Services	32.2	75.8
Clubs, Pubs, Taverns and Bars	31.2	46.5
Other Sports and Recreation Services	20.7	43.5
Road Transport and Transport Equipment Rental	19.4	80.4
Cultural Services	10.0	61.0
Casinos and Other Gambling Services	4.0	72.5
Rail Transport	3.2	96.8
All Other Industries	23.8	76.2
Total Tourism employed persons	534.0	545.4

Source Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 32.

4.19 According to the statistics provided by the DoE (seen in figure 4.2), the following Tourism occupations recorded strong growth in the five years prior to 2013-14:

- Cafés, Restaurants and Takeaway Food Services increased by 16,200 (or 12.6 per cent);
- Education and Training increased by 5,100 (or 15.6 per cent);
- Travel Agency and Tour Operator services increased by 4,100 (or 14.6 per cent).

Figure 4.2 Employment change over the five years to 2013-14, by Tourism sector ('000)



Source Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 33.

4.20 The DoE reported that employment of waiters, bar attendants and baristas, café workers and kitchenhands are all expected to grow:

Looking forward, employment of Waiters is projected to continue to experience robust growth over the five years to November 2019, increasing by 18,600 or 15.3 per cent – around the recent five year trend and significantly above the projected growth rate across all occupations of 10.0 per cent. Other occupations projected to record strong growth include Bar Attendants and Baristas (up by 11,000 or 13.4 per cent), Café Workers (up by 2,900 or 12.0 per cent) and Kitchenhands (up by 14,300 or 11.2 per cent).¹⁶

4.21 Data from the DoE's Internet Vacancy Index suggests that the number of advertisements for waiters, bar attendants and baristas, café workers and kitchenhands has been relatively low.

4.22 While acknowledging that the DoE's research focus is on higher skilled occupations, it highlighted that some research it undertook in 2011 into lower skilled occupations showed:

¹⁶ Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 36.

... that there was no shortage of workers looking for opportunities to enter these occupations, but employers had a clear preference for experienced workers who already held the necessary licences (such as Responsible Service of Alcohol) and few were prepared to employ inexperienced workers.¹⁷

- 4.23 The DoE noted it was also undertaking additional research, and while currently incomplete, 'support the earlier findings and indicate that there are generally relatively large numbers of applicants for vacancies in these occupations, but few surveyed employers are willing to provide training for inexperienced workers outside of on the job training.'¹⁸

Aged care and disability care

- 4.24 The Australian Government's Job Outlook website states that 141,000 people are employed as Aged and Disabled Carers at November 2014 with 39.6 per cent of those working full-time.¹⁹
- 4.25 It is estimated that 'the number of job openings for Aged and Disabled Carers is expected to be high (greater than 50,000)' up to November 2019.²⁰
- 4.26 The *Third Report on the Funding and Financing of the Aged Care Sector* by the Aged Care Financing Authority (ACFA) reported that there are over 350,000 care workers. Of those, over 76,000 are community care workers and over 100,000 are personal care attendants in residential aged care facilities.²¹
- 4.27 ACFA added that demand was increasing due to 'ageing population and the increased prevalence of dementia and the associated need for higher levels of support and care.'²²

17 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 37.

18 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 37.

19 Australian Government, Job Outlook, 'Livestock Farmers', viewed on 8 April 2016, <<http://joboutlook.gov.au/occupation.aspx?search=keyword&tab=prospects&cluster=&code=1213>>.

20 Australian Government, Job Outlook, 'Livestock Farmers', viewed on 8 April 2016, <<http://joboutlook.gov.au/occupation.aspx?search=keyword&tab=prospects&cluster=&code=1213>>.

21 Aged Care Financing Authority, *Third Report on the Funding and Financing of the Aged Care Sector*, July 2015, p. 15.

22 Aged Care Financing Authority, *Third Report on the Funding and Financing of the Aged Care Sector*, July 2015, p. 15.

- 4.28 ACFA estimate that the workforce will need to triple by 2050 to meet demand.²³
- 4.29 According to the report, the availability of informal carers is also in decline and caring sectors are potentially competing for the same pool of staff, such as aged and disability services.²⁴
- 4.30 The average age of new employees aged 34 years or younger increased from 29 per cent in 2003 to 36 per cent in 2012. The median age of the direct care workforce for in home care was 50 years and in residential care was 48 years.²⁵
- 4.31 ACFA highlighted that there has been a growth in the number of residential care workers born outside Australia from 25 per cent to 33 per cent (between 2003-07). That number has remained stable up until 2012.²⁶
- 4.32 The DoE's report, *Employment Outlook to November 2019*, also projected that the Health Care and Social Assistance sector would 'make the largest contribution to employment growth (up by 258,000 or 18.7 per cent).'²⁷
- 4.33 This data is comparable to the DoE's Internet Vacancy Index with carers and aids recording the second largest vacancies over the year to February 2016 (a total of 5,933 vacancies).²⁸

Livestock workers

- 4.34 Livestock workers include a number of farming occupations such as: Apiarists (bee keepers); and beef, cattle, deer, goat, horse, pig, poultry, sheep and livestock farmers.
- 4.35 According to the Australian Government's Job Outlook website, 89,300 people were employed as livestock farmers as at November 2014 with 73.6 per cent of those working full-time.²⁹

23 Aged Care Financing Authority, Third Report on the Funding and Financing of the Aged Care Sector, July 2015, p. 15.

24 Aged Care Financing Authority, Third Report on the Funding and Financing of the Aged Care Sector, July 2015, p. 16.

25 Aged Care Financing Authority, Third Report on the Funding and Financing of the Aged Care Sector, July 2015, p. 16.

26 Aged Care Financing Authority, Third Report on the Funding and Financing of the Aged Care Sector, July 2015, p. 16.

27 Department of Employment, *Employment Outlook to November 2019*, August 2015, p. 3.

28 Department of Employment, *Vacancy Report*, 23 March 2016, p. 3.

29 Australian Government, Job Outlook, 'Livestock Farmers', viewed on 7 April 2016, <<http://joboutlook.gov.au/occupation.aspx?search=keyword&tab=prospects&cluster=&code=1213>>.

- 4.36 Up until November 2019 it is projected that 'the number of job openings for Livestock Farmers is expected to be average (between 10,001 and 25,000).'³⁰
- 4.37 Generally, unemployment within this area compared to others is below average while growth is expected to be moderate.³¹

Construction

- 4.38 Australia's third largest industry, the construction industry, is comprised of over 330,000 businesses and employs over one million people (around nine per cent of the total workforce) as at May 2015.³²
- 4.39 The Australian Industry Group's research, *Australia's Construction Industry: Profile and Outlook*, provides a number of employment statistics on the industry, including:
- The majority of construction workers (65%) are employed in trade services. 26% are in building construction, 7% are in heavy and civil construction and 2.5% are in general construction services.
 - The largest segment of construction employment is 'Building Installation services', which employed 232,700 workers (23% of industry employment) in February 2015.
 - 85% of construction workers are full-time and 15% were part-time (as of Feb 2015).³³
- 4.40 Construction employment is projected to grow thirteen per cent over the next five years to November 2019.³⁴
- 4.41 Data on the DoE's Internet Vacancy Index shows that at February 2016:
- Construction, Production and Distribution Managers had 9,771 job vacancies; Construction Trades had 4,422; and Construction and Mining Labourers had 1,148.³⁵

30 Australian Government, Job Outlook, 'Livestock Farmers', viewed on 7 April 2016, <<http://joboutlook.gov.au/occupation.aspx?search=keyword&tab=prospects&cluster=&code=1213>>.

31 Australian Government, Job Outlook, 'Livestock Farmers', viewed on 7 April 2016, <<http://joboutlook.gov.au/occupation.aspx?search=keyword&tab=prospects&cluster=&code=1213>>.

32 Australian Industry Group, *Australia's Construction Industry: Profile and Outlook*, July 2015, p. 1.

33 Australian Industry Group, *Australia's Construction Industry: Profile and Outlook*, July 2015, p. 5.

34 Department of Employment, *Employment Outlook to November 2019*, August 2015, p. 3.

35 Department of Employment, *Vacancy Report*, 23 March 2016, p. 7.

Limitations of labour market data

4.42 While noting that labour market data could be useful, the DoE advised that it should not be the only consideration in determining the source of labour force requirements:

While labour market data can be useful in understanding broad trends, they may not reflect the circumstances of individual employers. For example, even when conditions in an industry or in the labour market as a whole are soft, some employers will have difficulty filling positions with particular requirements or in particular locations. Accordingly, labour market data cannot be the only consideration in government policy decisions about which employers should be eligible for programmes which would assist them to source the labour they require.³⁶

4.43 The DoE added that there were gaps in 'measuring seasonal labour demand, recruitment difficulties and labour shortages in Australia'³⁷, and highlighted a number of challenges:

The Department's employer surveys do not collect data on seasonal labour and there are challenges in using the data available. For example:

- data collected in one seasonal peak period may not reflect the circumstances in subsequent years (particularly in uncertain economic and variable climatic conditions) and findings can lose their currency before the next peak season commences;
- seasonal labour market conditions can vary considerably by location – data therefore needs to be regionally specific;
- it can be difficult to assemble a sample of employers who use seasonal labour in many regions, which is sufficiently large to produce reliable results; and
- employers in the Agriculture sector have proven difficult to contact because they work long hours outside their home.³⁸

4.44 The DoE also claimed that there were limitations to using labour market data sourced from the ABS such as the Labour Force Survey (LFS) and Census of Population and Housing (CPH).

36 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 14.

37 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 14.

38 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 14.

4.45 The DoE agreed that the LFS understates the 'number of people employed in Agriculture and Tourism, particularly in relation to seasonal work'³⁹, adding:

The LFS provides employment estimates for the usually resident population of Australia. People who intend to remain in Australia for less than 12 months are excluded from the scope of the survey. Accordingly, estimates from the LFS exclude Working Holiday Visa holders and other short-term visitors to Australia, who contribute substantially to employment in the Agriculture and Tourism industries.⁴⁰

4.46 Additionally, the DoE advised that:

... data from the LFS are based on the industry of employment in a person's main job. The industries of Agriculture, Forestry and Fishing and Accommodation and Food Services each account for around 9 per cent of secondary jobs, which equates to approximately 60,000 additional workers each.⁴¹

4.47 The DoE believed that the CPH data held the same limitations with 'employment by industry data relate only to Australian usual residents and to the industry of employment in a person's main job.'⁴²

4.48 In order to provide an example of the disparity between workers actually employed in the Agriculture, Forestry and Fishing sectors compared to the estimate, the DoE stated:

To illustrate the extent of undercounting, data from the ABS Economic Activity Survey (EAS) show that as many as 499,000 workers were employed in Agriculture, Forestry and Fishing at the end of June 2013, compared with an estimate of only 299,900 from the May 2013 LFS (in original terms). The higher estimate is influenced by a range of factors, including differences in scope and methodology between the EAS and the LFS. The higher estimate of 499,000 workers likely takes better account of temporary entrants and secondary jobs, as both are conceptually in scope of the EAS.⁴³

39 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 27.

40 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 27.

41 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 27.

42 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 27.

43 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 27.

- 4.49 The DoE also highlighted that the EAS was only an estimate of total employment and provided no employment breakdown characteristics.⁴⁴

Committee comment

- 4.50 The Committee agrees with the Department of Employment's comments on the usefulness of 'undertaking further research into how to make the best use of Australian job seekers, Working Holiday Makers and seasonal workers from a productivity perspective could be useful in being able to better understand regional and industry demand over future years.'⁴⁵
- 4.51 While there is a range of Government departments that collect data and undertake research on Australia's workforce requirements, there are clearly some limitations and shortfalls in the information that is currently collected (as highlighted by the Department of Employment).
- 4.52 Accurate, reliable and timely information is fundamental to effective decision-making.
- 4.53 The Committee therefore recommends that the Australian Government enhance its research on Australia's workforce requirements.

Recommendation 2

The Committee recommends that the Australian Government undertake improved qualitative and quantitative research on full-time, part-time and seasonal labour workforce requirements to better inform Government policy.

44 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 27.

45 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 11.

Expanding the Seasonal Worker Programme

- 5.1 The Committee received evidence both in favour and against expanding the Seasonal Worker Programme (SWP) to other countries or other industry sectors. This chapter has been structured based upon these divergent views.
- 5.2 Some witnesses supported expansion into agriculture, though did not necessarily support allowing SWP access for service-related industries. The Committee was also apprised of issues witnesses believed may arise as unintended consequences of expanding the SWP. This chapter outlines:
- the overall benefits of employing seasonal workers;
 - views in favour of expanding of the SWP into Asia and expanding into other industries;
 - views with a preference for limiting the SWP to the Pacific and Timor-Leste and limiting the scope of industries to horticulture or agriculture; and
 - views on the implications of expanding the SWP.

Benefits of employing seasonal workers

- 5.3 Several witnesses and submissions referred to the benefits of employing seasonal workers, particularly due to their productivity, reliability and overall work ethic. A selection of these views is provided below.
- 5.4 Gracekate Farms commented on the differences in working styles between SWP participants and working holiday makers (backpackers):
- We are a small farm, by farming standards, so we need 100 per cent from our workers. With these boys, you only need to show them once how to do something and you go back an hour later

and they are still doing exactly the same thing. We find that backpackers... get side-tracked; they are not as motivated... and they state that they are leaving at the drop of a hat.¹

- 5.5 Vernview Pty Ltd also commented on the differences and in particular that seasonal workers stayed for a whole season:

The seasonal workers tend to be there for the whole season, and if you have backpackers they are there to get sufficient money to then go on to the other place, because that is what it is all about. It is a working holiday visa; it is not a working visa.²

- 5.6 Golden Mile No. 1 Pty Ltd said that seasonal workers were at least twice as productive as backpackers:

The fact that you are comparing a 416 visa person to a 417 backpacker person certainly brings a lot more efficiency into our system. If I had to employ a crew of similar capacity to our employees from Tonga, I would probably have to employ at least twice as many, which administratively would obviously put a lot more burden on our staff here.³

- 5.7 Apple and Pear Australia Limited (APAL) said that the SWP provided stability and that the workers were more productive:

Apple and Pear Australia is fully supportive of the Seasonal Worker Program for two main reasons. The first is that the Seasonal Worker Program allows workers year-in year-out to return to the same property, or at least the same industry, and that gives growers comfort and stability. Those people are already trained. They know the orchards. They know that crop. Secondly, and more importantly, the seasonal workers have been found to be more productive than working holiday-makers.⁴

- 5.8 TAFE Queensland also asserted that seasonal workers were more productive:

Seasonal workers are regarded as more productive than working holiday maker visa holders, ... the alternative labour market used by the horticultural industry. Further, seasonal workers tend to return to the region and their productivity increases with each

1 Mrs McCarthy, Gracekate Farms, *Transcript*, 13 November 2015, p. 45.

2 Mrs Finger, Vernview Pty Ltd, *Transcript*, 28 October 2015, p. 26.

3 Mr Peterson, Golden Mile No. 1 Pty Ltd, *Transcript*, 13 November 2015, p. 3.

4 Ms Farrow, Apple and Pear Australia Limited, *Transcript*, 28 October 2015, p. 1. See also Australian Bureau of Agricultural and Resource Economics (ABARES), 'Measuring the Effectiveness of Horticultural Labour', December 2013.

return visit, improving their job readiness and negating the need for induction.⁵

5.9 The Development Policy Centre (DPC) said:

There is no doubt on average the seasonal workers are more productive and they are more reliable. There are some limited studies in Australia showing that, but there is also extensive evidence from New Zealand.⁶

5.10 In New Zealand, the introduction of the Recognised Seasonal Employer scheme (equivalent to the SWP) resulted in production increases. New Zealand's Deputy High Commissioner said 'we have seen, since the RSE scheme was implemented, a 32 per cent increase in production that has been attributed to RSE.'⁷

5.11 The Australian National University's State, Society and Governance in Melanesia (SSGM) Program submitted that the SWP provided a valuable labour source:

Research conducted both in Australia and New Zealand indicates that Pacific seasonal workers provide a valuable labour source where there are verifiable shortages. Pacific seasonal worker programs facilitate labour supply that suits growers' expectations and demands. They are a captive, immobile (cannot change employers, therefore bound to an employer by contract and visa), organised and reliable work force that ensures growers will have crops harvested on time.⁸

5.12 A witness from the SSGM Program said that an Australian Bureau of Agricultural and Resource Economics study on seasonal worker productivity had been based on the experience at one farm, adding that there 'needs to be a much more comprehensive study done'.⁹

Expanding the Seasonal Worker Programme into Asia

5.13 Some witnesses favoured expansion of SWP participation into Asian countries, primarily to provide more labour for the horticulture industry and to provide economic development opportunities.

5 TAFE Queensland, *Submission 27*, p. 6.

6 Professor Howes, Development Policy Centre, *Transcript*, 9 September 2015, p. 2.

7 Deputy High Commissioner Roberts, Ministry of Foreign Affairs and Trade, Ministry of Business, Innovation and Employment, New Zealand, *Transcript*, 13 November 2015, p. 30.

8 State, Society and Governance in Melanesia Program, *Submission 38*, p. 6.

9 Dr Ball, State, Society and Governance in Melanesia Program, *Transcript*, 15 October 2015, p. 6.

- 5.14 AUSVEG supported expanding the SWP to countries in south-east Asia.¹⁰ AUSVEG's submission noted that workers have 'significant experience in the jobs that growers need filled' and could 'easily integrate into communities'.¹¹ In addition:
- These proposed expansions would also fit the aid objectives of the SWP. The program's aim is to contribute to the economic development of participating countries, and expanding it to the Southeast Asian region would provide significant economic benefits to these developing nations.¹²
- 5.15 Mossmont Nurseries supported expansion into Asia:
- ... the Seasonal Workers Programme [should] be extended to other countries particularly in the Asian region such as Indonesia, Malaysia and the Philippines to name a few.¹³
- 5.16 Connect Group Pty Ltd submitted that subject to participation from existing countries being increased, expansion to other countries 'must be considered in due course.' The submission suggested that Indonesia, Malaysia, Vietnam, Cambodia, Thailand and the Philippines could be included in the SWP.¹⁴ Connect Group's submission stated:
- With due respect, they are nations that should receive initial consideration due to our ties to those neighbours, their suitability for much of these types of work and the relative economic disadvantage that many in those nations experience.¹⁵
- 5.17 The National Farmers' Federation (NFF) said there is 'support... within parts of our industry' for expanding the SWP into south-east Asia. The NFF added:
- We are not opposed to it but we think it is something that needs to be approached in a consultative fashion, because the fundamental win-win of this program is the aid based nature of the program. It is a goodwill program as much as it is a labour-shortage solution.¹⁶
- 5.18 Apple and Pear Australia Ltd submitted that expanding the SWP into Asia could be used as leverage, over time, to negotiate greater market access for Australia fruit exporters:

10 Mr Mulcahy, AUSVEG, *Transcript*, 28 October 2015, p. 12.

11 AUSVEG, *Submission 25*, p. 4.

12 AUSVEG, *Submission 25*, p. 4.

13 Mossmont Nurseries, *Submission 8*, p. 1.

14 Connect Group Pty Ltd, *Submission 18*, pp. 4-5.

15 Connect Group Pty Ltd, *Submission 18*, p. 5.

16 Ms McKinnon, National Farmers' Federation, *Transcript*, 16 September 2015, p. 8.

An expansion of the seasonal worker program to Asian countries could be of benefit to the Australian horticulture sector. There are many Asian markets for which Australian fresh fruit and vegetables, including apples and pears, are currently prohibited.¹⁷

5.19 The submission continued:

It could be possible to encourage these markets to act upon market access and protocol improvement requests more speedily if relationships were developed through goodwill. Access to the Seasonal Worker Program might be one such measure, particularly for countries such as China, Taiwan, South Korea, Vietnam, Indonesia and Thailand.¹⁸

5.20 The Tourism and Transport Forum supported the option of expansion to other countries:

There is also a case for making additional changes to the program to provide greater flexibility and opportunity, including expanding the program to other countries, increasing the tenure of worker visas and including additional eligible locations in the accommodation extension.¹⁹

5.21 Dr Joanna Howe and Associate Professor Alexander Reilly supported expanding the SWP beyond the Pacific and Timor-Leste:

We submit that reform of the program should consider expanding the program to a wider range of source countries for workers. We submit that as well as considering an expansion of the SWP to other countries in the Pacific, the government should consider a more general expansion of a horticultural visa to nations in the South East Asia region.²⁰

5.22 The submission added that more labour would assist the Australian horticulture industry:

There are other countries in the region that have similar development needs to the Pacific, that rely heavily on remittances, and that have a ready supply of agricultural labourers. These countries also have a strong tradition of horticulture work and possess individuals with both aptitude and experience for the types of jobs in severe shortage within the Australian horticulture industry, namely, picking, packing and grading.²¹

17 Apple and Pear Australia Limited, *Submission 33*, p. 6.

18 Apple and Pear Australia Limited, *Submission 33*, p. 6.

19 Ms Tomanovic, Tourism and Transport Forum, *Transcript*, 13 November 2015, pp. 41-42.

20 Dr Howe, *Submission 36*, p. 3.

21 Dr Howe, *Submission 36*, pp. 3-4.

5.23 The Committee notes that additional seasonal labour can be sourced into Australia from Asia via the working holiday (subclass 417) ‘backpacker’ visa. According to the Department of Immigration and Border Protection’s annual report, South Korea and Taiwan were leading contributors to the pool of backpacker labour available in Australia.²² The DIBP’s annual report also stated:

New Work and Holiday visa arrangements were signed with Spain and Portugal in September 2014, Israel in October 2014, Vietnam in April 2015, Slovakia in May 2015, and Slovenia and China in June 2015. The arrangements with Spain and Portugal were implemented in November 2014 and the other arrangements are expected to come into effect during 2015–16. The Department also continues to explore options to expand the programme to other countries.²³

5.24 In contrast to some evidence above, the Committee was informed that overall, there is not a shortage of horticulture workers. The DPC, whilst not having a view on whether to expand into other countries, said that ‘there is no aggregate labour shortage in the horticulture sector’ because ‘there has been a massive growth in backpackers working in horticulture... That has solved the labour shortage.’²⁴

Expanding the Seasonal Worker Programme into agriculture, tourism, hospitality, accommodation and other sectors

5.25 While not supporting major changes, some witnesses proposed adjustment to the SWP’s rules to allow seasonal workers to undertake a broader range of work in agriculture.

5.26 MADEC Australia explained that there were ‘some anomalies’ created by the scope of work able to be carried out by seasonal workers.²⁵ MADEC said:

For instance, there are people who grow strawberry runners... but they are classified as a nursery operation so, even though they are in an area surrounded by strawberry growers, they cannot access

22 Department of Immigration and Border Protection, *Annual Report 2014-15*, pp. 88-89.

23 Department of Immigration and Border Protection, *Annual Report 2014-15*, p. 87.

24 Professor Howes, Development Policy Centre, *Transcript*, 9 September 2015, p. 2; see also *Exhibit 6*, ANU/World Bank, *Australia’s Seasonal Worker Program: Demand-side Constraints and Suggested Reforms*, February 2015, p. 15.

25 Mr Hayes, MADEC Australia, *Transcript*, 28 October 2015, p. 60.

seasonal workers whereas all of their neighbours who are physically picking strawberries can. ... Some growers, I think, are disenfranchised because they cannot access the program.²⁶

- 5.27 Australian Dairy Farmers (ADF) said that as of October 2015, the dairy industry was not listed as a seasonal industry.²⁷ ADF explained that seasonal workers would be suited to the dairy industry:

The Seasonal Worker Program would be of value to our industry, as well as providing valuable employment opportunities to the workers. Owners, their families and others could be working between 50 and 70 hours per week during these peak periods. This takes an absolute physical and mental toll on these individuals over this particular period. It is extremely difficult to find local workers to fill these short-term roles, which has a negative impact on our small businesses.²⁸

- 5.28 A submission from the National Farmers' Federation supported expanding the SWP to other agricultural industries:

Extensive labour market testing in a number of agricultural and related industries, including pork, dairy and meat ... continues to demonstrate that for much of agriculture, there is a demand for workers that cannot be met domestically. There is capacity for uptake of the Program within all industries in the agriculture sector, who each face the dilemma of how to meet labour shortages at peak times of the year, every year.²⁹

- 5.29 APAL submitted:

APAL is not, at this stage, in favour of expanding the seasonal worker program to other sectors beyond currently approved industries, other than agriculture.³⁰

- 5.30 There was concern that expansion of eligible industry sectors may dilute the development assistance objectives of the SWP. Dr Joanna Howe and Associate Professor Alexander Reilly submitted:

We have concerns over the expansion of the SWP to other industries. There is a particular identified need for workers in horticulture, and work in horticulture has specific characteristics that make a seasonal worker visa an appropriate response. The expansion of the SWP to other industries places a greater emphasis

26 Mr Hayes, MADEC Australia, *Transcript*, 28 October 2015, p. 60.

27 Mr Campbell, Australian Dairy Farmers, *Transcript*, 28 October 2015, p. 71.

28 Mr Campbell, Australian Dairy Farmers, *Transcript*, 28 October 2015, p. 71.

29 National Farmers' Federation, *Submission 21*, p. 13.

30 Apple and Pear Australia Ltd, *Submission 33*, p. 6.

on its role as a labour market program, and less on the role of assistance to Pacific nations which arises from the special relationship between Australia and Pacific nations.³¹

- 5.31 A submission from the Labour Mobility Unit of the Solomon Islands' Ministry of Foreign Affairs and External Trade supported expansion into agriculture:

...the LMU recommends that animal farms and abattoirs be included as part of the expansion. ... Currently, however, animal farms and animal processing plants are sectors not available to seasonal workers. We accept that animal farms are not strictly 'seasonal' in nature. However, there are numerous examples where horticulture farms using greenhouse and hydroponic schemes operate year round, and are available to seasonal workers. In addition, we believe that this form of employment is ideally suited to the skills and experience of rural workers in Solomon Islands and other Pacific Island countries.³²

- 5.32 The Committee received evidence in favour of expanding the SWP into additional industries: tourism and accommodation, childcare, aged care, disability care, construction, mining and fishing. This evidence is discussed below.

- 5.33 The Tourism and Transport Forum (TTF) submitted that analysis of tourism employment requirements showed that 'labour and skills shortages are prevalent' in parts of Australia and are 'most acute in regional and remote destinations'.³³ Tourism Accommodation Australia (TAA) and the TTF cited research estimating a current shortage of 38,000 tourism workers and predicting that by 2020 an additional 123,000 workers would be required.³⁴ The TAA's submission stated that 'this situation has been further exacerbated for the accommodation sector by the current growth in supply in all capital cities.'³⁵

- 5.34 The TTF's submission stated:

It is critical that these labour and skills shortages are addressed in order to enhance the visitor experience and increase the global competitiveness of Australia's tourism industry. TTF believes that one way of addressing this, within a wider mix of solutions, is to

31 Dr Howe, *Submission 36*, p. 3.

32 Solomon Islands' Ministry of Foreign Affairs and External Trade, *Submission 7*, p. 1.

33 Tourism and Transport Forum, *Submission 26*, p. 2.

34 Mr Crowe, TAA, *Transcript*, 13 November 2015, p. 24; Mr Koek, TTF, *Transcript*, 13 November 2015, p. 41.

35 Tourism Accommodation Australia, *Submission 28*, pp. 1-2.

expand the Seasonal Worker Programme to the full spectrum of the tourism and hospitality industry, beyond just accommodation.³⁶

5.35 The TAA similarly supported expanding the SWP:

National accommodation providers support the concept of the Seasonal Worker Programme being expanded across Australia. It would increase available talent, the ability of businesses to plan ahead of time, and it presents the opportunity to attract candidates from other hotels and other regions and build on their capabilities and training.³⁷

5.36 The TAA's submission added:

... the industry would see the Programme as primarily meeting the need for entry level positions in areas of seasonal demand and in regional communities.³⁸

5.37 The TTF said:

In providing its suggestions, TTF has maintained that the two outcomes of the program, which it sees as foreign aid and labour accessibility, should be balanced and not in conflict. The program and any changes made to it need to be mutually beneficial to workers and employers. In that regard, TTF believes that following a successful trial in the accommodation sector there is a strong case for expanding the program's accommodation extension to all locations in Australia.³⁹

5.38 The TTF continued:

The government reforms announced as part of the northern Australia white paper are applauded by TTF. Following a successful northern Australian tourism pilot, TTF supports the pilot being made a permanent extension of the program and extended to all of Australia.⁴⁰

5.39 The TTF said that more than half of tourism businesses identify as being seasonal. The TTF said eight tourism regions out of the top eleven that experience seasonality 'do not fall within the eligible location for the accommodation extension nor the northern Australia tourism pilot.'⁴¹

36 Tourism and Transport Forum, *Submission 26*, p. 2.

37 Tourism Accommodation Australia, *Submission 28*, p. 4.

38 Tourism Accommodation Australia, *Submission 28*, p. 5.

39 Ms Tomanovic, Tourism and Transport Forum, *Transcript*, 13 November 2015, p. 41.

40 Ms Tomanovic, Tourism and Transport Forum, *Transcript*, 13 November 2015, p. 41.

41 Ms Tomanovic, Tourism and Transport Forum, *Transcript*, 13 November 2015, p. 43.

- 5.40 Austrade submitted that there is 'a case for expanding the SWP to the broader tourism industry across Australia on an ongoing basis.'⁴² Austrade noted that a trial had been successful:

During the accommodation sector trial, seasonal workers could be employed as bar attendants, baristas, food and beverage attendants/waiters, café workers, garden labourers, housekeepers, kitchen hands, public area cleaners in the trial locations of the Northern Territory, Tropical North Queensland, the Whitsundays, Kangaroo Island and Western Australia. Throughout the accommodation trial, seven approved employers employed 99 seasonal workers from three participating countries: Timor-Leste, Papua New Guinea and Vanuatu. The tourism industry reported that the trial had a positive effect and is a meaningful initiative to support the industry.⁴³

- 5.41 A submission from TAFE Queensland noted that agriculture and tourism were sectors identified as being suitable to replace the decline of economic activity associated with mining and gas. The submission stated:

From TAFE Queensland's perspective, the industries that particularly benefit from the programme are characterised by:

- High workforce needs during peak periods of seasonal activity;
- Repetitive but highly a-synchronous skills capability for functions that cannot be automated;
- Lower entry level wage rates; and
- Industries associated with perceptions of poor career options by Australian citizens.

Agriculture, food processing and tourism reflect these workforce characteristics and collectively, these features place challenges on the recruitment of suitable workers.⁴⁴

- 5.42 The submission added:

Industries that may benefit from an extension of the programme include meat processing and the broader tourism and hospitality industries.⁴⁵

- 5.43 TAFE Queensland did, however, believe that the accommodation industry already relied on working holiday makers, which in turn negatively impacted on the SWP:

42 Austrade, *Submission 24*, p. 2.

43 Austrade, *Submission 24*, p. 2.

44 TAFE Queensland, *Submission 27*, p. 8.

45 TAFE Queensland, *Submission 27*, p. 9.

It has been identified that this industry particularly relies on Working Holiday visa holders, an initiative that undermines the SWP by supplying up to 136,593 Working Holiday visa holders into the employment market that are more cost effective and with a more simplified system for workers and employers to navigate than the SWP. As such, this is open to abuse by all parties and is an area for reform. Regional areas in particular are not able to recruit workers and rely to a large extent on WHMs. Informal feedback with respect to WHMs suggest reliability is a key issue not experienced with seasonal workers, probably because the motivation for working is different.⁴⁶

- 5.44 The Department of Foreign Affairs and Trade (DFAT) supported expanding the SWP into other sectors outlined in the *White Paper on Developing Northern Australia*, as well as aged care and disability care:

DFAT supports proposals set out in the White Paper to expand the SWP into the broader agriculture industry, to include the accommodation sector on an ongoing basis and to invite the Northern Australia tourism industry to apply to join on a trial basis. ... DFAT assesses that countries participating in the SWP are also well placed to help meet the labour and skills shortages identified in the White Paper in the aged and disability care sectors.⁴⁷

- 5.45 DFAT's submission added that expansion of the SWP would be supported by vocational training and qualifications for prospective workers:

The DFAT-funded Australia-Pacific Technical College (APTC) has been providing technical and vocational training to Australian standards in the construction, tourism, hospitality, health and community sectors across 14 Pacific Island Countries since 2007. While in some cases APTC qualifications have not satisfied skilled work visa (457) requirements, they suit positions that require a lower level of certification, including aged and disability care and childcare.⁴⁸

- 5.46 The Office of the Chief Trade Advisor (OCTA) supported expansion of the SWP into several other industry sectors:

From the perspective of the FICs [forum island countries], the ideal scenario would be to open the SWP to all sectors where the skills of FIC workers can be used. However, the priority for the

46 TAFE Queensland, *Submission 27*, p. 9.

47 Department of Foreign Affairs and Trade, *Submission 38*, p. 5.

48 Department of Foreign Affairs and Trade, *Submission 38*, p. 5.

FICs is the expansion of the programme to cover sectors such as construction, health care and social assistance, where they can provide workers with relevant skills immediately. Expanding the scheme to cover these occupations would align with the projected employment growth in these occupational areas in Australia.⁴⁹

5.47 The Timor Leste Government also supported broad expansion:

Expanding the Seasonal Worker Programme to other sectors such as road and building constructions, industries, mining and fishing are important because at present and in the future the Australian companies involved in these sectors may face shortage of workforce. ...it might not have [a] negative impact on the Australian labour force because the seasonal workers only perform work in Australia when there is demand or shortage of [an] Australian workforce in the country.⁵⁰

Limiting Seasonal Worker Programme to the Pacific and Timor-Leste

5.48 The Office of the Chief Trade Adviser (OCTA) (formed by Pacific Island countries to provide independent advice on PACER-Plus negotiations⁵¹) said that Pacific Island countries would oppose any moves to allow other countries outside the region to join the SWP. The OCTA submitted:

In terms of countries covered by the scheme, we would want to stress that the FICs [forum island countries] would be strongly opposed to an expansion of the scheme beyond themselves and Timor-Leste. The FICs see the SWP as an essential part of their relationship with Australia and associate the programme with Australian influence in the region.⁵²

5.49 The OCTA submission also stated:

49 Office of the Chief Trade Adviser, *Submission 5*, p. 7.

50 Timor-Leste Secretary of State for Professional Training and Employment Policy, *Submission 6*, pp. 1-2.

51 The OCTA's submission stated (p. 2): 'The Office of the Chief Trade Adviser (OCTA) was established on 29 March 2009 after Forum Leaders agreed to launch negotiations for a reciprocal trade arrangement with Australia and New Zealand - PACER Plus [Pacific Agreement on Closer Economic Relations]. PACER Plus is oriented towards the economic growth and sustainable development of Forum Island Countries (FICs).' The OCTA has fourteen members: Cook Islands, Federated States of Micronesia, Kiribati, Nauru, Niue, Palau, Papua New Guinea, Fiji, Republic of Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu.

52 Office of the Chief Trade Adviser, *Submission 5*, p. 8.

Priority should be put, in our view, on incorporating those FICS that are currently excluded from the scheme, and also on ensuring that the programme is used to its maximum potential by all participants. ... Expanding the scheme to include countries outside the Pacific would obviously erode its benefits to FICs, which are much more dependent on such opportunities, and would defeat Australia's objectives of advancing economic development in the region.⁵³

5.50 The Australian Council of Trade Unions said that SWP expansion would be optimistic:

...the proposed expansion of the Seasonal Worker Program appears to be a little optimistic given, first of all, that it has a history of falling short of the existing caps that have been set and also in light of the fact that the government at the same time is proposing to expand the Working Holiday Maker Visa Program.⁵⁴

5.51 MADEC expressed reservations regarding expansion to other countries, noting that Pacific workers would have to compete with workers from Asia for access to the SWP:

MADEC believes adding countries other than Pacific Nations to the Seasonal Worker Program would have a significant negative impact on the involvement of Pacific nations in the program. This is due to perception within the industry of workers from other countries, in particular South Eastern Asian countries, being better, faster workers than workers from Pacific Nations.⁵⁵

5.52 A submission from the Development Policy Centre and World Bank stated that capacity in the Pacific is currently under-utilised:

There is an almost infinite amount of labour that would be willing to come from the Pacific to work on the SWP. Various studies have shown that the scheme is hugely beneficial for the Pacific labourers who get to participate in it. The key challenge is to grow the size of the scheme.⁵⁶

5.53 Seasonal Labour Solutions said that growing the numbers of seasonal workers from Pacific Island nations ought to be achieved before the range of participating countries could be expanded.⁵⁷

53 Office of the Chief Trade Advisor, *Submission 5*, p. 8.

54 Mr Shipstone, Australian Council of Trade Unions, *Transcript*, 28 October 2015, p. 52.

55 MADEC Australia, *Submission 17*, p. 2.

56 Development Policy Centre and World Bank, *Submission 22*, p. 1.

57 Mr Fankhauser, Seasonal Labour Solutions, *Transcript*, 28 October 2015, pp. 36-37.

Limiting the Seasonal Worker Programme to horticulture

- 5.54 Witnesses who did not support expanding the SWP were mostly concerned that this could reduce labour supply for the horticulture sector.
- 5.55 AUSVEG did not support expanding the SWP to other sectors, stating that seasonal workers provide a 'uniquely valuable labour source.'⁵⁸ AUSVEG said:

We would strongly caution against expanding the Seasonal Worker Program to allow other industries, such as tourism, to participate. The value of the Seasonal Worker Program to the horticulture industry is shown by the strong uptake of the program within the horticulture industry, relative to other sectors. Permitting workers to move into other industries which may present more appealing work environments, such as tourism, risks diluting the value of the program as a potentially vital labour source for horticulture in the future.⁵⁹

- 5.56 Growcom, the peak industry body for fruit and vegetable growing in Queensland, also cautioned against expanding into other industries. Growcom said:

... if you were to expand second working holiday visas into the hospitality sector, then our industry would suffer greatly from that. It has to do with the nature of the work. If you ask a backpacker whether they would rather make the minimum wage picking strawberries in a hot field or serving beer in a cold pub, I suggest the answer to that is pretty obvious. We want to try and protect, to some extent, a labour source that is so important and vital to the industry and, therefore, the economic contribution it makes to the country.⁶⁰

- 5.57 Gracekate Farms noted that other industries would create competition for available seasonal workers:

My only concern is that it is working so well for us (the horticultural workplaces) that we would not wish for our farm to be competing for a limited number of 416 seasonal workers with other industries. (As opposed to labour hire companies who would be unemotional about who would receive the workers as long as they could get their books filled).⁶¹

58 AUSVEG, *Submission 25*, p. 4.

59 Mr Mulcahy, AUSVEG, *Transcript*, 28 October 2015, p. 12.

60 Ms Mogg, Growcom, *Transcript*, 13 November 2015, p. 52.

61 Gracekate Farms, *Submission 14*, p. 1.

5.58 The Committee heard concerns that expanding eligible industries could encourage seasonal workers to prefer jobs perceived to involve the least effort. The Victorian Farmers Federation submitted:

The VFF is concerned that extending the program beyond its existing scope will mean the labour pool for the horticulture industry will be much smaller. Extension to the accommodation industry for such work as bar attendants, baristas and food and beverage attendants could mean that potential farm employees will move to these seemingly more attractive jobs that are not weather dependent and could be construed as 'easier'.⁶²

5.59 Apple and Pear Australia Limited (APAL) added:

Low skilled work in the horticulture sector is perceived as physically hard, particularly when harvest can take place in the height of summer... APAL is concerned that there will be leakage from the horticulture sector if workers are able to readily access jobs in less physically demanding jobs in say, tourism and hospitality. We do not support any further expansion of the program beyond agriculture until there is evidence to show that there remains a sufficient supply of workers for the horticulture sector.⁶³

5.60 The Australian Council of Trade Unions (ACTU) stated that expanding into other sectors, as proposed in the *White Paper on Developing Northern Australia*, could deny employment opportunities to unemployed Australians:

Youth unemployment in some regions is up to 20% or more. This suggests the need for some caution before expanding the program further. ... This is particularly important when one considers that seasonal workers under the program can take up work in occupations such as bar attendants, waiters, café workers, garden labourers, kitchen hands and cleaners – occupations that unemployed Australians could readily fill without the need for formal qualifications or long lead-in training times.⁶⁴

62 Victorian Farmers Federation, *Submission 9*, p. 3.

63 Apple and Pear Australia Limited, *Submission 33*, p. 7.

64 Australian Council of Trade Unions, *Submission 19*, p. 10.

Implications of expanding the Seasonal Worker Programme to new sectors

- 5.61 The Committee was provided with some information regarding the design of the SWP and, in particular, the types of implications that might arise from expanding the programme to new sectors.
- 5.62 The International Labour Organization's (ILO) submission, while not commenting on 'particular sectors to which the SWP... could be extended', nevertheless offered some general observations:
- Expanding to other sectors can also provide benefits in terms of increasing accessibility to under-represented groups. For example, expanding into manufacturing or services could increase opportunities for Pacific Island women; while migration in the fisheries or seafaring sector could open up jobs for workers from microstates such as Kiribati and Tuvalu.⁶⁵
- 5.63 The ILO added:
- One key area that would, however, also need to be considered as part of any expansion, is coherence with other migration programs such as the Working Holiday Making scheme as the operation of other schemes may limit the potential expansion opportunities.⁶⁶
- 5.64 The State, Society and Governance in Melanesia Program (SSGMP) cautioned against expansion:
- [The] SWP should be well established and stabilised in the agriculture sector before ongoing and further expansion into other industry sectors such as tourism, and the establishment of further trial industries and sectors.⁶⁷
- 5.65 Furthermore:
- The appropriate areas of the Department of Employment [DoE] and the Department of Foreign Affairs and Trade be sufficiently well resourced to facilitate the efficient expansion of the SWP for both Australia, Australian industry and partner Pacific nations.⁶⁸
- 5.66 Dr Howe said that the key consideration for determining whether to expand the SWP is evidence of labour shortages:
- If we expand the seasonal workers program, I think what we are really talking about there is the presence of labour shortages. It is
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65 International Labour Organization, *Submission 31*, p. 4.

66 International Labour Organization, *Submission 31*, p. 5.

67 State, Society and Governance in Melanesia Program, *Submission 38*, p. 10.

68 State, Society and Governance in Melanesia Program, *Submission 38*, p. 10.

not so much the skilled work; it is the low skilled and unskilled work. But what we are saying if we expand it is that there are not sufficient workers in Australia to do these kinds of jobs or they do not want to do these kinds of jobs and therefore we need to go overseas.⁶⁹

5.67 Dr Howe added:

If we do not have that evidence based approach, what will happen is: we will expand the Seasonal Worker Program into other sectors and employers will use these workers as a way of cutting labour costs because these workers are less aware of their workplace rights, they are not going to be unionised and they are in remote locations. The problem is that, when this then gets blown open or exposed... then public confidence in the system will get diminished, and I think there would then be greater calls for reregulation.⁷⁰

5.68 The ACTU stated that 'appropriate safeguards and oversight' should be developed before the SWP is expanded.⁷¹

5.69 As noted in Chapter 4, the DoE provided the Committee with background information on labour market characteristics and trends for several industry sectors, advising that this information should be applied carefully in the context of the SWP.⁷²

5.70 Additionally, the DoE noted that whilst the literacy skill of seasonal workers is not formally assessed, these skills would be 'varied'.⁷³

5.71 On 8 February 2016, the Minister for Agriculture and Water Resources and the Minister for Employment announced that the scope of the SWP would be expanded. A media release stated that there would be:

... expansion of the Programme from primarily horticulture to the broader agricultural sector, increasing the types of low and unskilled jobs included under the Programme.⁷⁴

69 Dr Howe, *Transcript*, 13 November 2015, p. 16.

70 Dr Howe, *Transcript*, 13 November 2015, p. 16.

71 Australian Council of Trade Unions, *Submission 19*, p. 10.

72 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture and Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 14.

73 Ms Smith, Department of Employment, *Transcript*, 24 June 2015, p. 4.

74 Senator the Hon Michaelia Cash, Minister for Employment and The Hon Barnaby Joyce MP, Minister for Agriculture and Water Resources, 'Seasonal Workers Expanding to Greener Pastures', Joint Media Release, 9 February 2016.

Committee comment

- 5.72 The Committee received varied opinions both in favour and against expanding the Seasonal Worker Programme to other countries.
- 5.73 The Committee notes submitters' suggestions that the Australian Government facilitate interested Asian countries who wish to participate in the Seasonal Worker Programme.
- 5.74 The Committee is of the view, however, that the focus of the Seasonal Worker Programme should remain on the Pacific Islands and Timor-Leste. Evidence suggests that the Seasonal Worker Programme has yet to reach the full potential of available workers from the Pacific and Timor-Leste. The Seasonal Worker Programme ought to reach a point of capacity within its existing scope before expansion to other countries is considered.
- 5.75 The Committee also heard contrasting views on whether to expand the programme into other industries and sectors.
- 5.76 The Committee notes the announcement in the *White Paper on Developing Northern Australia* to:
- allow employers in the Northern Territory to sponsor temporary workers including chefs, child care and aged care workers, office managers, and truck drivers⁷⁵
 - allow both Working Holiday Maker visa holders to work an additional six months with one employer in northern Australia if they work in high demand areas such as agriculture, forestry and fishing, tourism and hospitality, mining and construction, disability and aged care.⁷⁶
- 5.77 The Committee believes that there would be additional benefits to expanding the seasonal worker programme to these high demand areas of aged, child and disability care, such as enhanced participation of women.
- 5.78 The Seasonal Worker Programme could advance beyond the level of an unskilled labour migration scheme to address long-term labour shortages in these additional industry sectors.
- 5.79 The Committee recommends the Australian Government consider expanding the Seasonal Worker Programme to include the aged, child, and disability care sectors, which have already been included in the *White Paper on Developing Northern Australia*.

75 Australian Government, *Our North, Our Future: White Paper on Developing Northern Australia*, p. 111.

76 Australian Government, *Our North, Our Future: White Paper on Developing Northern Australia*, p. 112.

Recommendation 3

The Committee recommends the Australian Government consider expanding the Seasonal Worker Programme to include the aged, child, and disability care sectors, which have already been included in the White Paper on Developing Northern Australia.

Impact on the Australian labour force

- 6.1 Approved employers are required to provide evidence that they have tried to recruit Australian workers to fill job vacancies before they can seek to recruit seasonal workers.
- 6.2 Many submitters stated that the Seasonal Worker Programme (SWP) would have minimal impact on the Australian labour force. This was primarily attributed to local job seekers being unwilling to work in these sectors and the prevalence of Working Holiday Maker (WHM) visa holders.
- 6.3 Owen Pacific Workforce Pty Ltd (OPW) stated that Australians were absent from this sector of the labour market:
- Since the lack of a reliable Australian harvest labour force lead to the adoption of the Seasonal Worker Programme it seems self evident that Australians by and large are absent from this segment of the labour market. Therefore the impact of Seasonal Workers on Australian workers is likely to be minimal.¹
- 6.4 Mr Paul Casey, a berry farmer, commented that not many Australians were willing to undertake unskilled work:
- In Australia, we have the expertise, the land, climate, water and capital. The one ingredient missing is a basic workforce. All berries because of their nature are hand picked. Not many native borne Australians are willing to pick and pack berries, it is regarded as 'unskilled labour'.²

1 Owen Pacific Workforce Pty Ltd, *Submission 1*, p. 2.

2 Mr Paul Casey, *Submission 3*, p. 1.

6.5 Momack Produce Pty Ltd provided an example of how they try to recruit Australian labour, noting that they received one application in reply to an advertisement for 70 workers in their local paper.³

6.6 Deep Creek Organics also provided an example where:

... 70 available positions were posted only 4 Australian local people replied to the positions, 2 of which did not even read the description clearly outlining what was required for the job, an interview was not granted as they were no longer interested.⁴

6.7 Vernview Pty Ltd commented that it did have local people applying for jobs at their packing facility but that only WHM's sought work in their orchard. Vernview Pty Ltd observed that local labour did not want to engage in seasonal work for other reasons:

Local labour looking for work did not want to engage in seasonal work but quite rightly looked to full time employment in the local environs, to secure financial support for themselves and their families. We could only offer seasonal work, with breaks of a number of months. Apple harvest does not coincide with summer university holidays and this removes another valuable source of local labour. In addition we can only offer a few full time positions and there is little ability to offer career advancement, an impediment to sourcing local labour.⁵

6.8 Apple and Pear Australia Limited (APAL) agreed that university students' schedules did not coincide with harvest times and that finding full-time work was a greater priority:

APAL understands that university students often seek the work but are unavailable during the whole harvest (late January through to June) which cuts through the university timetable. In most cases though there is simply a lack of a seasonal local workforce, with the local unemployed more interested in permanent work to sustain mortgages and family living expenses. There are also some comments from growers that advertisements often attract New Start allowance candidates who are obliged to demonstrate that they have applied for work whilst receiving benefits, but have little interest in or ability to undertake the physically demanding seasonal orchard work.⁶

3 Momack Produce Pty Ltd, *Submission 4*, p. 2.

4 Deep Creek Organics, *Submission 12*, p. 1.

5 Vernview Pty Ltd, *Submission 13*, p. 2.

6 Apple and Pear Australia, *Submission 33*, p. 3.

- 6.9 TAFE Queensland made similar observations about a lack of career pathways in agriculture and tourism:
- Lower skilled jobs can often be filled with Australian labour, but key industries, like agriculture and tourism have difficulty attracting and retaining the workforce as a result of poor industry perceptions, lack of visible career pathways and understanding of the role of transferable skills development through training.⁷
- 6.10 NT Farmers advised that it was difficult to retain local labour for seasonal work.⁸
- 6.11 Australian Dairy Farmers held the view that unemployed Australians did not seek short-term job prospects as they would lose unemployment benefits:
- The other problem with the gaps are the unemployed or long-term unemployed. The situation there is that they do not want to come off unemployment benefits. If they have a short-term job, they then have the situation where they have to wait a period to go back onto unemployment benefits if they cannot find another role. So there is a real issue there as well.⁹
- 6.12 Gracekate Farms said that the SWP was not, in their experience, affecting the local labour market.¹⁰
- 6.13 Abbotsleigh Citrus stated that it had become more challenging to source reliable and productive local labour as well as WHMs.¹¹
- 6.14 Growcom described that it heard reports that 'local workers are simply not willing or able to do the work',¹² adding:
- Growers would not be accessing programs such as the SWP if there were not a clear and present need for such programs to complement the workforce. Efforts to work with local employment co-ordinators and job providers to identify suitable candidates often leads to long-term unemployed people attending interviews or starting work to meet their Centrelink expectations rather than being genuinely committed to working on a farm. Despite training, these people rarely last a week.¹³

7 TAFE Queensland, *Submission 27*, p. 10.

8 NT Farmers, *Submission 41*, p. 1.

9 Mr Campbell, Australian Dairy Farmers, *Transcript*, 28 October 2015, p. 76.

10 Gracekate Farms, *Submission 14*, p. 2.

11 Abbotsleigh Citrus, *Submission 15*, p. 2.

12 Growcom, *Submission 16*, p. 3.

13 Growcom, *Submission 16*, p. 3.

- 6.15 The National Farmers' Federation (NFF) repeated the view that Australians 'are not looking for jobs that involve hard, physical work in rural, regional and remote areas.'¹⁴ The NFF called for greater visibility of job opportunities:
- Employers and the job opportunities they offer need to be more visible to local workers so that they are encouraged to seek employment.¹⁵
- 6.16 MADEC Australia remarked that the seasonal work, or unskilled manual labour paid at the minimum wage, did not provide 'continuity or job security desirable to the Australian labour force.'¹⁶ MADEC agreed with the view that the current and projected SWP would not significantly impact the Australian labour force adding that 'the program is demand driven and priority given to available and willing Australian employees.'¹⁷
- 6.17 Connect Group Pty Ltd stated that Australian labour did not want to undertake seasonal types of work and therefore would not compete with SWP participants and provide little impact on the Australian labour force. Connect Group Pty Ltd also provided a personal example, adding:
- A case in point is where we have advertised for up to 200 workers in an area that bordered outer edge suburban Melbourne and two centres of high unemployment, especially youth unemployment. After two weeks of advertising for local jobseekers first (as is a natural requirement under the SWP) we received only 13 responses. 6 were backpackers. Most others were not suitable to the difficult physical work or resided too far away to be practical or relied on public transport (Impossible with most work starting at night at varying times).¹⁸
- 6.18 AUSVEG commented that it received anecdotal evidence suggesting that local workers did not like work in the horticulture sector.¹⁹ AUSVEG also did not believe that current or projected SWP would 'have a meaningful impact on the Australian labour force.'²⁰

14 National Farmers' Federation, *Submission 21*, p. 16.

15 National Farmers' Federation, *Supplementary Submission 21.1*, p. 1.

16 MADEC Australia, *Submission 17*, p. 2.

17 MADEC Australia, *Submission 17*, p. 2.

18 Connect Group Pty Ltd, *Submission 18*, p. 5.

19 AUSVEG, *Submission 25*, p. 5.

20 AUSVEG, *Submission 25*, p. 5.

- 6.19 The Voice of Horticulture asserted that Australian workers were not available to meet labour demand in the sector 'due to seasonality, remoteness and relative appeal of urban jobs, and the resultant gaps in the labour market therefore requires the reliance upon foreign workers to supplement labour requirements in peak periods.'²¹
- 6.20 The Office of the Chief Trade Adviser (OCTA) referred to a report on the Final Evaluation of the Pacific Seasonal Worker Pilot Scheme which suggested 'that Australian unemployed youth are not prepared relocate and do not have an interest in the jobs, which has necessitated the hiring of backpackers.'²²
- 6.21 The OCTA added that the SWP would not impact the Australian labour force significantly:
- From the foregoing, there would be an insignificant impact on the Australian labour force as a result of an increase in the number of seasonal workers from the FICs, especially considering that the scheme is subject to labour market testing. Employers can recruit Pacific workers only when they can demonstrate their inability to fill the positions with Australian citizens or permanent residents. In effect, there is no competition between Pacific workers and Australian citizens or permanent residents.²³
- 6.22 Mossmont Nurseries Pty Ltd agreed that the SWP would not impact the Australian work force, particularly in the stone fruit industry.²⁴
- 6.23 The Democratic Republic of Timor-Leste's Secretary of State for Professional Training and Employment Policy noted that the SWP would most likely not impact on the Australian labour force as they only perform work in Australia when there is a demand or shortage of Australian workers.²⁵
- 6.24 The Australian Council of Trade Unions (ACTU) put forward the argument that Australian workers were being excluded in favour of WHM visa holders, highlighting a number of advertisements targeted at recruiting WHMs.²⁶

21 Voice of Horticulture, *Submission 34*, p. 1.

22 Office of the Chief Trade Adviser, *Submission 5*, p. 10.

23 Office of the Chief Trade Adviser, *Submission 5*, p. 10.

24 Mossmont Nurseries Pty Ltd, *Submission 8*, p. 1.

25 Secretary of State for Professional Training and Employment Policy, Democratic Republic of Timor-Leste, *Submission 6*, p. 2.

26 Australian Council of Trade Unions, *Supplementary Submission 19.1*, p. 1.

- 6.25 The ACTU suggested that ‘employers who use seasonal labour from Pacific Island countries should have obligations to be employing and training Australian workers at the same time.’²⁷
- 6.26 The Golden Mile No.1 Pty Ltd advised, however, that their local labour supply was sufficient and that they were ‘getting job searchers coming through the company and people adequately equipped for positions within the company will get employment in case of vacancies.’²⁸
- 6.27 The Department of Employment (DoE) stated that it believed that the expansion of the SWP would have little effect on the Australian labour force:
- The Department of Employment expects the expansion of the Seasonal Worker Programme to the broader agricultural sector across Australia and also the accommodation sector in eligible locations will have a very limited effect on the Australian labour force. This is because before seeking access to seasonal workers, employers must first test the local labour market and offer vacant positions to any suitable local jobseekers.²⁹
- 6.28 On the labour market testing requirements, the DoE reported that:
- During 2014-15, approved employers reported 329 Australian job seekers were found suitable to undertake seasonal work through the labour market testing undertaken by approved employers.³⁰
- 6.29 The DoE added, however, that the demand for labour exceeded local availability:
- The labour market testing results under the programme demonstrates the demand for labour by approved employers in the agriculture and accommodation industries exceeds that available locally.³¹

Committee comment

- 6.30 Based on the evidence provided by submitters, it appears as though the horticulture sector places a significant reliance on working holiday visa holders to fill labour shortages within the industry.

27 Australian Council of Trade Unions, *Submission 19*, p. 2.

28 Golden Mile No.1 Pty Ltd, *Submission 20*, p. 1.

29 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 15.

30 Department of Employment, *Supplementary Submission 2.2*, p. 17.

31 Department of Employment, *Supplementary Submission 2.4*, p. 5.

- 6.31 The seasonal worker programme would impact marginally on the Australian labour force at most, in part due to the relatively small size of the programme and the industry's current reliance of working holiday makers.
- 6.32 The Committee acknowledges that the working holiday maker and seasonal worker programmes have separate objectives. However, it is apparent that the working holiday maker programme impacts on both the local labour force and seasonal workers.
- 6.33 The Committee urges the Government to closely monitor the recently announced changes to both programmes and, as recommended in Chapter 3, conduct a review on the impact of these changes by the end of next year to ensure that the working holiday maker programme does not continue to unduly impact on local labour and the seasonal worker programme.
- 6.34 Providing job opportunities for Australians, particularly in areas of labour shortages, is fundamentally important. Additionally, agriculture is central to Australia's economic growth and food security.
- 6.35 The agriculture and horticulture industries compete for labour against many industries. Attracting, employing and retaining local labour is vital to ensuring that the industry remains sustainable in the long term.
- 6.36 Currently, there appears to be a poor perception surrounding the industry and in particular, that it lacks viable career pathways. More needs to be done to change this misconception and to support youth employment pathways.
- 6.37 The Committee notes the success of the Green Army programme: a six month programme for 17-24 year olds to train and work in the environment. Programme participants receive an allowance during their placement and gain hands-on, practical skills, training and experience in environmental and conservation fields.
- 6.38 The Green Army is estimated to have up to 15,000 participants by 2018-19, making it Australia's largest-ever environmental workforce.³²
- 6.39 The Committee believes that the agricultural industry would greatly benefit from establishing a similar programme.
- 6.40 The Committee therefore recommends that the Government allocate funds to establish a three year pilot programme, a 'Future Force', similar to the Green Army model with appropriate adjustments.

32 Department of the Environment, Portfolio Budget Statements 2015-16, Budget related paper No. 1.7, p. 25.

Recommendation 4

The Committee recommends that the Australian Government allocate funds to establish a three year pilot programme for 17-24 year olds to train and work in the agricultural sector, a 'Future Force', similar to the Green Army programme model with appropriate adjustments.

Increased access for women and youth workers

- 7.1 As discussed in Chapter 2, thirty per cent of Seasonal Worker Programme (SWP) participants are female and less than fourteen participants were between 18 and 20 years of age.
- 7.2 The majority of submitters for this inquiry focussed on the number of women participating in the SWP. Very few commented on how to increase access for youth. The lack of evidence could be partly due to the requirement for SWP participants to be 21 years of age or older.
- 7.3 This chapter therefore focuses primarily on the challenges and benefits in recruiting more women for the SWP.
- 7.4 Papua New Guinea's Department of Labour and Industrial Relations stated a merit based approach, where qualified women would be provided the opportunity, would enhance female participation.¹
- 7.5 The Office of the Chief Trade Advisor (OCTA) (formed by Pacific Island countries to provide independent advice on PACER-Plus negotiations²) suggested that removing sectoral limits would enhance the recruitment of women and youth workers:

1 Papua New Guinea's Department of Labour and Industrial Relations, *Submission 29*, p. 4.

2 The OCTA's submission stated (p. 2): 'The Office of the Chief Trade Advisor (OCTA) was established on 29 March 2009 after Forum Leaders agreed to launch negotiations for a reciprocal trade arrangement with Australia and New Zealand - PACER Plus [Pacific Agreement on Closer Economic Relations]. PACER Plus is oriented towards the economic growth and sustainable development of Forum Island Countries (FICs).' The OCTA has fourteen members: Cook Islands, Federated States of Micronesia, Kiribati, Nauru, Niue, Palau, Papua New Guinea, Fiji, Republic of Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu.

Removing sectoral limits or at least expanding possible sectors covered under the SWP, would undoubtedly contribute towards increased recruitment of women and youth, who may currently feel that the sectors on offer are less suited to their skills. Focusing efforts on sectors where Pacific women and youth have already shown to be relatively more engaged in the Australian labour market would be a welcome development – an example being healthcare, social care which was found to be key for Solomon Islands women resident in Australia.³

7.6 The International Labour Organization (ILO) Office for Pacific Island Countries also called for expanding the SWP to other sectors in order to provide increasing access to under-represented groups.⁴

7.7 The ILO also highlighted the impact of male participation on their partners or wives left in-country:

It is important to consider the needs of women not only in terms of access to migration opportunities but also the impact that men's participation has on the partners and wives left behind. For example, the ILO Study in Vanuatu found that women left behind by a male family member participating in seasonal work gained additional responsibilities as receivers and managers of remittances and increased opportunity to establish small business ventures but also lacked training and support to be able to manage this, along with the increased burden of child rearing and other household management burdens while their male partners are abroad.⁵

7.8 Additionally, the ILO called for the provision of 'financial literacy and psycho-social support for women whose husbands migrate.'⁶

7.9 The Development Policy Centre (DPC) concurred with the suggestion to expand the SWP to other sectors:

I do feel that if you really want to make an impact on gender then opening it up and having similar schemes in other kinds of sectors is probably going to give you much bigger results. We have just seen this is male dominated, whereas if you go to aged care, for example, I think definitely you will find female workers coming out.⁷

3 Office of the Chief Trade Advisor, *Submission 5*, pp. 7-8.

4 International Labour Organization, Office for Pacific Island Countries, *Submission 31*, p. 4.

5 International Labour Organization, Office for Pacific Island Countries, *Submission 31*, p. 6.

6 International Labour Organization, Office for Pacific Island Countries, *Submission 31*, p. 7.

7 Professor Howes, Development Policy Centre, *Transcript*, 9 September 2015, p. 7.

- 7.10 While they did not agree with establishing a quota system for female participation, the DPC encouraged greater dialogue with the Governments of participating countries to send more women.⁸
- 7.11 The Democratic Republic of Timor-Leste's Secretary of State for Professional Training and Employment Policy advised that they were satisfied with the increase in the number of seasonal workers from Timor-Leste and in particular women, adding:
- Currently Timor-Leste has approximately 30% female workers in Australia and this percentage can be increased according to the demand for female workers.⁹
- 7.12 Connect Group Pty Ltd believed that there would be advantages to providing increased access for women as they were more productive in processing lines and with certain crops like baby vegetables, herbs and smaller varieties of salads.
- 7.13 Connect Group Pty Ltd noted that there would be additional challenges in increasing the intake of women, including:
- more intensive Pastoral Care to ensure women are well settled and have the desired level of care to support their needs;
 - an increase in operational costs for Pastoral Care;
 - approved employers being mindful of cultural sensitivities that would impact on performance;
 - providing separate accommodation.¹⁰
- 7.14 With regard to youth workers, Connect Group Pty Ltd also noted the requirement for SWP participants to be 21 years of age or older, adding that other challenges for youth workers include:
- Maturity level, experience, emotional intelligence and personal commitment levels of people under that age may not be the best fit for the Program or grower requirements.
- There is also the issue that people under the age of 21 may not be culturally allowed to embark on such a huge adventure to a foreign country and may be overwhelmed by the impact of such all encompassing change in such a short period of time.¹¹

8 Professor Howes, Development Policy Centre, *Transcript*, 9 September 2015, p. 7.

9 Secretary of State for Professional Training and Employment Policy, Democratic Republic of Timor-Leste, *Submission 6*, p. 2.

10 Connect Group Pty Ltd, *Submission 18*, p. 5.

11 Connect Group Pty Ltd, *Submission 18*, p. 6

- 7.15 While acknowledging that there was no single cause as to why participants are predominantly male, the Australian Council of Trade Unions (ACTU) attributed it to a 'range of factors including the culture and traditions of home countries, the nature of the work and the gendered way in which employers from the host countries recruit in those industries.'¹²
- 7.16 The ACTU called for an increased focus on educational and promotional efforts for women combined with:
- ... measures to address the negative impacts that participating women can experience, such as sexual harassment and bullying on the job, and marital conflict when men who stay behind in the home country struggle to take on household and child rearing duties.¹³
- 7.17 The ACTU suggested that there would be benefits to developing targets for female participation.¹⁴
- 7.18 The National Farmers' Federation (NFF) pointed out that research had not been undertaken on the barriers to female participation within Australia, but suggested that research on New Zealand's equivalent Recognised Seasonal Employer Programme may provide insight on why it is low.
- Research in 2013 by Rochelle Bailey identified that women often do not volunteer for the scheme because they are required to stay on the island and 'take care of things' as 'is their role.' Cultural reasons have been identified that require women to remain in the villages to look after the children, the garden and the livestock.¹⁵
- 7.19 The NFF suggested that the participation rate of women in the SWP could be improved through greater communication between workers and families.¹⁶
- 7.20 TAFE Queensland noted the challenges of increasing female participation and also called for greater communication:
- It is a challenge to increase participation of rural women and migrant female workers, but can be enabled by ensuring information on opportunities to train, have skills recognised and encouraging the confidence to participate in the workforce. Teaching female seasonal workers in their source country has the added benefit of extended information exchange with their own
-

12 Australian Council of Trade Unions, *Submission 19*, p. 15.

13 Australian Council of Trade Unions, *Submission 19*, p. 15.

14 Australian Council of Trade Unions, *Submission 19*, p. 15.

15 National Farmers' Federation, *Submission 21*, p. 11.

16 National Farmers' Federation, *Submission 21*, p. 11.

community, impacting positively agricultural production in their own countries.¹⁷

- 7.21 The State, Society and Governance in Melanesia Program (SSGMP) noted that ‘across the Pacific women are less likely to participate in the paid labour force.’¹⁸
- 7.22 The SSGMP also commented that women’s involvement in labour mobility was partly driven by cultural factors and attributed poor participation rates to:
- concerns about the safety of women in being in a team of largely men and working away from protections of home;
 - sending communities bias against women such as community leaders or managers of government labour sending units;
 - employer demand for workers with particular attributes where strength and size is an obvious advantage.¹⁹
- 7.23 The SSGMP remarked that there may be types of horticultural work that may be more suited towards women.²⁰
- 7.24 The SSGMP asserted that ‘gender composition of labour mobility is highly critical to development impacts’²¹, adding:
- The more women participate in seasonal labour mobility schemes such as SWP, the more they are able to invest remittances well, and the more development spin-offs in labour sending countries are likely to occur.²²
- 7.25 The SSGMP suggested improving working relationships and engagement with Labour Export Units of Pacific States and employers of seasonal workers would be valuable:
- Increased participation of women in labour mobility urgently requires capacity building and increased engagement around this issue by key stakeholders. From a labour sending country perspective, the recruitment of women and greater liaison with employers regarding the type of work required could help address disparate participation of women and men. Overwhelmingly recruitment practices have targeted men in rural sectors. ‘Policy changes in countries of origin and destination are instrumental’ in

17 TAFE Queensland, *Submission 27*, p. 12.

18 State, Society and Governance in Melanesia Program, *Submission 38*, p. 24.

19 State, Society and Governance in Melanesia Program, *Submission 38*, pp. 24-25.

20 State, Society and Governance in Melanesia Program, *Submission 38*, p. 25.

21 State, Society and Governance in Melanesia Program, *Submission 38*, p. 24.

22 State, Society and Governance in Melanesia Program, *Submission 38*, p. 24.

uptakes of women migrants. Improving working relationships between Labour Export Units of Pacific States and employers of seasonal workers, to identify greater employment opportunities for Pacific women should be given priority. It could also be achieved through the development of recruitment strategies that seek to work with cultural sensitivities and yet to be identified barriers to women's participation in labour mobility.²³

- 7.26 The SSGMP recommended establishing a pilot program specifically for women under the SWP.²⁴
- 7.27 On youth participation, the SSGMP noted the minimum age restriction but hoped that 'seasonal labour schemes would help target some of the problematic 'Pacific Youth Bulge' dynamics within the region.'²⁵
- 7.28 The Department of Foreign Affairs and Trade (DFAT) agreed with the view that several social and cultural factors may contribute to low participation rates including 'possible gender bias by both employers and sending countries',²⁶ adding:
- Attitudes in sending countries appear to contribute to participation outcomes: a 2011 analysis of the development impact of the Pacific Seasonal Worker Pilot Scheme (PSWPS, the precursor to the SWP) found the majority of seasonal workers from Tonga felt that seasonal work in Australia suited men more than women; at the same time, the analysis found that all I-Kiribati workers felt that seasonal work was equally suited for men and women.²⁷
- 7.29 DFAT stated that it was increasing support to benefit women through:
- the delivery of a Labour Mobility Assistance Programme to increase the work readiness of participants, especially women;
 - pilot activities to increase the benefits of the SWP for women;²⁸
 - working with other agencies and with employers in Australia to ensure that they understand the interest and needs of women who are seeking to participate in the SWP.²⁹
- 7.30 DFAT also agreed with the view that expanding the SWP to other sectors would support the increased involvement of women:

23 State, Society and Governance in Melanesia Program, *Submission 38*, p. 25.

24 State, Society and Governance in Melanesia Program, *Submission 38*, p. 29.

25 State, Society and Governance in Melanesia Program, *Submission 38*, p. 25.

26 Department of Foreign Affairs and Trade, *Submission 37*, p. 9.

27 Department of Foreign Affairs and Trade, *Submission 37*, p. 9.

28 Department of Foreign Affairs and Trade, *Submission 37*, pp. 8-9.

29 Ms Cawte, Department of Foreign Affairs and Trade, *Transcript*, 13 November 2015, p. 8.

... we would see any expansion of the program into other sectors as supporting the increased involvement of women, in addition to the advocacy that we would undertake in the sending countries.³⁰

7.31 DFAT advised that it had also commissioned a World Bank study:

... on the development impact of the SWP, which will include an in-depth look at the impact on women, both as SWP workers and as household members remaining at home.³¹

7.32 The Department hoped that the findings of the study would enable DFAT to 'strengthen the benefits to women, both as participants and as members of sending communities.'³²

7.33 On providing increased access for youth workers, in particular for Timor-Leste, DFAT remarked that the SWP provided a 'good opportunity for the youth of Timor.'³³

7.34 DFAT advised that increasing employment for youth workers was 'a potential area for future attention.'³⁴

Committee comment

7.35 While the Committee acknowledges that there are some social and cultural factors that may be contributing to low participation rates, it is obvious that women are underrepresented and underutilised in the Seasonal Worker Programme.

7.36 Expanding the Seasonal Worker Programme to other sectors, especially those more conducive for women, establishing the Labour Mobility Assistance Programme, and working with other agencies in-country and with employers in Australia to increase recruitment are all steps in the right direction.

7.37 While the Committee is supportive of the actions currently being taken to increase access for women, it believes that more can always be done.

7.38 The Asia-Pacific region loses up to \$47 billion per annum as a result of women's limited access to employment opportunities.³⁵ Gender equality

30 Ms Cawte, Department of Foreign Affairs and Trade, *Transcript*, 13 November 2015, p. 8.

31 Department of Foreign Affairs and Trade, *Submission 37*, p. 9.

32 Department of Foreign Affairs and Trade, *Submission 37*, p. 9.

33 Ms Smith, Department of Foreign Affairs and Trade, *Transcript*, 13 November 2015, p. 12.

34 Department of Foreign Affairs and Trade, *Submission 37*, p. 9.

35 Speech by Ms Natasha Stott Despoja AM, Australian Ambassador for Women and Girls, address at the International Women's Day Parliamentary Breakfast, Canberra, 4 March 2014.

and empowering women has been shown to contribute to economic growth, development, stability and poverty reduction.

- 7.39 However, changing social and cultural factors that are inhibiting the employment of women are not easily fixed. Significant change can only be accomplished by all stakeholders working together.
- 7.40 The Committee calls on the Governments of Seasonal Worker Programme participating countries, labour export units, and the sending communities; Federal, State/Territory, and local governments and their Departments; all employers across all industries; peak bodies; unions; and non-government organisations to work collaboratively to encourage, attract, engage, recruit, employ and retain more women in the workforce both locally and globally.
- 7.41 The Committee therefore recommends that the Australian Government implement the following measures to increase gender equality and provide women greater employment opportunities:
- The Department of Employment review the memorandums of understanding with Seasonal Worker Programme participating countries;
 - The Australian Government assist interested countries in the establishment and development of programmes focused on gender equality;
 - That Pacific Agreement on Closer Economic Relations (PACER) Plus negotiations include discussions on gender equality.

Recommendation 5

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Development outcomes in the Pacific

- 8.1 Assisting with Pacific island economic development is among the key objectives of the Seasonal Worker Programme (SWP). Governments, Australian industry groups and employers all agreed that this is a valuable attribute of the Programme.
- 8.2 The SWP was acknowledged as being life-changing for people who are selected to come to Australia for seasonal work. Three main benefits were identified during the inquiry:
- contributing to the economic development of participating SWP countries;
 - remittances to households and communities, including for mitigating effects of natural disasters;
 - new skills development and training options.
- 8.3 These themes are discussed throughout this chapter.

Support from Australian employers and industry for the Seasonal Worker Programme

- 8.4 Evidence from Australian employers and industry groups suggested that the SWP's role as a form of development assistance was a factor attracting them to the Programme.

8.5 Growcom submitted:

Stories of the return on investment back into Pacific Island communities from remittances are particularly positive, and are at the heart of this program. ... In many ways the program is one that keeps on giving long after the worker has returned home.¹

8.6 The National Farmers' Federation said:

It is an important scheme because it is not just a labour solution but also an aid based program, so it has a win-win outcome for Australia and for Pacific nations.²

8.7 Another approved employer, Abbotsleigh Citrus, submitted that the benefits are being shared:

All of our Seasonal Workers are so grateful for the opportunity to work with us in Australia. They tell us that they earn more money with us in 6 months than they can in 2 years at home, if they can get a job at home. They come back each year with stories of how they have improved the lives of their families and their communities and goals for what they want to do with the funds they earn in the current season.³

8.8 Approved employer the Big Berry said:

The people that come to my farm go back with a pocketful of money and they have had the opportunity to work. I think that is a very important experience for them. In their own country, they have not got much industry. They have not got much work opportunity. They learn from working on my farm. ...I think it is a very important contribution that Australia makes to these Pacific Islanders.⁴

8.9 The State, Society and Governance in Melanesia Program (SSGMP) said that models such as the SWP are leading to deeper connections between workers, employers and communities:

It goes further than the employment relationship. These collaborations aid in local development, economic and social welfare of communities not just in the Pacific but also back here in Australia and New Zealand. They are creating future possibilities and pathways.⁵

1 Growcom, *Submission 16*, p. 4.

2 Ms McKinnon, National Farmers' Federation, *Transcript*, 16 September 2015, p. 1.

3 Abbotsleigh Citrus, *Submission 15*, p.2.

4 Mr Casey, the Big Berry, *Transcript*, 29 October 2015, p. 14.

5 Dr Bailey, State, Society and Governance in Melanesia Program, *Transcript*, 13 November 2015, p. 40.

Australia's approach to Pacific development assistance and the role of the Seasonal Worker Programme

8.10 There are a range of geographic and economic challenges inhibiting the development of countries in the Pacific region. The SWP has allowed income to transfer back to communities and improve standards of living and investment in community-level projects. Many workers sent to Australia as part of SWP arrangements are poor by global standards.⁶

8.11 According to the Department of Foreign Affairs and Trade's (DFAT) aid investment plan for the Pacific region:

While extreme poverty... is rare in the Pacific, poverty remains a big challenge for many countries. Over 20 per cent of people in most Pacific island countries live in hardship and are unable to meet their basic needs. Many people not currently in severe hardship remain vulnerable to falling into hardship due to economic and environmental shocks. The region is particularly prone to disasters including cyclones, severe storms, flooding and earthquakes.⁷

8.12 Additionally:

Distance and weak infrastructure makes international trade expensive, but small domestic markets and narrow production bases mean countries rely on it for income and consumption. Narrow production bases and imported fuel supplies also make most Pacific island countries particularly vulnerable to commodity price fluctuations. Inefficient and burdensome regulation, weak contract enforcement, limited access to finance, and low skilled and unhealthy workers make the business environment challenging.⁸

8.13 The table below compares the economic wealth of SWP participating countries relative to Australia and New Zealand.

6 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture and Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 7.

7 Department of Foreign Affairs and Trade, *Aid Investment Plan – Pacific Regional 2015-16 to 2018-19*, p. 2.

8 Department of Foreign Affairs and Trade, *Aid Investment Plan – Pacific Regional 2015-16 to 2018-19*, pp. 2-3.

Table 8.1 Seasonal Worker Programme participating countries GDP comparison

	GDP (purchasing power parity) Per Capita (\$US 2014 est.)	Global GDP ranking (2014)
Australia	\$46,600	25
New Zealand	\$35,300	49
...		
Fiji	\$8,400	144
Kiribati	\$1,700	211
Nauru	\$14,800	107
Papua New Guinea	\$2,500	197
Samoa	\$5,200	164
Solomon Islands	\$1,900	204
Timor-Leste (East Timor)	\$5,500	163
Tonga	\$4,900	169
Tuvalu	\$3,300	184
Vanuatu	\$2,600	194

Source CIA World Factbook

8.14 Economic development of participating countries is a core objective of the Seasonal Worker Programme (SWP). The Department of Employment (DoE) said:

There are two key objectives of the Seasonal Worker Program: firstly, to contribute to the economic development of participating countries through the provision of employment experience, skills and knowledge transfer, and being able to send money back to their home country through remittances; and, secondly, to assist Australian producers and employers...⁹

8.15 A media release issued jointly by the Minister for Foreign Affairs and the Minister for Trade and Investment reiterated the development benefits of the Programme:

The programme provides much needed income and skills development for seasonal workers from our Pacific neighbours and Timor-Leste, which they can use to invest in both their own and their families' economic futures.¹⁰

⁹ Ms Durbin, Department of Employment, *Transcript*, 24 June 2015, p. 1.

¹⁰ The Hon Julie Bishop MP, Minister for Foreign Affairs and The Hon Andrew Robb MP, Minister for Trade and Investment, 'Expanding the Seasonal Worker Programme', Joint Media Release, 25 June 2015.

8.16 DFAT's aid investment plan for the Pacific region stated that it was important to 'the Pacific region's development and economic prosperity.'¹¹

8.17 DFAT, in this plan, stated:

Through Australia's Seasonal Worker Programme and other regional labour mobility initiatives, we will increase the quantity and capacity of workers coming to Australia, thereby increasing opportunities for remittances.¹²

Views on development outcomes and the Seasonal Worker Programme's objectives

8.18 A submission from Dr Joanna Howe and Associate Professor Alexander Reilly (Public Law and Policy Research Unit, University of Adelaide) argued that the SWP's dual priorities of foreign aid and labour supply are an unreconciled source of tension:

There are tensions between the objectives of the SWP which need to be reconciled. On the one hand, the SWP is aimed as a foreign aid initiative but on the other hand it is intended to meet labour shortages in the horticulture industry. In its present form, the SWP inadequately meets the latter objective because of compromises made to achieve the former. For example, the 6 month time limit in the SWP program does not meet employer needs, although we recognise the rationale being that it allows Pacific workers to return to their families and remain a part of their communities.¹³

8.19 The submission continued:

Although some horticulture work is genuinely seasonal, most employers require a stable and long term low skilled work force. This is because whilst some operations are for a season, or some sites only require workers for a defined period, in order to be profitable, most horticulture employers operate throughout the seasons across their various sites.¹⁴

8.20 DFAT cited research into Canadian and New Zealand seasonal labour schemes:

11 Department of Foreign Affairs and Trade, 'Aid Investment Plan - Pacific Regional 2015-16 to 2018-19', p. 1.

12 Department of Foreign Affairs and Trade, 'Aid Investment Plan - Pacific Regional 2015-16 to 2018-19', p. 3.

13 Dr Howe, *Submission 36*, p. 2.

14 Dr Howe, *Submission 36*, p. 2.

Studies of the New Zealand and Canadian seasonal migration schemes show that they provide a ‘triple-win:’ benefitting the migrant, the sending country and the receiving country (see for example Review of Economics and Statistics, May 2014). Benefits are also evident at the community/village level.¹⁵

- 8.21 Other witnesses noted research into the NZ Recognised Seasonal Employer scheme (RSE) to demonstrate the benefits of seasonal labour migration in the Pacific region. Some witnesses also commented upon aspects of the NZ RSE relevant to operation of the SWP.¹⁶
- 8.22 New Zealand’s Deputy High Commissioner told the Committee:
 Since 2007, 44,400 RSE workers have made the trip to New Zealand – Pacific workers, that is. We estimate that each worker takes home \$5,500 on average, which makes \$38 to \$41 million in RSE remittances into the Pacific each year. So it is a triple win.¹⁷
- 8.23 He added:
 In a sense, both New Zealand and Australia have at a high level a shared interest in supporting Pacific economic development... To facilitate that, New Zealand and Australian officials meet on a reasonably regular basis to work through how our two RSE schemes are working. We are always very keen to continue to share knowledge and expertise in that space.¹⁸
- 8.24 The DoE said the SWP’s objectives were complementary:
 When it was set up the foreign economic element was taking precedence, but you do not have one without the other. If you do not have employers taking on the seasonal workers from overseas then you do not have any economic benefit, so it really does have to have that twin aim to succeed.¹⁹
- 8.25 The DFAT said the SWP is beneficial for the participating countries:
 We see the program as a key element of our overall strategies for advancing sustainable economic development in the Pacific region and Timor-Leste, providing economic opportunities for Pacific

15 Department of Foreign Affairs and Trade, *Submission 37*, p. 8.

16 New Zealand Government, *Submission 10*, p. 4; Development Policy Centre and World Bank, *Submission 22*, pp. 2-3; Professor Howes, Development Policy Centre, *Transcript*, 9 September 2015, p. 3 and p. 6; and Dr Bailey, State, Society and Governance in Melanesia Program, *Transcript*, 13 November 2015, pp. 37-39.

17 Deputy High Commissioner Roberts, Ministry of Foreign Affairs and Trade, Ministry of Business, Innovation and Employment, New Zealand, *Transcript*, 13 November 2015, p. 30.

18 Deputy High Commissioner Roberts, Ministry of Foreign Affairs and Trade, Ministry of Business, Innovation and Employment, New Zealand, *Transcript*, 13 November 2015, p. 30.

19 Mr Roddam, Department of Employment, *Transcript*, 24 June 2015, p. 6.

Islands that in turn can have a multiplier effect on these developing economies.²⁰

8.26 The Department added:

In addition to providing opportunities for gaining skills and experience that will support development, increased capital flows in the form of worker remittances offer potential for multiplier impacts that will stimulate economic growth over the longer term. In this way, we aim to maximise the prospects of sustainable economic development in the Pacific.²¹

8.27 A submission from the International Labour Organization (ILO) noted that seasonal workers are likely to enjoy a higher standard of living:

An ILO case study of the seasonal workers in two provinces in Vanuatu in 2012 showed that economic and social changes brought about by seasonal migration, included:

- An increase in permanent housing;
- Better education;
- Healthier lifestyles;
- Newly acquired skills and attitudes;
- Improvement in rural infrastructure; [and]
- An increase in business ventures/micro-enterprises.²²

8.28 The Committee was also informed that seasonal workers were using their savings to mitigate the effects of natural disasters on their community. A witness from the State Society and Governance in Melanesia Program said:

I am currently working with the Vanuatu seasonal workers who actually intend to use their earnings to relocate their village because their village is located in a vulnerable area where the cyclones come in. This year their goal is to earn enough money to help relocate their village. Workers are considering to use their earnings to mitigate and prepare for future disasters in the region. I witnessed evidence of this while I was in Samoa and Vanuatu this year.²³

8.29 A submission from the Office of the Chief Trade Adviser (OCTA) (formed by Pacific Island countries to provide independent advice on PACER-Plus

20 Ms Cawte, Department of Foreign Affairs and Trade, *Transcript*, 13 November 2015, p. 7.

21 Ms Cawte, Department of Foreign Affairs and Trade, *Transcript*, 13 November 2015, p. 7.

22 International Labour Organization, *Submission 31*, p.2.

23 Dr Bailey, State, Society and Governance in Melanesia Program, *Transcript*, 13 November 2015, p. 40.

negotiations²⁴) noted the importance of trade and migration for the development of the Pacific:

Given that both trade and migration issues are central to the long-term development prospects of FICs [forum island countries], it would be advisable for these issues to feature prominently in the development assistance strategy of Australia for the Pacific.²⁵

8.30 The OCTA submitted that the SWP should supplement traditional forms of development assistance:

Improvements in the SWP that would lead to increased labour mobility opportunities for FIC workers in Australia are complementary to – not substitutes for – Australia development assistance to the FICs through other channels, for example aid spending.²⁶

8.31 DFAT's submission indicated that the Australian Government intends to expand the SWP to all forum island countries.²⁷ The OCTA viewed the SWP as being positive overall for both workers and participating countries:

FIC [forum island country] workers (and often their families) benefit from earnings, remittances, and skills development. Indeed, the SWP contributes to the transfer of useful skills to FICs' domestic labour markets and economies. The funds earned by workers permit obtaining better education, housing, and health services for families, and provide the opportunities for the development of small new businesses, often in rural communities.²⁸

8.32 A submission from the Labour Mobility Unit of the Solomon Islands' Ministry of Foreign Affairs and External Trade agreed that the SWP has positive outcomes:

24 The OCTA's submission stated (p. 2): 'The Office of the Chief Trade Adviser (OCTA) was established on 29 March 2009 after Forum Leaders agreed to launch negotiations for a reciprocal trade arrangement with Australia and New Zealand – PACER Plus [Pacific Agreement on Closer Economic Relations]. PACER Plus is oriented towards the economic growth and sustainable development of Forum Island Countries (FICs).' The OCTA has fourteen members: Cook Islands, Federated States of Micronesia, Kiribati, Nauru, Niue, Palau, Papua New Guinea, Fiji, Republic of Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu.

25 Office of the Chief Trade Adviser, *Submission 6*, p. 11.

26 Office of the Chief Trade Adviser, *Submission 6*, p. 11.

27 Department of Foreign Affairs and Trade, *Submission 37*, p. 5.

28 Office of the Chief Trade Adviser, *Submission 6*, p. 3.

In our view, this program is a wonderful opportunity for unskilled and unemployed Solomon Islanders to gain meaningful and rewarding work that has a significant positive economic impact on their lives, their families and their communities. We believe that labour mobility through the SWP has the potential to contribute to the sustainable growth and economic stability of Solomon Islands in the near future.²⁹

8.33 Similarly, the Papua New Guinea (PNG) Department of Labour and Industrial Relations agreed that the SWP 'is creating positive outcomes as well as social and economic benefits to the seasonal workers and the communities they come from'.³⁰

8.34 The OTCA submitted:

...development assistance and the SWP are complementary in achieving Australia's objective of advancing the economic development of the Pacific region. ... Increased access by the FICs to the Australian labour market will, to a large degree, compensate for the reduction in Australian development aid to these countries. This is particularly important because aid and remittances are the major sources of foreign exchange in a number of FICs countries.³¹

8.35 DFAT's submission concurred that seasonal worker remittances 'are key to the development impact of the SWP.'³² Further, DFAT's submission stated that an expanded SWP would 'continue to have a similar positive impact on Pacific Island Countries and Timor-Leste.'³³ DFAT said:

In June, DFAT launched a Labour Mobility Assistance Program, representing an investment of \$5.8 million over two years to assist countries participating in the Seasonal Worker Program. This labour mobility program aims to improve the quality and supply of workers taking up seasonal work opportunities with a particular aim of seeing more women participate. It also aims to improve communities' effective use of remittances, and it aims to improve the ability of partner governments to manage international labour arrangements.³⁴

8.36 In contrast, the Australian Council of Trade Unions (ACTU) submitted that the development benefits may be limited:

29 Solomon Islands' Ministry of Foreign Affairs and External Trade, *Submission 7*, p. 1.

30 Papua New Guinea Department of Labour and Industrial Relations, *Submission 29*, p. 2.

31 Office of the Chief Trade Adviser, *Submission 6*, p. 5.

32 Department of Foreign Affairs and Trade, *Submission 37*, p. 8.

33 Department of Foreign Affairs and Trade, *Submission 37*, p. 8.

34 Ms Cawte, *Transcript*, 13 November 2015, p. 7.

In terms of aggregate impacts, the evidence, at least during the pilot phase of the program, was that the overall development impact was quite small. For example, the total contribution to Tonga over two years was \$343 000, just 2% of annual bilateral aid to Tonga. The contribution to Kiribati was less than 0.25% of its aid going to that country. Even if the program expands, seasonal work opportunities are still likely to be limited to a few.³⁵

- 8.37 The ACTU submission stated that the 'greatest benefit to the most people is through the creation of decent work opportunities' in the Pacific region.³⁶ The International Labour Organisation's submission noted that 'migration should be a choice and not a necessity driven by decent work deficits'. The ILO submitted that labour migration benefits both origin and destination countries by contributing to employment, economic growth and the alleviation of poverty.³⁷
- 8.38 The OCTA submitted that although the SWP has 'contributed positively', three factors have limited development benefits in the Pacific region:
- (a) it has been open to a limited number of FICs [forum island countries], namely Fiji, Kiribati, Nauru, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu;
 - (b) the benefiting countries have not been able to fully utilise the development potential of the scheme because the scheme has been subjected to a cap whilst at the same time encountering cumbersome administration procedures and limited knowledge of the programme by farmers;
 - (c) the schemes failed to operate at optimum level because of competition from other existing cheaper sources of labour such as illegal workers and backpackers.³⁸

Workers' remittances and Pacific economic development

- 8.39 The value of seasonal worker remittances is a key element of whether the SWP contributes to Pacific island development. The OCTA submission referred to data showing that personal remittances (from all sources) contribute around 20 per cent of GDP in Samoa and Tonga; around 10 per cent in Tuvalu, between 5 and 7 per cent in Fiji and Kiribati; and smaller percentages in PNG, the Solomon Islands and Vanuatu.³⁹

35 Australian Council of Trade Unions, *Submission 19*, p. 17.

36 Australian Council of Trade Unions, *Submission 19*, p. 17.

37 International Labour Organization, *Submission 31*, p. 2.

38 Office of the Chief Trade Adviser, *Submission 6*, p. 3.

39 Office of the Chief Trade Adviser, *Submission 6*, p. 4.

8.40 The value of remittances, the OCTA submitted, 'highlights that the SWP has the potential to provide important and long-lasting development benefits to the Pacific region.'⁴⁰ The OCTA submitted:

At the national level, remittances have also in some instances been a significant source for financing trade deficits and bolstering financial reserves at the macroeconomic level and financing health and education programmes.⁴¹

8.41 The OCTA submitted the following data:

Table 8.2 Personal remittances as a percentage of total trade in goods and services

Country	2009	2010	2011	2012	2013
Fiji	12.05	9.55	7.19	7.83	8.68
Papua New Guinea	0.10	0.06	0.23	0.21	0.25
Samoa	74.94	67.63	71.08	70.84	66.25
Solomon Islands	1.06	0.51	0.34	2.70	3.14
Tonga	159.59	128.64	88.14	64.37	64.94
Vanuatu	3.77	3.59	6.16	5.85	5.91

Source Office of the Chief Trade Advisor, Submission 5, p. 4.

Table 8.3 Personal remittances as a percentage of GDP – individual Forum Island Countries

Country	2009	2010	2011	2012	2013
Fiji	5.97	5.53	4.40	4.95	5.28
Federated States of Micronesia	6.25	6.14	6.26	6.38	6.97
Kiribati	8.34	7.77	7.20	7.30	No data
Republic of Marshal Islands	15.51	13.55	12.80	11.83	12.28
Palau	0.85	0.91	0.98	1.09	1.03
Papua New Guinea	0.06	0.04	0.13	0.09	No data
Samoa	20.39	18.59	18.26	19.61	19.85
Solomon Islands	2.09	1.89	1.62	1.68	1.56
Tonga	22.45	20.54	15.83	24.56	No data
Tuvalu	17.81	12.32	11.66	9.62	10.59
Vanuatu	1.88	1.68	2.75	2.89	2.96

Source Office of the Chief Trade Advisor, Submission 5, p. 4.

40 Office of the Chief Trade Advisor, Submission 6, p. 6.

41 Office of the Chief Trade Advisor, Submission 6, p. 4.

- 8.42 How the remittances are used when seasonal workers return to their home communities is also an important consideration. Some witnesses were concerned that SWP remittances have been disproportionately flowing to selected countries, communities or individuals.
- 8.43 Analysis completed during the pilot phase of the Seasonal Worker Programme (2008 to 2012) found that workers' remittances were increasing household incomes in their home countries by almost 40 per cent.⁴² Workers who returned home were also able to transfer skills acquired through on-the-job training or external courses attended whilst in Australia. Workers interviewed and surveyed in 2011 reported that 'the general skills gained would make them more employable when returning home.'⁴³
- 8.44 During this inquiry, evidence suggested that (notwithstanding reductions to gross pay for living expenses, taxes and other costs), the money workers were earning in Australia was substantially more than they could expect to earn from employment in their home countries.⁴⁴ Analysis of the pilot SWP found:
- A typical worker earned A\$12,000-13,000 in Australia, of which we estimate approximately A\$5,000 gets remitted, and the net gain is around A\$2,600 after taking account of opportunity costs of what the workers would have contributed to household production in their home countries.⁴⁵
- 8.45 A witness from the SSGMP said that for Pacific Island countries, the net gain of remittances derived from the SWP would be around \$15 million per year, based on 3,100 workers remitting \$5,000 each.⁴⁶ The SSGMP noted:
- The Seasonal Worker Program allows money to be remitted to households and communities. ... Our aid money would go to NGOs and to governments.⁴⁷

42 John Gibson and David McKenzie, *Pacific Seasonal Worker Pilot Scheme: Development Impacts in the First Two Years*, June 2011, p. 19; Department of Foreign Affairs and Trade, *Submission 37*, p. 8.

43 TNS Australia, 'Final Evaluation of the Pacific Seasonal Worker Pilot Scheme', September 2011, p. 40.

44 Mr Peterson, Golden Mile No. 1 Pty Ltd, *Transcript*, 13 November 2015, p.4; Ms Finger, Vernview Pty Ltd, *Transcript*, 28 October 2015, p. 26.

45 John Gibson and David McKenzie, *Pacific Seasonal Worker Pilot Scheme: Development Impacts in the First Two Years*, June 2011, p. 4.

46 Dr Ball and Dr Bailey, *State, Society and Governance in Melanesia Program*, *Transcript*, 14 October 2015, p. 9.

47 Dr Ball, *State, Society and Governance in Melanesia Program*, *Transcript*, 14 October 2015, p. 10.

8.46 DFAT submitted:

Evidence collected through research to date suggests that participants have used remittances to invest in children's schooling, better quality housing, and to finance small businesses, all of which contribute strongly to meeting Australia's development priorities for the Pacific.⁴⁸

8.47 A submission from the SSGMP stated that the SWP has a positive development impact:

...it enables broader opportunities for education, providing start-up funds for local business ventures (this has also enabled new employment opportunities for non-participating seasonal workers), incomes from the program afford the opportunity to participate in community development projects such as building new water supply systems, health clinics and repairing or building new infrastructures.⁴⁹

8.48 Approved employers indicated to the Committee that the personal financial returns for seasonal workers could be significant and is usually spent in ways benefiting their home communities.

8.49 A submission from Deep Creek Organics, an approved employer from Victoria, provided a first-hand account of how income from the SWP was improving lives:

...the money the seasonal workers earn while in Australia is taken home and put back into their villages and community to better their way of living, improving their children's education which in itself helps the children better themselves which carries through to better jobs and opportunity. The amount of times I have travelled to Vanuatu I have seen the difference in the villages, the money earned here has given them the chance to build concrete homes instead of tin; solar panels, tanks for fresh water, generators, power tools the list goes on. They spend money in their home islands which helps with future development there.⁵⁰

48 Department of Foreign Affairs and Trade, *Submission 37*, p. 3.

49 State, Society and Governance in Melanesia Program, *Submission 38*, p. 27.

50 Deep Creek Organics, *Submission 12*, p. 2.

8.50 Vernview Pty Ltd provided a similar view:

The workers save a considerable amount of funds to take home but we also offer skills that they can then use back home. ... This is in addition to formal add-on training offered by the Australian Government. Our workers have built more robust accommodation for their families on return, taken back tools to construct accommodation and have opened small businesses using funds, in addition to paying school fees. Some have purchased solar water pumps to provide clean water.⁵¹

8.51 MADEC Australia, an approved employer, submitted that based on discussions with its seasonal workers, money saved is used for:

- Building a house or improving existing housing for their immediate or extended family;
- Educating their own children, siblings or those of extended family; [and]
- Investing in a business or income producing venture.⁵²

8.52 The high cost of sending remittances to countries in the Pacific may diminish the value of funds reaching these communities, particularly for people living on outer islands.⁵³ DFAT informed the Committee that this issue was being addressed:

The Australian government is working, where we can, to address the issues which have increased the cost of remittances globally. That includes work through the G20. Specifically in the Pacific, we have funded a website that provides a comparison of remittance costs, with the aim that knowing the competition should help lower the cost of remittances.⁵⁴

8.53 DFAT noted that Australia and Pacific Island governments were seeking to improve the diversity of providers in the remittance transfer market.⁵⁵

8.54 Based on the research of seasonal workers in Tonga and Vanuatu, the SSGMP noted that tithing practices may oblige seasonal workers to share their income:

51 Vernview Pty Ltd, *Submission 13*, p. 4.

52 MADEC Australia, *Submission 17*, p. 3; see also Mr Hayes, *Transcript*, 28 October 2015, p. 58.

53 Dr Bowman, Department of Foreign Affairs and Trade, *Transcript*, 13 November 2015, p. 11.

54 Ms Cawte, Department of Foreign Affairs and Trade, *Transcript*, 13 November 2015, p. 9.

55 Dr Bowman, Department of Foreign Affairs and Trade, *Transcript*, 13 November 2015, pp. 11-12.

Initial research findings for both countries clearly indicates that the type of recruitment model used by sending governments and the degree of community involvement in worker selection has been critical to initial development outcomes, both at the household and community levels. Communal remittances and tithing obligations of migrants to their sending communities were found to be in place in some cases, which were used for building community-level capacities. This is consistent with earlier research that found that communal remittances in the Pacific are of greater significance than in other world regions.⁵⁶

- 8.55 The SSGMP informed the Committee that workers from Samoa selected for the SWP may be based upon ‘some cultural attitudes around who has the right, who is going to behave the best and so forth.’⁵⁷ The SSGMP said that while the SWP has been ‘dominated’ by workers from Tonga, participation by other Pacific countries has ‘expanded rapidly, and they are adopting a very professional approach to labour mobility.’⁵⁸ In addition to financial remittances, a witness from the SSGMP said that she was aware of goods being sent home:

When I was talking to SWP participants three months ago, they said they all intend to organise shipping containers from Australia to send goods home. They have realised the potential of sending material goods and how they can provide opportunities for businesses at home. ... We are all looking at how much money is going back, but we forget that these workers are investing in goods to take home to build businesses as well.⁵⁹

- 8.56 In contrast, however, the ACTU argued that the impact of SWP remittances on Pacific island economic development may be limited:

56 State, Society and Governance in Melanesia Program, *Submission 38*, pp. 27-28.

57 Dr Ball, State, Society and Governance in Melanesia Program, *Transcript*, 13 November 2013, p. 37.

58 Dr Ball, State, Society and Governance in Melanesia Program, *Transcript*, 13 November 2015, p. 36.

59 Dr Bailey, State, Society and Governance in Melanesia Program, *Transcript*, 13 November 2015, p. 38.

There are always going to be limits on the benefits that such a program can provide, particularly if it is relatively small scale, and whether the benefits can be extended beyond the participating households. As the literature suggests, there is no guarantee that the program by itself, and the fact that a certain number of individuals are returning with funds in their pocket, will in turn promote wider economic development across the host country.⁶⁰

- 8.57 The DoE advised the Committee that it 'does not assess' the extent to which these benefits may be equitably shared within communities and that 'this is the role of the participating countries.'⁶¹

Special arrangements for seasonal workers from Pacific microstates

- 8.58 A joint submission from the Development Policy Centre (DPC) and World Bank questioned whether SWP utilisation was translating into development benefits for the Pacific region generally or only a few countries. Their submission noted that the SWP is dominated by Tonga and Fiji, countries that receive 'significant remittances', whereas 'focus should really be on Melanesia and the isolated or orphan microstates of Kiribati, Nauru and Tuvalu.'⁶² Professor Howes said:

About 80 per cent of the workers come from Tonga ... but it is meant to be a Pacific scheme. Tonga was already a highly remittance dependent economy with a lot of access to labour markets, and this scheme is needed much more by countries that are more isolated, such as Vanuatu or Kiribati.⁶³

- 8.59 Professor Howes added that diversifying the SWP should not be achieved by implementing quotas of workers from participating countries.⁶⁴
- 8.60 A submission from the ILO noted that few seasonal workers are arriving from Tuvalu, Kiribati and Nauru. To increase participation by microstates, the ILO recommended:

60 Australian Council of Trade Unions, *Submission 19*, p. 16.

61 Department of Employment, *Supplementary Submission 2.2*, response to Question 20.

62 Development Policy Centre and World Bank, *Submission 22*, p. 9. See also Department of Employment, Department of Immigration and Border Protection, Department of Agriculture and Fair Work Ombudsman, *Supplementary Submission 2.1*, p.5.

63 Professor Howes, Development Policy Centre, *Transcript*, 9 September 2015, p. 1.

64 Professor Howes, Development Policy Centre, *Transcript*, 9 September 2015, p. 3.

...the government should consider providing more 'hands-on' support in helping the three countries to identify potential employers in Northern Australia and gathering information and data on the skills and aptitudes required by employers, to make sure that there is a good match between the worker and the job required.⁶⁵

8.61 In addition:

Supporting a liaison officer who is based in Australia could also be considered, as the size of the diaspora from both countries in Northern Australia is small and there are no consular offices or embassies in Australia that can provide this support.⁶⁶

8.62 Professor Howes noted in his evidence that a challenge to greater participation by Kiribati, Nauru and Tuvalu could be the absence of a domestic workforce associated with agriculture, given their physical geography as coral atolls.⁶⁷

Seasonal workers and natural disasters

8.63 Some evidence was received outlining how the SWP could assist people affected by natural disasters, including by:

- Allowing workers to return home immediately if their community is affected by a natural disaster;
- Following a natural disaster, recruiting workers from affected areas so remittances can assist with the recovery; or
- Using remittances to mitigate against future natural disasters.

8.64 A submission from the National Farmers' Federation stated that flexible arrangements should be permitted due to events such as natural disasters:

Flexibility is crucial in Programs designed to support industries affected by seasonal conditions, including the ability to vary start and finish dates in the event of natural disasters (floods and cyclones or to repatriate a worker who is found to be unsuitable on arrival in Australia).⁶⁸

8.65 The Labour Mobility Unit of the Solomon Islands' Ministry of Foreign Affairs and External Trade submitted:

65 International Labour Organization, *Submission 31*, p. 5.

66 International Labour Organization, *Submission 31*, p. 5.

67 Professor Howes, Development Policy Centre, *Transcript*, 9 September 2015, p. 4.

68 National Farmers' Federation, *Submission 21*, p. 15.

Pacific islands are vulnerable and prone to natural disasters; including cyclones, tsunamis, flooding and earthquakes. ...

Seasonal workers from Vanuatu that were affected by Cyclone Pam were given free visas to participate in the NZ RSE. Australia could provide similar support, including;

- Automatically extend visas for seasonal workers in Australia affected by natural disaster in their home country/province.
- Provide free visa and/or airplane fares so seasonal workers can either (a) return home to comfort family and their community or (b) leave home to provide financial support for the rebuilding effort.
- Offer some form of priority employment to individuals from disaster affected areas.⁶⁹

8.66 The SSGMP said that remittances contribute to long-term disaster mitigation:

As we know, the Pacific is susceptible and vulnerable to environmental disasters. Seasonal workers' incomes have always been rebuilding infrastructure to withstand cyclones, earthquakes and acid rain from volcanoes... Remittances can provide immediate and long-term relief to disasters. Continuing Pacific labour schemes is vital as they provide direct aid to island countries. Seasonal employers, employees, businesses and communities have responded in positive ways to natural disasters. It has been documented in Samoa's tsunami in 2009, the Solomon Islands 2014 and recently Cyclone Pam – and no doubt there have been other undocumented accounts for the Pacific.⁷⁰

New skills and training for seasonal workers

8.67 In addition to the direct financial benefits discussed above, seasonal workers have been acquiring new skills. Seasonal workers may access 'add-on' training. This includes English literacy and numeracy, basic information technology skills and first aid training. Returning workers may have their prior learning recognised and receive a vocational certificate.⁷¹

69 Solomon Islands' Ministry of Foreign Affairs and External Trade, *Submission 7*, pp. 2-3.

70 Dr Bailey, State, Society and Governance in Melanesia Program, *Transcript*, 13 November 2015, p. 40.

71 Department of Employment, 'Seasonal Worker Programme Add-on Skills Training' at <<http://www.employment.gov.au/seasonal-worker-programme-add-skills-training>> (viewed 13 April 2016); see also Red Cross Training Services, *Submission 23*.

- 8.68 Gracekate Farms, an approved employer, submitted that seasonal workers tend to use these skills to help other people:

We know the difference that this program has made to our workers, their families and their futures. ... They return home proud of their achievements and a sense of self-worth. They learn work skills, social skills and life skills, returning home to pass these skills onto their community.⁷²

- 8.69 TAFE Queensland's submission noted the potential for training undertaken in Australia to grow workforce capacity in SWP participating countries:

The skilling of the workers and the encouragement to share their skills when they return to their source country could be highly beneficial in raising the level of agricultural output and subsequent economic opportunity for the workers and their families.⁷³

- 8.70 The ACTU submitted that while the SWP had benefited households by alleviating poverty and covering the cost of school fees, the extent to which skills were being transferred has yet to be established:

The evidence is less clear on whether there has been a demonstrable return on the skills that workers have developed or upgraded during their employment on the program, in terms of new business and new job opportunities in the Pacific. To start with, there may be a limit on the transferability of skills back to the home country but again the evidence is mixed on this point.⁷⁴

- 8.71 Golden Nile No. 1 Pty Ltd submitted that skills training may be producing mixed results:

The add-on skill funding is great, however some of the courses offered are not very conducive for our employees' learning; e.g. eight hours of numeracy and literacy. It provides them with a meal and the course providers with an income but I would say no lasting benefits for the person attending the course. The First Aid course on the other hand is helpful – hands on and applicable in the work place and at home.⁷⁵

- 8.72 The ACTU suggested that workers should be supported when they return home:

72 Gracekate Farms, *Submission 14*, p. 2.

73 TAFE Queensland, *Submission 27*, pp. 11-12.

74 Australian Council of Trade Unions, *Submission 19*, p. 16.

75 Golden Mile No. 1 Pty Ltd, *Submission 20*, p. 2.

... greater attention needs to be placed on 're-integration' services. Much of the focus, naturally enough, has been on pre-departure preparation and the work itself under the program. However, the post-program or 're-integration' phase is critical to realising the full development potential of the program. This includes attention to financial literacy and advice, further complementary skills training and business development advice.⁷⁶

- 8.73 The ILO submitted that the development assistance aspect of the SWP could be strengthened, particularly through supporting workers after they return to their home countries:

Some of the initiatives which the Australian Government could look at implementing, particularly through the DFAT, include providing technical and financial support directly to returning workers; or building the capacity in sending countries to provide returning workers with access to:

- business advisory support and training;
- employment matching and career services;
- savings and credit facility for business start-ups;
- financial literacy programs;
- assistance in negotiating lower remittance transfer rates with banks; [and]
- linking start-up businesses to markets.⁷⁷

- 8.74 TAFE Queensland said training for seasonal workers would improve their productivity:

If they received the training when they were in their own countries, as a requirement of the visa application, then they would be a lot more productive when they arrive. ... If people were trained in their own countries before they came here, it would not only impact the agricultural sector in their own country but also enable them to arrive here being a lot more productive.⁷⁸

Australia Pacific Technical College

- 8.75 The Australia Pacific Technical College (APTC) offers vocational training in accordance with Australian standards to people in the Pacific Islands. DFAT's submission stated:

76 Australian Council of Trade Unions, *Submission 19*, p. 16; Mr Shipstone, ACTU, *Transcript*, 28 October 2015, p. 52.

77 International Labour Organization, *Submission 31*, p. 3.

78 Mrs Berkhout, TAFE Queensland, *Transcript*, 13 November 2015, p. 20.

The DFAT-funded Australia-Pacific Technical College (APTC) has been providing technical and vocational training to Australian standards in the construction, tourism, hospitality, health and community sectors across 14 Pacific Island Countries since 2007.⁷⁹

8.76 The APTC's annual report and plan for 2014-15 stated:

APTC's priority is providing skills for work by ensuring the Training Profile responds to the specific labour requirements of participating Pacific Island Countries. The report confirms that the APTC is on track to deliver to an increased target of 4,200 graduates with a range of internationally recognised Australian qualifications that equip men and women for paid employment now and into the future.⁸⁰

8.77 The report also stated that graduates were highly employable:

Feedback from APTC Student Tracer surveys report that 97% of graduates were satisfied with their course and that graduates continue to have high employability with 89% in employment at the time of the survey. Ninety-four percent of employers surveyed reported that graduates had improved the work standards of other employees or improved the productivity of their organisations.⁸¹

8.78 The report noted that courses were being targeted at sectors with a skills shortage in Australia:

It is estimated that by 2050 there will only be 2.7 people of working age to support each Australian over sixty-five years of age, compared to five working aged people per person in 2012 and 7.5 in 1970. Given these statistics there is a strong case for increased immigration to expand the workforce of the aged care sector in Australia. In response, APTC has implemented an aged care training pilot program delivering the dual Certificate III in Aged Care / Certificate III in Home and Community Care in Tonga.⁸²

8.79 The PNG Department of Labour and Industrial Relations submitted that there should be an 'integrated training program regime for seasonal workers'⁸³ and suggested:

Utilizing the existing Australian-PNG TVET [technical and vocational education and training] training arrangement through

79 Department of Foreign Affairs and Trade, *Submission 37*, p. 5.

80 Australia Pacific Technical College, *Annual Report and Plan 2014-15*, p.2

81 Australia Pacific Technical College, *Annual Report and Plan 2014-15*, p.10

82 Australia Pacific Technical College, *Annual Report and Plan 2014-15*, p.12

83 PNG Department of Labour and Industrial Relations, *Submission 29*, p. 2.

the Australia-Pacific Technical College to develop and streamline career pathways through seasonal employers into the agriculture, tourism and hospitality sectors.⁸⁴

8.80 TAFE Queensland said training through the APTC could be expanded:

At the moment, we have a relationship with the Australia-Pacific Technical College. Through that college, we provide training throughout the Pacific region. The recommendation is that we would probably use that as the mechanism to deliver what amounts to our horticultural training in Australia.⁸⁵

8.81 The DPC said the APTC had been offering certificates in aged care, creating groups of people qualified to work in this area. However, the DPC said there is an absence of migration pathways:

...they are building up a stock of people who could come but there is no migration pathway. We need to get different policy instruments working together. We have not had enough of a coherent approach so far, whether it is backpackers versus seasonal workers or whether it is having the mismatched qualifications on migration pathways.⁸⁶

8.82 DFAT added:

DFAT is working with the APTC to ensure its courses respond to identified labour market demand, both within the Pacific Islands and Australia.⁸⁷

Committee comment

8.83 Economic development is a central element of the Seasonal Worker Programme's objectives. Industry and employers gain satisfaction from knowing wages are being spent on improving standards of living in the Pacific region.

8.84 While the quantum of remittances derived directly from the Seasonal Worker Programme is currently unquantified, and there was some debate surrounding the equity of remittance benefits and suggestions a few countries receive a disproportionate share of remittances derived from the Programme, there is likely to be a sizeable economic benefit.

84 PNG Department of Labour and Industrial Relations, *Submission 29*, p. 2.

85 Mrs Berkhout, TAFE Queensland, *Transcript*, 13 November 2015, p. 20.

86 Professor Howes, Development Policy Centre, *Transcript*, 9 September 2015, p. 8.

87 Department of Foreign Affairs and Trade, *Submission 37*, p. 5.

- 8.85 At the time of preparing this report, no verified empirical data was available showing specific linkage between Seasonal Worker Programme remittances and economic development in Pacific communities. Nevertheless, anecdotal evidence suggested the remittance impact has been positive.
- 8.86 As noted in Chapter 7, the Department of Foreign Affairs and Trade has commissioned the World Bank to evaluate the development benefits of the Seasonal Worker Programme. This study is due to be completed during 2016.⁸⁸
- 8.87 Some factors may limit development outcomes, for example:
- low participation among microstates
 - women are underutilised and increasing the participation of women could improve Seasonal Worker Programme development benefits
 - the high cost of remitting funds back home.
- 8.88 Additional benefits of the Programme were also noted during the inquiry:
- workers using their income to mitigate against the effects of natural disasters
 - new skills and training opportunities arising from participation in the Programme.
- 8.89 There were proposals to improve the benefit of skills and training by ensuring workers' training is continued, updated or completed to a higher level once workers return home. The Committee believes there is scope to improve this aspect of the Programme. Seasonal workers should be provided long-term training and skills development pathways.
- 8.90 The Committee has recommended expanding the Seasonal Worker Program to include sectors projected to have significant growth and long-term labour shortages including: aged care; child care; disability care; and dairy. A broader range of qualified workers could then be utilised.
- 8.91 The Australia Pacific Technical College currently offers Australian qualifications to Pacific Islanders from 14 Pacific Island Countries in the automotive, manufacturing, construction, electrical, tourism, hospitality, education, management, and health and community services industry sectors.⁸⁹
- 8.92 However, employment pathways are not necessarily available to graduates of the Australia Pacific Technical College.

88 Department of Foreign Affairs and Trade, *Submission 37*, p. 7; Department of Employment, *Supplementary Submission 2.2*, response to Question 20.

89 Australian Pacific Technical College, 'Courses', viewed on 14 April 2016, <<http://www.aptc.edu.au/index.php/courses>>.

- 8.93 As noted in Chapter 5, the Seasonal Worker Programme could advance beyond the level of an unskilled labour migration scheme to address long-term labour shortages in these sectors.
- 8.94 The Committee therefore recommends that the Seasonal Worker Programme provide an employment pathway for Australia Pacific Technical College graduates, particularly in identified areas of long-term labour shortage in Australia.

Recommendation 6

The Committee recommends that the Seasonal Worker Programme provide an employment pathway for Australia Pacific Technical College health and community services industry sector graduates.

Possible legislative and other impediments

- 9.1 As part of the inquiry, the Committee considered a number of possible impediments to the operation of the Seasonal Worker Programme (SWP), with the most notable being the requirement to undertake labour market testing, administration for superannuation payments, and travel and up-front costs.

Labour market testing

- 9.2 Approved employers are responsible for testing the labour market, and trying to recruit local workers before seeking access to seasonal workers.
- 9.3 Many submitters questioned the benefits of undertaking labour market testing.
- 9.4 Owen Pacific Workforce Pty Ltd (OPW) reasoned that ‘the farmer’s request should be sufficient evidence that a genuine need exists and that there are insufficient reliable workers to fill the need.’¹ OPW added that market testing was onerous and time consuming, calling for it to be either removed completely from the SWP or for the requirement to be removed after the first year for approved employers.²
- 9.5 Golden Mile No.1 Pty Ltd and the Victorian Farmers’ Federation (VFF) both concurred with the view that market testing was time consuming.³ The VFF added that it was also ‘costly and serves no benefit as it is almost

1 Owen Pacific Workforce, *Submission 1*, p. 4.

2 Owen Pacific Workforce, *Submission 1*, p. 4.

3 Golden Mile No.1 Pty Ltd, *Submission 20*, p. 1; Victorian Farmers’ Federation, *Submission 9*, p. 5.

impossible to test the market so many months prior to the actual position becoming available.’⁴

- 9.6 Apple and Pear Australia Limited (APAL) also called market testing an onerous task and suggested that it either be conducted annually or removed entirely, because:
- Such requirements do not exist for the employment of ‘international backpackers’ (417 Visa holders). It is therefore cheaper to employ 417 Visa holders than seasonal workers.
 - The SWP was established by the Australian Government in 2012 in recognition that a low-skilled labour mobility programme could provide strong benefits to the Australian horticulture industry through greater labour certainty and increased efficiency. Nothing has changed to alter this fact and access to seasonal labour from the pool of Australian residents remains tight. Obliging growers to continually demonstrate that there is no ready pool of local Australian labour actually works against the SWP program.⁵
- 9.7 The VFF suggested that the Government undertake market testing when then SWP is reviewed:
- Labour market testing should only be a requirement of government at each Program review with the onus removed from individual employers or third party Approved Employers wishing to participate in the Program.
- It is unlikely an employer would seek to employ a Seasonal Worker over a willing Australian resident as the cost of participation in the Program is considerably higher than the cost of employing a local.⁶
- 9.8 Vernview Pty Ltd understood the need to undertake market research but said they would welcome a different mechanism.⁷
- 9.9 While the National Farmers’ Federation (NFF) supported the current market testing requirements under the SWP, they believed it represented a large commitment for little return.⁸ The NFF recommended exempting the requirement in regions that have a demonstrated labour shortage.⁹
- 9.10 While acknowledging that the financial costs for market testing or advertising was not significant, the Voice of Horticulture believed that

4 Victorian Farmers’ Federation, *Submission 9*, p. 5.

5 Apple and Pear Australia, *Submission 33*, p. 3.

6 Victorian Farmers’ Federation, *Submission 9*, p. 5.

7 Vernview Pty Ltd, *Submission 13*, p. 6.

8 National Farmers’ Federation, *Submission 21*, p. 16.

9 National Farmers’ Federation, *Submission 21*, p. 17.

there was a significant reporting cost to the DoE.¹⁰ The Voice of Horticulture submitted that the requirements should be streamlined suggesting:

... that there could be scope for the development of a national process run by the Department of Employment [DoE] to exclude particular areas rather than the individual process currently operating where each employer market tests their specific jobs.¹¹

9.11 Growcom reported that growers were frustrated with the market testing requirement 'especially in remote and regional areas and where testing has previously shown a lack of (willing) local or Australian workers.'¹² Growcom reasoned that 'growers would not be accessing programs such as the SWP if there were not a clear and present need for such programs to complement the workforce.'¹³

9.12 Growcom held the view that the local labour market did not change significantly over a year and suggested the preference of conducting market testing regionally once every twelve months.¹⁴

9.13 Commenting on approved employers' frustration in doing market testing, Connect Group Pty Ltd called for a more flexible approach.¹⁵

9.14 In its joint submission, the Development Policy Centre (DPC) and World Bank noted that employers looking to hire Working Holiday Makers (WHMs) were not required to undertake market testing. The DPC recommended either removing the requirement entirely or amending the current requirements:

... at least (a) for postcodes that qualify for the Working Holiday (subclass 417) second-year visa extension and (b) for employers whose earlier labour market testing has shown no or inadequate Australian worker interest¹⁶

9.15 AUSVEG supported the recommendation by the DPC¹⁷ and called for a evidenced based approach to market testing:

We are not suggesting that there should be an across-the-board abolition of labour market testing, because clearly there are areas where it is necessary, but that there should be a more evidence-

10 Voice of Horticulture, *Submission 34*, p. 2.

11 Voice of Horticulture, *Submission 34*, pp. 2-3.

12 Growcom, *Submission 16*, p. 3.

13 Growcom, *Submission 16*, p. 3.

14 Ms Mogg, Growcom, *Transcript*, 30 November 2015, p. 52.

15 Connect Group Pty Ltd, *Submission 18*, p. 7.

16 Development Policy Centre and World Bank, *Submission 22*, p. 9.

17 AUSVEG, *Submission 25*, p. 5.

based approach to labour market testing, where we actually look at particular areas and determine whether there is a need for labour market testing, because in some cases growers are being required to do this testing when it is apparent that there is no chance of them getting a local worker. That acts as a prohibition against uptake of this program in those regional areas.¹⁸

- 9.16 MADEC Australia held a contrary view, stating that the process was not overly onerous, could be made easier by implementing good processes, and while it requires some administrative time, can be done at no cost.¹⁹
- 9.17 The Australian Council of Trade Unions (ACTU) remarked that market testing was an integral part of the SWP and should continue.²⁰
- 9.18 Dr Howe said that it was important that the SWP ‘not become a de facto low skill work visa without any labour market testing of whether the skill is actually in shortage in the domestic economy.’²¹
- 9.19 The State, Society and Governance in Melanesia Program (SSGMP) believed that the requirement to test the local labour market provided a safeguard:
- Labour market testing required by the Department of Employment for Australian employers seeking to recruit workers through the SWP provides an important safeguard that SWP workers are ‘not taking Australian jobs’. While labour market testing is regarded by some employers in the SWP as onerous, it does provide a safeguard that the SWP is not undermining the integrity of the Australian labour market.²²
- 9.20 The SSGMP suggested that there may be other alternatives to labour market testing in areas of long term labour shortages:
- ... there may be mechanisms for making labour market testing less onerous in regions and industry sub-sectors where there is clear evidence of long-term structural labour market shortages.²³
- 9.21 The DoE asserted that the Australian Government’s priority is to support local job seekers but recognised the need to source additional labour.²⁴

18 Mr White, AUSVEG, *Transcript*, 28 October 2015, p. 18.

19 MADEC Australia, *Submission 17*, p. 2.

20 Australian Council of Trade Unions, *Submission 19*, p. 4.

21 Dr Howe, *Submission 36*, p. 4.

22 State, Society and Governance in Melanesia Program, *Submission 38*, p. 23.

23 State, Society and Governance in Melanesia Program, *Submission 38*, p. 23.

24 Department of Employment, *Supplementary Submission 2.2*, p. 17.

9.22 The DoE stated that SWP labour market testing requirements were stronger than the requirements for working visas, and that additional protections were put in place for the local labour market:

In addition, changes announced on 18 June 2015 strengthen protections for the local labour market by:

- a requirement for the Department of Employment to report back to the Australian Government by mid-2017 on whether Australian job seekers are being disadvantaged by the Seasonal Worker Programme; and
- providing the Minister for Employment with discretion to cap, exclude and review the placement of seasonal workers in geographical locations, including metropolitan areas and areas with high unemployment and low workforce participation.²⁵

9.23 The DoE also noted that the DoE would request added information from approved employer's in the following circumstances:

- the Department identifies that the labour market testing section of the recruitment plan has not been fully completed
- the Department identifies that the advertisement has not run for the required 14 days prior to seeking approval to recruit seasonal workers
- the Department identifies that the approved employer has not provided a 'finalised' result or the employer indicates that the local applicant selection is still in process (the department requires a definitive result as to how many applicants were offered or not offered a position)
- the Department identifies that a reason for discounting a local applicant was not in line with programme requirements or workplace relations law, or
- the labour market testing advertisement does not meet programme requirements.²⁶

9.24 When asked about the cost of market testing, the DoE advised that approved employers could place a free ad on an Australian Job Search website.²⁷

9.25 The DoE added that labour market testing would form the basis of determining the number of SWP places:

From 1 July 2015, the annual cap on the number of workers participating in the Seasonal Worker Programme has been removed entirely so that businesses may more easily access seasonal labour when they are unable to source labour locally.

25 Department of Employment, *Supplementary Submission 2.2*, pp. 2-3.

26 Department of Employment, *Supplementary Submission 2.2*, p. 1.

27 Mr Roddam, Department of Employment, *Transcript*, 24 June 2015, p. 5.

Removing the annual cap on programme places means that the number of seasonal workers who will come to Australia will be determined through labour market testing.²⁸

Committee comment

- 9.26 With 525,200 unemployed people looking for full-time work; 207,400 looking for part-time work; and an unemployment rate of 5.8 per cent,²⁹ it is vitally important that Australian employers in all industries do everything possible to employ Australian workers first, particularly in regional areas where concentrations of youth unemployment can be far higher than national averages.
- 9.27 The Committee recognises that there are a number of reasons why Australians would prefer to seek full-time employment in sectors other than current seasonal work opportunities in the agriculture or horticulture sectors. However, the Committee is of the view that the requirement to undertake market testing is not overly burdensome and should therefore remain at this stage.
- 9.28 Currently, the labour market testing requirements vary across visa subclasses:
- The working holiday maker programme does not require employers to undertake labour market testing.
 - Sponsors of 457 visa holders must provide evidence that they have tested the local labour market in the 12 months prior to nomination. However, all skill level 1 and 2 occupations (except nursing and engineering) are exempt.
 - Seasonal Worker Programme approved employers must 'advertise for a two week period and within three months of an employer seeking to bring seasonal workers into Australia.'³⁰
- 9.29 These differing requirements could place an additional regulatory burden on employers. The Committee has therefore formed the view that it is beneficial to standardise the labour market testing requirements across the range of work visas.
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28 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 5.

29 Australian Bureau of Statistics, *Labour Force, Australia, Feb 2016*, cat. no. 6202.0

30 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 6.

Recommendation 7

That the Australian Government standardise the labour market testing requirements across the range of temporary work visas.

Superannuation

- 9.30 A few submitters suggested that the administration for superannuation payments was overly burdensome and difficult for seasonal workers to access upon returning home.
- 9.31 OPW asserted that, as superannuation was a provision for retirement, it was inappropriate for seasonal workers,³¹ remarking that:
- seasonal workers were unable to claim super after returning to their home country as the compliance requirements were too challenging;
 - in circumstances where a claim was made, fifty per cent of the claim was taken in tax due to the Australian citizen early retirement rules.³²
- 9.32 OPW highlighted that the *Superannuation Guarantee (Administration) Act 1992* contained a provision exempting employers from making superannuation payments when an employee earns less than \$450 per month for certain age groups.³³ The OPW made two proposals:
- exempt employers from making superannuation payments to all workers under the SWP; or
 - allow super for seasonal workers to be accrued in the payroll like annual leave and paid out upon termination.³⁴
- 9.33 The VFF believed that there was 'a significant administrative burden on Approved Employers surrounding the payment and claiming of superannuation.'³⁵ The VFF repeated the recommendation by OPW to exempt employers from making superannuation payments to SWP workers.³⁶

31 Owen Pacific Workforce, *Submission 1*, p. 3.

32 Owen Pacific Workforce, *Submission 1*, p. 3.

33 Owen Pacific Workforce, *Submission 1*, p. 3.

34 Owen Pacific Workforce, *Submission 1*, p. 3.

35 Victorian Farmers' Federation, *Submission 9*, p. 5.

36 Victorian Farmers' Federation, *Submission 9*, p. 3.

- 9.34 Gracekate Farms also noted the rationale for superannuation being for retirement and commented on how the paperwork was overly burdensome for both workers and approved providers. Gracekate Farms suggested a couple of options:
- paying subclass 416 visa holders a higher rate to compensate for no superannuation payments; or
 - that equivalent payments, in lieu of superannuation, be 'paid into a trust account or directly to their home governments to be used only for certain projects agreed to with the Australian Government'.³⁷
- 9.35 The NFF also commented on the administrative requirements in relation to superannuation, holding the view that these were likely to increase.³⁸
- 9.36 Golden Mile No. 1 Pty Ltd observed that SWP participants need to close and reopen a superannuation account each time they depart and return to Australia. Golden Mile remarked that the administrative burden was high, suggesting that approved employers 'pay the money into separate funds that could be managed by [the Department of Employment] or via us, and then that money is automatically released when they leave the country'.³⁹
- 9.37 The DPC believed that the present super refund arrangements were 'cumbersome and inequitable'.⁴⁰ The DPC also recommended the superannuation be paid directly into the wage.⁴¹
- 9.38 Papua New Guinea's (PNG) Department of Labour and Industrial Relations also highlighted difficulties that seasonal workers have in accessing super funds, recommending:
- Appropriate arrangement to enable accessibility to superannuation funds which would assist seasonal workers to utilise added funds to enhance their livelihood as well as to invest savings wisely through the re-integration programme.⁴²
- 9.39 The Democratic Republic of Timor-Leste's Secretary of State for Professional Training and Employment Policy (SSPTEP) also called on simplifying the process of acquiring superannuation for seasonal workers from overseas.⁴³

37 Gracekate Farms, *Submission 14*, p. 4.

38 National Farmers' Federation, *Submission 21*, p. 15.

39 Golden Mile No.1 Pty Ltd, *Submission 20*, p. 1; Victorian Farmers' Federation, *Submission 9*, p. 9.

40 Development Policy Centre and World Bank, *Submission 22*, p. 8.

41 Development Policy Centre and World Bank, *Submission 22*, p. 8.

42 Papua New Guinea's Department of Labour and Industrial Relations, *Submission 29*, p. 4.

43 Secretary of State for Professional Training and Employment Policy, Democratic Republic of Timor-Leste, *Submission 6*, p. 2.

9.40 The Solomon Islands' Ministry of Foreign Affairs and External Trade (MFAET) posited that the administration associated with superannuation acted as a deterrent to hiring seasonal workers. The MFAET stated that their Labour Mobility Unit also 'found it very challenging to retrieve superannuation funds for returned workers',⁴⁴ adding:

Some workers have not been able to retrieve their funds due to complicated administrative and logistical requirements that can only be completed once workers return to Solomon Islands. For instance, many workers return to their regional provinces which do not even have banking facilities.⁴⁵

9.41 The MFAET also pointed out the additional tax and bank fees added in circumstances when they are able to access their super and that Recognised Seasonal Employers in New Zealand are not required to make superannuation contributions to their seasonal workers.⁴⁶

9.42 The MFAET remarked that it would not be appropriate to remove superannuation with equivalent compensation elsewhere, and recommended either:

... (a) automatically include superannuation payments within the employees' payslips or (b) remove superannuation obligations altogether in exchange for an equivalent reduction in the current income tax rate.⁴⁷

9.43 The National Union of Workers (NUW) recommended that employers continue to pay SWP participants superannuation:

Seasonal Workers must receive the same pay, conditions and entitlements as Australian permanent residents and citizens, including superannuation, and should be paid those entitlements through the same mechanisms. Where one group of workers are not provided equal wages or conditions, systematic exploitation can begin to take root.⁴⁸

9.44 The DoE explained the superannuation obligations on employers:

An employer's superannuation guarantee obligations are generally the same for all employees regardless of whether they are temporary residents (such as visitors on the Seasonal Worker Programme) or Australian residents. The superannuation

44 Solomon Islands' Ministry of Foreign Affairs and External Trade, *Submission 7*, p. 3.

45 Solomon Islands' Ministry of Foreign Affairs and External Trade, *Submission 7*, p. 3.

46 Solomon Islands' Ministry of Foreign Affairs and External Trade, *Submission 7*, p. 3.

47 Solomon Islands' Ministry of Foreign Affairs and External Trade, *Submission 7*, p. 3.

48 National Union of Workers, *Submission 42*, p. 7.

guarantee contribution rate is currently 9.5 per cent of an employee's ordinary time earnings.⁴⁹

9.45 On the issues of how to access superannuation, the tax that applies, and unclaimed superannuation payment amounts, the DoE stated:

- Overseas workers on temporary visas can claim their superannuation after they leave Australia and their visa expires by applying for a Departing Australia Superannuation Payment.
- The total tax that applies to their superannuation includes the nominal 15 per cent tax applied to employer contributions and earnings on all contributions in the fund; and a withholding tax (38 per cent in 2014-15 and 2015-16) when a Departing Australia Superannuation Payment claim is paid.
- Departing Australia Superannuation Payment amounts not claimed within six months of a temporary resident's departure are transferred to the Australian Taxation Office as unclaimed money and are held in consolidated revenue. Former temporary residents may claim these amounts at any time.⁵⁰

9.46 The DoE remarked that it was aware of the difficulties residents from Kiribati and Tuvalu found in claiming superannuation entitlements and noted that the World Bank was conducting an evaluation for the Department of Foreign Affairs and Trade (DFAT)⁵¹ which will 'collect information about the amount of superannuation expected to be claimed by workers when they leave Australia.'⁵²

9.47 The DoE also remarked that it was aware of the suggestions by employers that superannuation payments to be rolled into the wages of seasonal workers, adding:

The Department of Employment does not have a particular view on whether this should be the case, and note that at the moment this is an arrangement that is determined through the Department of Treasury and through the established superannuation framework.⁵³

49 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 22.

50 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 22.

51 Seasonal Worker Programme Development Impact Evaluation 2015-16.

52 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 22.

53 Ms Smith, Department of Employment, *Transcript*, 24 June 2015, pp. 2-3.

9.48 When asked about the number and proportion of seasonal worker participants who claim superannuation on returning home and the length of time it takes make a claim, the DoE stated:

The Australian Government does not collect this information. All seasonal workers participating in the programme are able to claim their superannuation once they have departed Australia.

Seasonal workers are provided with information on superannuation in their pre-departure, on-arrival and return to country briefings. Each seasonal worker is also provided with information by their approved employer that will enable them to claim their superannuation once they have departed Australia. In some cases labour sending units in participating countries' departments of labour assist seasonal workers to claim their superannuation on return.⁵⁴

9.49 On 25 June 2015, the *Superannuation Guarantee (Administration) Amendment Act 2015* received Royal Assent. The Act removed the obligation for employers to offer a choice of superannuation fund to temporary resident employees.⁵⁵

Committee comment

9.50 It appears, based on the evidence provided by submitters, that the administration of superannuation payments is an arduous process for both approved employers and seasonal workers.

9.51 However, there does not appear to be enough supporting evidence to recommend that employers be exempt from making superannuation payments, reducing the current income tax rate for seasonal workers, include superannuation payments within the employees' payslips, or making equivalent payments into a trust account.

9.52 The Committee therefore recommends that the Department of Treasury undertake a review of current superannuation arrangements for seasonal worker programme participants, having regard to:

- whether or not current arrangements meet the objectives of the Seasonal Worker Programme;

54 Department of Employment, *Supplementary Submission 2.4*, p. 2.

55 Australian Taxation Office, 'Change to choice of superannuation fund obligations for employers', viewed on 8 April 2016, <<https://www.ato.gov.au/General/New-legislation/In-detail/Super/Change-to-choice-of-superannuation-fund-obligations-for-employers/>>.

- the barriers to accessing accumulated superannuation funds for seasonal workers and measures to improve access.
- 9.53 This review should be conducted primarily with a view to ensuring seasonal workers receive their full entitlements as efficiently and quickly as possible.

Recommendation 8

The Committee recommends that the Department of Treasury undertake a review of current superannuation arrangements for Seasonal Worker Programme participants, having regard to:

- **whether or not current arrangements meet the objectives of the Seasonal Worker Programme;**
- **the barriers to accessing accumulated superannuation funds for seasonal workers and measures to improve access.**

The review should be conducted primarily with a view to ensuring seasonal workers receive their full entitlements as efficiently and quickly as possible.

Travel costs

- 9.54 As part of the SWP, approved employers are responsible for paying for the full cost of each seasonal workers return international airfare and domestic transfer arrangements up front, and recouping from the combined cost any amount over \$500 from seasonal workers' pay over time.
- 9.55 Some submitters commented that this travel cost, as well as additional up-front costs, were acting as a disincentive for employers to engage in the SWP and an added regulatory burden for SWP approved employers.
- 9.56 OPW said that paying the first \$500 for airfares inflated the cost of the SWP and recommended that the requirement be removed for approved employers.⁵⁶

56 Owen Pacific Workforce, *Submission 1*, p. 3.

- 9.57 The VFF were concerned about both the up-front and airfare costs which they viewed as prohibitive:
- Up-front costs (including airfares, visas, rental, ground transport and living expenses) can amount to \$1,000 - \$2,000 per worker prior to any productivity. An employer who requires 20 workers would have to find approx \$20,000 - \$40,000 from their cash flow to participate.⁵⁷
- 9.58 Commenting on the airfare cost, the VFF argued that the initial \$500 of any airfare for the first year should be paid, but that seasonal workers should pay the cost of a return airfare in subsequent years.⁵⁸
- 9.59 MADEC Australia suggested that seasonal workers were ‘well placed, particularly in subsequent visits, to cover a higher proportion of their travel costs.’⁵⁹
- 9.60 However, MADEC pointed out the financial costs for seasonal workers participating in the SWP and the length of time it would take for workers to pay back those costs:
- [Seasonal workers] would have quite substantial fixed costs such as airfare and visa and some other fixed costs that need to be paid off. Typically they will take five or six weeks maybe to pay all of those costs off. If they are here for a three-month assignment, they have not got a lot of time after that to make net income to remit back home.⁶⁰
- 9.61 Growcom and MADEC Australia suggested implementing a phased approach or sliding scale to retrieving travel costs.⁶¹ MADEC Australia added:
- So what we are suggesting is, if a worker is here for a three-month assignment or less, which is now allowed under the rules, that the grower contribute \$500 towards the airfare cost as is the case now. If they come for six months, the worker contributes it all because they have got a much greater earning capacity in six months. And somewhere in between, there is a sliding scale. So if they are here for four months, they pay \$100; if they are here for five months it would be \$250 et cetera. That is a graduated thing. It would encourage growers to have workers for longer periods of time, which benefits the workers, and it does not disenfranchise workers

57 Victorian Farmers’ Federation, *Submission 9*, p. 5.

58 Victorian Farmers’ Federation, *Submission 9*, p. 5.

59 MADEC Australia, *Submission 17*, p. 4.

60 Mr Hayes, MADEC Australia, *Transcript*, 28 October 2015, p. 60.

61 Growcom, *Submission 16*, p. 4; MADEC Australia, *Submission 17*, p. 4.

who are here for shorter periods of time. We think that is a good way of helping to reduce the costs for the growers because the \$500 contribution is always an issue but it would not disenfranchise workers who are here for shorter periods of time and who are earning less money.⁶²

- 9.62 The NFF commented that costs were a major disincentive to the SWP, especially when the set-up, regulatory compliance, travel and accommodation costs and the risks that they will not be recovered in the event that SWP participants choose to leave the programme are all taken into account.⁶³
- 9.63 The NFF recommended reviewing the costs associated with seasonal employment compared with other solutions including the working holiday maker visa.⁶⁴
- 9.64 Tourism Accommodation Australia (TAA) also believed that the current costs for approved employers to participate in the SWP would act as a disincentive:
- This will be the main impediment to the hospitality industry taking on these workers. As the requirement will largely be for entry level positions, the considerable costs in securing these workers – Airfares from country of origin; accommodation; cost of compliance training such as RSA – will limit the attractiveness of this option except in areas of acute shortages.⁶⁵
- 9.65 TAA agreed with the suggestion of implementing a sliding scale for returning workers to retrieving travel costs.⁶⁶
- 9.66 APAL suggested that there was a very small risk that approved employers would not be able to recover airfare costs if the seasonal worker absconds or is sent home.⁶⁷ APAL did, however, contend that many employers were unaware that most additional costs could be recouped from an employee's wage.⁶⁸

62 Mr Hayes, MADEC Australia, *Transcript*, 28 October 2015, p. 60.

63 National Farmers' Federation, *Submission 21*, p. 15.

64 National Farmers' Federation, *Submission 21*, p. 15.

65 Tourism Accommodation Australia, *Submission 28*, p. 4.

66 Miss Graham, Tourism Accommodation Australia, *Transcript*, 13 November 2015, p. 27.

67 Apple and Pear Australia, *Submission 33*, pp. 4-5.

68 Apple and Pear Australia, *Submission 33*, p. 4.

- 9.67 The DPC described a survey that it conducted in 2014 with approved employers about what key changes would make the SWP more appealing to growers. The DPC found that 'the main parameters that need to be altered are the upfront costs, along with employer contributions to international and domestic travel costs.'⁶⁹
- 9.68 The DPC did note, in particular, that the travel costs to Australia for some pacific island countries (Kiribati and Tuvalu) are higher which put an additional financial burden on seasonal workers.⁷⁰
- 9.69 The DPC recommended removing the up front costs and employer contributions to travel costs, believing that they would:
- ... help to level the playing field for Pacific seasonal workers and allow them to compete on a cost basis with backpackers and other categories of workers.⁷¹
- 9.70 The DPC contended that removing the upfront costs would make the SWP more attractive:
- The removal of this requirement would undoubtedly lift uptake of Pacific seasonal workers. When we conducted our employer survey across the horticulture industry, 67% of growers suggested their main reason for not participating in the Seasonal Worker Programme was because it was 'too costly'. Furthermore, amongst those AEs [Approved Employers] and participating growers surveyed, 75% suggested that reducing the international travel cost would make the SWP more attractive to growers. This included both having to pay the international airfare upfront and also needing to make a \$500 contribution.⁷²
- 9.71 AUSVEG also highlighted the changes to the SWP announced in the *Developing Northern Australia White Paper* (White Paper) on cost sharing arrangements,⁷³ and remarked they were a welcome addition.⁷⁴
- 9.72 AUSVEG did, however, believe that the ability for employers to recoup travel costs should be amended to make the SWP more attractive to employers:
- If we were to increase the Seasonal Worker Program's utilisation by growers it is imperative to reduce the cost and administrative

69 Development Policy Centre and World Bank, *Submission 22*, p. 7.

70 Development Policy Centre and World Bank, *Supplementary Submission 22.1*, p. 2.

71 Development Policy Centre and World Bank, *Submission 22*, p. 7.

72 Development Policy Centre and World Bank, *Supplementary Submission 22.1*, p. 5.

73 Simplifying cost sharing arrangements by combining the employer's contribution to the seasonal worker's international and domestic airfare to a total of \$500.

74 AUSVEG, *Submission 25*, p. 6.

burden of employing seasonal workers. One simple and effective method of doing so, with no added cost to the taxpayer or to the government, would be to amend the current ability of employers to recover any travel costs above \$500 from a worker's wages over time and to extend that to cover all travel costs paid for by the employer. This will help to make the program more appealing to growers and increase the viability of the Seasonal Worker Program as an alternative to using backpackers.⁷⁵

- 9.73 Mossmont Nurseries, recommended that the initial costs for airfares should be the responsibility of SWP participants.⁷⁶
- 9.74 The Golden Mile No.1 Pty Ltd suggested the preference for a flexible funding model 'where the \$825 is allocated to the person for his or her choosing (as practical as possible).'⁷⁷
- 9.75 While not directly referring to travel costs, the Office of the Chief Trade Advisor (OCTA) asserted that burdensome costs both up-front and during the duration of their involvement were deterring potential employers from participating in the SWP.⁷⁸
- 9.76 The ACTU did not agree with the view of shifting SWP costs like travel further onto participants,⁷⁹ adding:
- Such changes would reduce the net benefit accruing to the workers, their families and communities and undermine the fundamental objective of the program to promote development in the Pacific.⁸⁰
- 9.77 The SSGMP stated that the costs were more prohibitive on seasonal workers:
- Although costs have been reduced for many employers, transportation costs for workers are a barrier for many in Pacific island states, especially those living in either remote rural regions or countries such as Kiribati, PNG, Tuvalu and the Solomon islands where transportation costs have them at a disadvantage compared to other Pacific nations.⁸¹

75 Mr Mulcahy, AUSVEG, *Transcript*, 28 October 2015, p. 12.

76 Mr Moss, Mossmont Nurseries, *Transcript*, 28 October 2015, p. 42.

77 Golden Mile No.1 Pty Ltd, *Submission 20*, p. 1.

78 Office of the Chief Trade Advisor, *Submission 5*, p. 8.

79 Australian Council of Trade Unions, *Submission 19*, p. 18.

80 Australian Council of Trade Unions, *Submission 19*, p. 18.

81 State, Society and Governance in Melanesia Program, *Submission 38*, p. 30.

- 9.78 The SSGMP recommended examining the costs to seasonal workers in addition to establishing a re-entry tax for returning workers to develop a SWP workers bank to finance initial costs:

Examination of how costs to workers could be best offset to enable a greater pro-poor reach of the SWP to occur, so that workers do not need to borrow at usurious leading rates to enter the SWP. For example, a re-entry tax for returning workers could be used to develop a SWP workers bank from which poor remote workers could borrow to finance initial costs of obtaining SWP employment, such as: passport and visa costs, health checks and transportation costs.⁸²

- 9.79 The NUW asserted that the SWP reforms announced in the White Paper added a further cost burden onto seasonal workers, adding:

Shifting the administrative costs of the Programme onto workers undermines the Programme's development goals by further reducing workers' net earnings.⁸³

- 9.80 The NUW recommended maintaining the 'requirement for employers to pay \$500 towards workers' airfares.'⁸⁴

- 9.81 At a public hearing, the DoE commented on the aid and development objectives of the SWP and the impetus behind the cost-sharing arrangements:

As the program has aid and development objectives, we need to ensure that seasonal workers have the opportunity to financially benefit from their time in Australia. We have undertaken modelling that looks at the costs that are involved from a seasonal worker's perspective. Under the current arrangements – so not under the new arrangements, the northern Australia related announcements – we know that if seasonal workers were required to pay for the full cost of their airfare, that would then make it more difficult for employers to bring the seasonal workers out for short periods of time as it would impact on the worker's ability to earn a financial net benefit, therefore, we have retained the requirement for cost-sharing arrangements. This is also something that is in line with other seasonal worker programs around the world.⁸⁵

82 State, Society and Governance in Melanesia Program, *Submission 38*, p. 30.

83 National Union of Workers, *Submission 42*, p. 6.

84 National Union of Workers, *Submission 42*, p. 7.

85 Ms Smith, Department of Employment, *Transcript*, 24 June 2015, p. 3.

9.82 The DoE also believed that there were gains from returning reliable seasonal labour which outweighed the cost:

I suppose the view of the department is that, even though returning workers may have a net financial benefit from their original stay, there is an expectation that, in part, the seasonal workers would have tried to maximise their investments to their families and their communities back home, but also the department's view is that ultimately there are gains and efficiencies from returning reliable labour that reduces stress to employers about securing that labour each year. The productivity is worth that \$500 per worker out of pocket. So, yes, we understand that it is out of pocket, but we feel that the growers stand to gain more.⁸⁶

9.83 As noted above, the DoE pointed out that it was working with DFAT on a study 'into the relative productivity of seasonal workers and the costs and benefits for employers participating in the programme.'⁸⁷

Committee comment

9.84 It is clear that there are significant costs associated with the Seasonal Worker Programme on employers and participants alike. The challenge is obtaining the right balance to ensure that neither group is being impacted adversely.

9.85 That being said, the programme is primarily focussed on aid and development. It would disadvantage seasonal workers considerably to shift costs onto the participants.

9.86 The Committee notes the changes to the cost sharing arrangements in the White Paper and therefore does not believe that a further amendment to the current arrangements is required.

Other impediments

9.87 A few submitters to the inquiry were of the view that premiums for workers compensation and the cost of transferring remittances back home were acting as impediments.

86 Mr Hay, Department of Employment, *Transcript*, 13 November 2015, p. 58.

87 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 6.

Workers compensation

- 9.88 OPW asserted that the current rates used to determine premiums for workers compensation was inaccurate for SWP participants:

Workers Compensation actuarial tables are based on Australian residents who, if injured seriously may need to be supported with medical treatment and wages for 30 years at the cost of hundreds of thousands of dollars. Seasonal workers are only permitted to remain in Australia for 6 months but the rates applied to calculate premiums are based on them living here for the rest of their lives. Since this is impossible applying the same actuarial tables is grossly inaccurate. The rate for SWs [seasonal workers] should be one-twentieth the rate for a comparable Australian worker.⁸⁸

- 9.89 The NFF noted that premiums were based on a number of factors such as the amount of wages and the cost of any claims,⁸⁹ adding:

This may be an indication that the harmonisation of workers compensation arrangements across the Commonwealth, States and Territories is an important issue and should be revived as a priority. There may be some scope for a system that takes into account the individual needs of particular categories of workers.⁹⁰

- 9.90 The DoE stated that all SWP participants must 'be employed in accordance with Australian workplace laws including the Fair Work Act and relevant work health and safety and workers' compensation laws.'⁹¹

- 9.91 On workers compensation, the DoE pointed out that it was primarily a State/Territory responsibility underpinned by legislation in each jurisdiction 'that places obligations on employers to ensure the health and safety of workers and to provide rehabilitation and workers' compensation for injured workers.'⁹²

Money transfers

- 9.92 Golden Mile No.1 Pty Ltd observed that SWP participants use money transfers when sending remittances back home. Golden Mile held the view that this was a costly exercise for employees and suggested either subsidising the money transfers or establishing an alternative.⁹³

88 Owen Pacific Workforce, *Submission 1*, p. 4.

89 National Farmers' Federation, *Submission 21.1*, p. 1.

90 National Farmers' Federation, *Submission 21.1*, p. 1.

91 Department of Employment, *Supplementary Submission 2.2*, p. 17.

92 Department of Employment, *Supplementary Submission 2.2*, pp. 17-18.

93 Golden Mile No.1 Pty Ltd, *Submission 20*, p. 1.

9.93 The International Labour Organization (ILO) Office for Pacific Island Countries called for 'assistance in negotiating lower remittance transfer rates with banks.'⁹⁴

9.94 DFAT commented that the remittances costs globally are high:

Unfortunately, the cost of remittances around the world are very high and they may be even higher in the Pacific. The Australian government is working, where we can, to address the issues which have increased the cost of remittances globally. That includes work through the G20. Specifically in the Pacific, we have funded a website⁹⁵ that provides a comparison of remittance costs, with the aim that knowing the competition should help lower the cost of remittances.⁹⁶

9.95 DFAT added that the website:

allows you to profile different rates for different amounts of money to send – so \$100 or \$200, because we find that the seasonal workers typically remit small amounts at a time – and it shows you what the total fees, charges and foreign exchange rates might look like when you send that. It is really simple. It is a table that shows you quite clearly what sending \$100 is going to cost you – if you want \$100 back in Tonga it is going to cost you, say, \$130 to send it from Australia – and it shows you the different channels. It has also allowed us to monitor the costs over time. So we know that over time the cost of remittances has fallen by approximately 19 per cent since we introduced the website.⁹⁷

94 International Labour Organization, Office for Pacific Island Countries, *Submission 31*, p. 3.

95 sendmoneypacific.org: An Australian and New Zealand Government funded website to compare costs when you send money from Australia, New Zealand or the United States of America to Fiji, Kiribati, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu or Vanuatu.

96 Ms Cawte, Department of Foreign Affairs and Trade, *Transcript*, 13 November 2015, p. 9.

97 Dr Bowman, Department of Foreign Affairs and Trade, *Transcript*, 13 November 2015, p. 9.

Additional suggestions

- 9.96 There were a few additional suggestions mentioned very briefly by submitters:
- SSPTEP suggested reducing or eliminating the fifteen per cent taxation rate for seasonal workers.⁹⁸
 - Papua New Guinea's Department of Labour and Industrial Relations called for expansion of the Panel of Medical Doctors⁹⁹ into Regional Centres to address issues of visa application for seasonal workers, providing increased participation for employers/farmers/labour contractors and communities with cultural linkages to PNG, and allowing SWP participants from PNG greater access to additional industries.¹⁰⁰
 - The MFAET recommended providing adequate resourcing the DoE.¹⁰¹

Committee comment

- 9.97 The Committee thanks all of the submitters who took the time to provide their comprehensive views on possible impediments to the Seasonal Worker Programme.
- 9.98 The Committee notes that worker compensation requirements are primarily a State/Territory responsibility and that the Federal Government has already taken steps to assist with the costs of sending remittances to Pacific Island countries.
- 9.99 The Committee does not believe that any further amendments to the current arrangements are required.

98 Secretary of State for Professional Training and Employment Policy, Democratic Republic of Timor-Leste, *Submission 6*, p. 2.

99 Immigration panel physicians. A panel physician is a doctor or a radiologist who has been approved by the Australian Government as a member of the panel to perform medical examinations on visa applicants who have applied from outside Australia. Medical examinations conducted outside Australia are only acceptable if conducted by a member of the Australian panel.

100 Papua New Guinea's Department of Labour and Industrial Relations, *Submission 29*, pp. 5-6.

101 Solomon Islands' Ministry of Foreign Affairs and External Trade, *Submission 7*, p. 3.

Compliance and related issues

- 10.1 Towards the end of the inquiry, the Seasonal Worker Programme (SWP) received some negative media coverage over the alleged mistreatment of seasonal worker participants.
- 10.2 These reports alleged that seasonal workers were underpaid, housed in substandard accommodation, refused medical access and pastoral care, and verbally abused and underfed.
- 10.3 This chapter considers whether illegal activity is prevalent within the Seasonal Worker Programme (SWP) and the current compliance regime.

Illegal labour hire operators

- 10.4 Growcom stated that, while the SWP regulations were robust, it did not prevent exploitation of seasonal workers:

It would appear that the regulations around the Seasonal Worker Program are robust, although this does not prevent rogue employers/labour hire operators from exploiting these workers in a very few cases. The intersection of vulnerable workers with unethical and illegal labour hire operators has been a major concern.¹

- 10.5 Growcom added that the Department of Employment (DoE) had taken positive steps to address the issue:

¹ Growcom, *Submission 16*, p. 5.

It is positive to note however that the Department of Employment addressed this issue by excluding any business with less than 5 years of 'clean slate' operations. This restriction should see fewer issues of underpayment and exploitation arising in the future.²

10.6 Connect Group Pty Ltd observed that the use of illegal contracting operators was rife within the sector, suggesting that they were sourced from:

- Legitimate Working Holiday visa holders who are often exploited as has been demonstrated during the recent Four Corners program.
- Organised gangs brought into Australia on Tourist visas with no legal entitlement to work.
- Common sourcing countries include Vietnam, Cambodia and Malaysia. China is now also emerging as a sourcing nation in this space.
- Australian residents/citizens who are on Centrelink or other benefits and who are paid over and above those benefits. Such incomes are never declared to the appropriate authority.³

10.7 Connect Group Pty Ltd recommended implementing a grower reporting system administered by a central body where:

... any grower utilising the services of contractor would by law have to forward all details of any contractor they engaged electronically to a central federal government body.

Such details would include contractors ACN, ABN, Trading Names, addresses, bank details and their workers names & tfn's [tax file number] / visa / passport details and would be contained on a standardised form.⁴

10.8 Connect Group was also of the view that State and Federal bodies need to strengthen their ability to impose fines on contractors or clients acting illegally.⁵

10.9 Vernview Pty Ltd advised that they had experience in working with a labour hire company who may have been involved in illegal practices:

2 Growcom, *Submission 16*, p. 5.

3 Connect Group Pty Ltd, *Submission 18*, p. 7.

4 Connect Group Pty Ltd, *Submission 18*, p. 8.

5 Connect Group Pty Ltd, *Submission 18*, p. 8.

We were unsatisfied with the labour hire contractors, who churned staff continually. They could supply the labour when we needed it but we were unhappy with their employment practices. We decided not to engage them any longer as we were concerned they may have been employing illegal labour and/or not paying their workers correctly, hence the reason for staff churn.⁶

10.10 Abbotsleigh Citrus commented on the 'need to ensure that the programme is not jeopardised by sub-standard employers and labour hire contractors.'⁷

10.11 MADEC Australia advised that there were some unscrupulous labour hire contractors within the industry:

Via our Harvest Offices and NHLIS [National Harvest Labour Information Service] contract, MADEC staff often hear of cases where employees are not being paid their full entitlement. We are also told on occasion by a grower that the rate they are paying their contractor is far below a rate that could reasonably cover award wages and all statutory costs.

This indicates there is an element of dodgy labour hire contractors who pay cash, underpay workers and do not pay other statutory costs, or gouge workers for accommodation, transport or other 'deductions'. As long as this situation continues, there remains a financial incentive not to use SWP workers.⁸

10.12 AUSVEG stated that it had raised the issue of rogue labour hire operators with the DoE and the Department of Foreign Affairs and Trade (DFAT), noting:

... instances of fraudulent recruiters attempting to exploit interested workers during the Pacific Seasonal Worker Pilot Scheme, and noted that it was important to protect the rights of all parties involved in temporary work programmes.⁹

10.13 AUSVEG called on the Government to target 'labour hire companies to ensure that they are acting ethically and within the law when taking part in any temporary work program.'¹⁰

6 Venview Pty Ltd, *Submission 13*, p. 2.

7 Abbotsleigh Citrus, *Submission 15*, p. 2.

8 MADEC Australia, *Submission 17*, p. 4.

9 AUSVEG, *Submission 25*, p. 6.

10 AUSVEG, *Submission 25*, p. 3.

- 10.14 The State, Society and Governance in Melanesia Program (SSGMP) also believed that 'some illegal labour activities reduce the demand for workers under the SWP in Australian horticulture, and is a site of worker abuse and exploitation.'¹¹
- 10.15 The SSGMP added:
- Encouraging Australian employers to shift their labour hire practises (such as the use of illegal labour hire contractors) will require a stronger 'carrot and stick' approach.¹²
- 10.16 The Australian Council of Trade Unions (ACTU) also noted reports on problems within the SWP such as 'poor accommodation, pay deductions, different employment contracts applying and minimum hour's requirements not being met.'¹³
- 10.17 The ACTU did acknowledge, however, that it believed the SWP was regulated appropriately:
- The Seasonal Workers Program has largely avoided some of the more serious problems with exploitation that have afflicted other parts of the temporary work visa program, in large part because proper effort has gone into regulating it.¹⁴
- 10.18 The ACTU suggested that an examination of the risks involved in using labour hire companies should be considered:
- There also needs to be greater consideration given to the risks involved in the continued use of labour hire companies and other intermediaries and what this means for exploitation if the Government opens the program up further. An Australian Institute of Criminology report finds that there is an increased risk of labour exploitation in those cases where an intermediary/labour hire companies are used. Managing the increased risk when intermediaries such as local business organisations and recruiters in the specific countries covered by this scheme are involved is critical. We also note that expansion of the program is being pushed in sectors like hospitality that already have one of the highest rates of sponsor sanctions under the subclass 457 visa scheme.¹⁵

11 State, Society and Governance in Melanesia Program, *Submission 38*, p. 8.

12 State, Society and Governance in Melanesia Program, *Submission 38*, p. 8.

13 Australian Council of Trade Unions, *Submission 19*, p. 9.

14 Australian Council of Trade Unions, *Submission 19*, p. 14.

15 Australian Council of Trade Unions, *Submission 19*, p. 9.

- 10.19 As noted in Chapter 3, NT Farmers and Apple and Pear Australia Limited (APAL) surmised that the change to the tax rule for working holiday makers (WHM)¹⁶ would 'encourage more employers into the black market for labour.'¹⁷
- 10.20 APAL also agreed that 'there are some unscrupulous Labour Hire firms operating within the industry and across the economy more broadly.'¹⁸
- 10.21 APAL recommended establishing checks to make sure that labour hire firms are paying their workers the appropriate award wage and licencing labour hire firms.¹⁹
- 10.22 APAL suggested that there was a need for labour hire companies to be licensed and checked.²⁰
- 10.23 The National Union of Workers (NUW) asserted that the existing SWP regulations contained key vulnerabilities and gaps including:
- dependency on SWP approved employers makes seasonal workers vulnerable to abuse
 - unlawful deductions from seasonal workers wages
 - working excessively long hours without proper compensation for overtime, or a guaranteed hourly rate of pay
 - overcrowded accommodation and unreasonable above-market rate charges for accommodation and transport
 - no formal, transparent process for redeployment for SWP participants
 - racism and discrimination at work
 - approved employers non-compliance of their SWP requirements (particularly for pre-departure and on-arrival briefings).²¹
- 10.24 The NUW made a number of recommendations intended to strengthen compliance and improving conditions:
- Increase Departmental oversight of the pre-departure and on-arrival briefing process.
 - Add a requirement that local trade unions participate in pre-departure briefings in home countries.

16 The Government announced changes to the working holiday maker (WHM) visa in the 2015-16 Budget. It proposed to remove the tax free threshold for WHMs: who would now be taxed at 32.5 per cent tax on every dollar they earned.

17 NT farmers, *Submission 41*, p. 2; Apple and Pear Australia Limited, *Submission 33*, p. 7.

18 Apple and Pear Australia Limited, *Submission 33*, p. 8.

19 Apple and Pear Australia Limited, *Submission 33*, p. 8.

20 Mr Dollisson, Apple and Pear Australia Limited, *Transcript*, 28 October 2015, p. 8.

21 National Union of Workers, *Submission 33*, pp. 2-6.

- Include a provision in the Implementation Arrangements that states a guarantee that workers¹ will not jeopardise their employment, visa or future participation in the Programme by exercising a workplace right, and/or exercising their right to organise alternative accommodation and transport arrangements.
- Develop a transparent process for the redeployment of workers who wish to return.
- Consider changes to the Migration Act that would provide returning workers (and their families) with access to the permanent migration scheme.
- Make it compulsory for approved employers to offer skills and other training.²²

10.25 The Uniting Church in Australia (UCA), Synod of Victoria and Tasmania, recommended enacting legislation requiring labour hire companies to be licensed. The UCA suggested that the licensing regime could include:

- a public register of licensed labour hire providers
- a requirement to reveal the real beneficial owners of a labour hire business
- a test that a person establishing, or participating in the management of, a labour hire business is a fit and proper person and does not have a relevant criminal record
- the payment of a bond by the labour hire business as a deterrent against phoenix activity
- thresholds of capitalisation of assets owned by the labour hire business as a further deterrent against phoenix activity
- the creation of an offence to conduct labour hire activities without being licensed
- the creation of an offence for intentionally structuring an employment relationship to avoid the obligation of being licensed as a labour hire business
- the creation of offences for providing false or misleading information in registering a labour hire business
- an offence for another business to use labour hire services from a business that is not licensed as a labour hire business.²³

10.26 The UCA asserted that a licensing regime would provide a number of benefits:

- make it harder for criminals and other unsuitable people to set up or control labour hire businesses

22 National Union of Workers, *Submission 33*, p. 7.

23 Uniting Church in Australia, Synod of Victoria and Tasmania, *Submission 43*, p. 5.

- make it easier to detect and identify unethical labour hire businesses
 - make it easier for the users of labour hire services to know they are dealing with a reputable provider
 - provide a level of safeguard against phoenix activity
 - make it harder for labour hire businesses to be set up with 'front' people who are not the real owners or controllers of the business
 - reduce the incidence of human trafficking and forced labour through labour hire providers
 - reduce the likelihood of people on temporary work visas will be subjected to unlawful treatment in their wages and conditions
 - increase the ability of third party bodies to find people on temporary work visas in need of assistance, as a public register of labour hire businesses will make it easier to find where these businesses are operating.²⁴
- 10.27 The UCA noted that most European countries and a few in Asia (Japan, Singapore and South Korea) have established licensing regimes for labour hire companies.²⁵
- 10.28 In addition to the recommendation to establish a licensing regime, the UCA also recommended:
- the DoE ensure that SWP participants have access to community groups and a union
 - the DoE provide public guidelines on making a complaint about an SWP approved employer
 - publishing details of when disciplinary action has been taken by the DoE, the Fair Work Ombudsman (FWO), the Department of Immigration and Border Protection or other relevant authority against an SWP approved employer.²⁶
- 10.29 Dr Howe, senior lecturer in law at the University of Adelaide Law School, agreed with the suggestion of requiring labour hire companies to be licensed or accredited:

24 Uniting Church in Australia, Synod of Victoria and Tasmania, *Submission 43*, p. 5.

25 Uniting Church in Australia, Synod of Victoria and Tasmania, *Submission 43*, p. 6.

26 Uniting Church in Australia, Synod of Victoria and Tasmania, *Supplementary Submission 43.1*, p. 1.

I think that you could have a regulatory system similar to the UK [United Kingdom] gangmasters model.²⁷ Where migration intermediaries – whether that is an on-hire labour company or a migration agent – are placing workers for a particular employer, if you have some kind of licensing arrangement and some kind of regulatory oversight around that arrangement, then there is going to be greater compliance with the laws and policies.²⁸

10.30 On the licensing arrangement, Dr Howe added:

A licensing arrangement would at least create a way of ensuring that we know what labour hire companies or migration intermediaries are in operation and which workers they are placing. So there could be some kind of online database where they not only register but also register the names of the workers and perhaps the pay rates that the workers that they are placing are on, and then they might have to attach two payslips or something. That would perhaps provide some checks and balances. There could also be random audit checks around that. That would be one way of at least trying to get a sense of the way migration intermediaries are working in this sector.²⁹

Exploitation of workers

10.31 The Office of the Chief Trade Advisor (OCTA) asserted that the use of illegal workers was adversely impacting on recruiting seasonal workers for the SWP:

Another issue that needs redress involves the use of illegal workers in Australia, who also effectively compete with FIC workers. One estimate puts the number of located illegal workers at over 17,000 in 2013-2014, again significantly more than the number of workers arriving under the SWP. Certainly, more could be done to clamp down on the hiring of these illegal workers.³⁰

27 The Gangmasters Licensing Authority regulates businesses who provide workers to the fresh produce supply chain and horticulture industry, to make sure they meet the employment standards required by law.

28 Dr Howe, University of Adelaide, *Transcript*, 13 November 2015, pp. 15-16.

29 Dr Howe, University of Adelaide, *Transcript*, 13 November 2015, p. 16.

30 Office of the Chief Trade Advisor, *Submission 5*, p. 9.

- 10.32 The Australian Council of Trade Unions (ACTU) believed that employers preferred to use, in part, 'illegal overseas workers without valid work rights.'³¹
- 10.33 Union Aid Abroad – APHEDA (UAB), remarked that exploitation of SWP participants was common and that approved employers were not fulfilling their requirements:
- Evidence from unions in Australia, Pacific Island countries, and East Timor indicates that exploitation of workers participating in the seasonal worker program is common. Complaints include the provision of substandard accommodation, deductions of up to 60% of wages for lodging and board, long hours and excessive or unpaid overtime, and lack of access to health care. Civil society organisations representing Pacific Island communities in Australia, and church organisations in communities with a large representation of participants in the program report that in addition to providing pastoral care, they are often required to support workers to access health services and supplement food. These organisations are effectively subsidizing employers, by fulfilling the requirements that are set down for employers participating in the program.³²
- 10.34 UAB added that workers were generally disinclined to complain about improper treatment for fear that it will adversely impact on their potential earnings over multiple seasons:
- With their visa tied to their employer, they fear that any complaint will see them sent home before the end of their contract, resulting in a significant loss in income. With the majority of participants in the program returning to Australia for multiple seasons, workers also fear that their complaints will affect their selection in future seasons, with a significant and ongoing impact on their earnings and the benefits that accrue to their families.³³
- 10.35 UAB called for increased regulation of the industry by:
- Ensuring that [seasonal workers have] the right to join a trade union and have union representation at any time is upheld.
 - Informing workers of their rights and entitlements through pre-departure training, involving local Pacific Island and Australian unions.

31 Australian Council of Trade Unions, *Submission 19*, p. 11.

32 Union Aid Abroad – APHEDA, *Submission 40*, p. 1.

33 Union Aid Abroad – APHEDA, *Submission 40*, p. 2.

- Ensuring that workers who lodge complaints about exploitative or abusive employers, independently or through their union, do not suffer a loss of income through loss of employment and the subsequent impact on their visa status.
- Ensuring greater transparency around the selection process, so that workers are not screened out of future seasons due to union activity or lodging complaints about exploitative or abusive employers.³⁴

10.36 The Development Policy Centre (DPC), in its joint submission with the World Bank, reported on the findings of two surveys it which asked questions about the use of illegal labour in the horticulture industry:

In our 2011 survey, only 12% of employers were prepared to say that there was no use of illegal labour in the horticultural sector. In our 2014 survey, four out of five (79 percent) growers recognized that undocumented workers were used to at least some extent in the horticulture industry.³⁵

10.37 The DPC recommended:

Crack down on illegal labour in horticulture in all its forms. Increasing funding for the compliance activities undertaken by both the Department of Immigration and Border Protection and the Fair Work Ombudsman would help remove the remaining illegal workers in the horticulture industry.³⁶

10.38 Dr Howe commented more specifically on the vulnerability of WHMs:

The lack of regulation of the WHM visa means an increase in the vulnerability of WHMs to exploitation. The vulnerability of WHMs in the Australian labour market has been recognised by the courts as creating ‘a particular class of employee who are potentially vulnerable to improper practices by their employer’. Increasingly, stories of exploitation of WHMs are emerging.³⁷

10.39 The Democratic Republic of Timor-Leste’s Secretary of State for Professional Training and Employment Policy (SSPTEP) stated that it was important for the Australian Government to address the utilisation of illegal workers in the labour force by farmers/growers.³⁸

34 Union Aid Abroad – APHEDA, *Submission 40*, p. 2.

35 Development Policy Centre and World Bank, *Submission 22*, p. 7.

36 Development Policy Centre and World Bank, *Submission 22*, p. 7.

37 Dr Howe, *Submission 36*, pp. 3-4.

38 Secretary of State for Professional Training and Employment Policy, Democratic Republic of Timor-Leste, *Submission 6*, pp. 2-3.

10.40 The DoE advised that it had no information on the number of illegal workers currently employed within the agriculture, tourism, and accommodation sectors.³⁹

Protections and support for seasonal workers

10.41 The DoE outlined a number of protections and support in place for seasonal workers:

- guaranteeing a minimum average of 30 hours of work per week and a net financial benefit of at least \$1,000 for the period of employment
- they subject to the same protections as Australian workers (awards, agreements, workers' compensation and work health and safety)
- the DoE in partnership with other agencies monitors the employment of seasonal workers to make sure approved employers are meeting their obligations under the SWP and workers are employed in accordance with Australian work standards
- approved employers must submit a recruitment plan to the Australian Government before approval to recruit workers is granted
- SWP participants receive pre-departure briefing delivered by the labour sending county and an on-arrival briefing delivered by their employer
- the DoE also conducts workplace visits from time to time.⁴⁰

10.42 The DoE added that it had implemented:

... a number of new initiatives to improve compliance; these include the formation of a joint Fair Work Ombudsman and Department of Immigration and Border Protection taskforce – Taskforce Cadena – to investigate allegations of exploitation.⁴¹

10.43 Established in June 2015, Taskforce Cadena aims to:

- Reduce visa fraud, illegal work and the exploitation of foreign workers in Australia
- Utilise intelligence from a range of sources to identify and investigate major targets of interest

39 Department of Employment, *Supplementary Submission 2.2*, p. 26.

40 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, pp. 7-8.

41 Senate Standing Committee on Education and Employment, *Supplementary Budget Estimates 2015 – 2016*, Department of Employment Question No. EMSQ15-000396.

- Influence Australian businesses in order to enhance compliance with Australian workplace laws and regulations in relation to foreign worker rights and obligations.⁴²

10.44 In an opening statement to Senate Legal and Constitutional Affairs Legislation Committee on 19 October 2015, the Australian Border Force Commissioner stated:

In the past few months this task force has undertaken five compliance operations, detaining 60 unlawful non-citizens and arresting three persons for breaches of the Migration Act. The task force is currently assessing 31 allegations of organised labour exploitation and has developed a target list of 65 entities, a priority cohort of which are 13 labour hire companies.⁴³

10.45 Additional protections and compliance related activities conducted by the DoE include seeking additional evidence from labour hire contractors, imposing sanctions, and monitoring SWP participant working hours.

10.46 At a public hearing, the DoE remarked that it had amended the application requirements for labour hire contractors in March 2015. Labour hire contractors are now required to provide evidence that they have a 'clean slate for five years around their workplace relations provisions.'⁴⁴

10.47 The DoE also stated that it could impose a number of sanctions in circumstances where concerns had been identified:

Where concerns have been identified, the Department can issue approved employers with a notice to report and/or a notice to rectify. The Department may impose additional reporting requirements, suspend an employer's ability to recruit workers under the programme or terminate their Deed for serious violations.⁴⁵

10.48 Asked how the SWP is monitored to guarantee seasonal workers a minimum average of 30 hours work per week, the DoE advised:

Approved employers must provide the Department of Employment with data to demonstrate a minimum average of 30 hours per week for all seasonal workers employed.⁴⁶

42 Department of Immigration and Border Protection, *Supplementary Submission 39.1*, p. 14.

43 Department of Immigration and Border Protection, 'Estimates Hearing, Statement by Roman Quaadvlieg APM, Australian Border Force Commissioner, 19 October 2015', viewed on 14 April 2016, <https://www.border.gov.au/about/news-media/speeches-presentations/2015/commissioner-opening-statement-19oct-2015>.

44 Ms Durbin, Department of Employment, *Transcript*, 2 March 2016, p. 5.

45 Department of Employment, *Supplementary Submission 2.4*, pp. 3.

46 Department of Employment, *Supplementary Submission 2.4*, pp. 2.

- 10.49 In addition to the compliance activities of the DoE, the FWO addresses allegations of approved employer non-compliance and investigates 'complaints in relation to the payment of minimum wages and employment conditions of seasonal workers contained in the *Fair Work Act 2009* and relevant industrial instruments.'⁴⁷
- 10.50 The FWO also:
- ... offers specialised services to programme participants including:
 - tailored advice to employers and seasonal workers
 - developing and maintaining relationships with new approved employers
 - providing a single expert contact point and priority service channel to deliver advice quickly to approved employers
 - providing relevant educational resources to approved employers to assist them to understand their obligations under Commonwealth workplace laws
 - conducting face-to-face briefings for groups of new seasonal workers; and
 - providing in-language factsheets and other educational resources to new seasonal workers.⁴⁸
- 10.51 The FWO acknowledged that there were challenges in conducting compliance activities such as 'the transient nature of visa holders; language barriers; visa holders' limited understanding of workplace entitlements; and their concerns about their visa status.'⁴⁹
- 10.52 The FWO conducts a number of additional compliance and related research activities, including:
- conducting background checks on prospective employers who are seeking to participate in the SWP⁵⁰
 - conducting targeted and random proactive audits of approved employers
 - commencing a three-year inquiry into the horticulture industry that follows the Harvest Trail initiative looking at the drivers of non-compliance with workplace laws in the horticulture industry and labour hire arrangements

47 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, pp. 8-9.

48 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 9.

49 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 21.

50 Mr Campbell, Fair Work Ombudsman, *Transcript*, 24 February 2016, p. 1.

- consultations with key stakeholder groups including consulates, unions, community groups, employer organisations and local government to understand the underlying drivers of non-compliance in the horticulture industry.⁵¹
- 10.53 The FWO advised that in the last financial year it 'received a little over 200 requests for assistance from workers in the horticultural sector.'⁵²
- 10.54 In relation to the number of investigations and requests for assistance involving the SWP, the FWO advised it received:
- 20 complaints related to approved employers in the programme between 8 August 2008 to December 2014⁵³
 - 11 requests for assistance involving SWP participants between 1 July 2014 and 31 June 2015⁵⁴
 - four requests for assistance this financial year which are being considered.⁵⁵
- 10.55 On its compliance outcomes, the FWO added that it had:
- recently put into court one matter involving seasonal workers.
 - four ongoing investigations into those allegations that have arisen through those requests for assistance⁵⁶
 - recovered \$125,000 for 15 employees
 - issued one letter of caution and two infringement notices on employers so far this financial year.⁵⁷

51 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 21.

52 Mr Campbell, Fair Work Ombudsman, *Transcript*, 24 February 2016, p. 2.

53 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 21.

54 Mr Campbell, Fair Work Ombudsman, *Transcript*, 24 February 2016, p. 2.

55 Mr Campbell, Fair Work Ombudsman, *Transcript*, 24 February 2016, p. 5.

56 Mr Campbell, Fair Work Ombudsman, *Transcript*, 24 February 2016, p. 2.

57 Mr Campbell, Fair Work Ombudsman, *Transcript*, 24 February 2016, p. 5.

10.56 The FWO were of the view that the current protections were robust and recommended:

... that we [the FWO] continue to monitor to make sure that the information being provided is up to date, it is accurate and it is as helpful as possible. We need to respond to feedback from participants to see whether or not it is helpful and, if it is not, we need to be flexible enough to provide additional information. The parameters seem sound, in my personal opinion, in the sense that we provide a range of information both in country and then on arrival and then there are the compliance checks at the back end.⁵⁸

10.57 On 15 October 2015, the Government announced that it had established a Ministerial Working Group aimed at protecting vulnerable foreign workers.⁵⁹

Committee comment

10.58 The Committee notes that the number of complaints and investigations conducted by the Fair Work Ombudsman into non-compliance by approved employers is relatively low compared to all industries Australia wide.

10.59 However, one case of exploitation is one too many, especially considering the small number of approved employers currently participating in the Seasonal Worker Programme (58 in total).

10.60 The Committee is of the view that labour hire companies and, in particular, the so called 'phoenix' operators are particularly harmful to the industry and seasonal workers.

10.61 The Committee notes the Senate Education and Employment References Committee's recommendation that:

58 Mr O'Shea, Fair Work Ombudsman, *Transcript*, 24 February 2016, p. 3.

59 Senator the Hon Michaelia Cash, Minister for Employment; 'Ministerial Working Group to help protect vulnerable foreign workers', Media Release, 15 October 2015.

... a licensing regime for labour hire contractors be established with a requirement that a business can only use a licensed labour hire contractor to procure labour. There should be a public register of all labour hire contractors. Labour hire contractors must meet and be able to demonstrate compliance with all workplace, employment, tax, and superannuation laws in order to gain a license. In addition, labour hire contractors that use other labour hire contractors, including those located overseas, should be obliged to ensure that those subcontractors also hold a license.⁶⁰

- 10.62 The Committee supports the recommendation of our Senate colleagues and urges the Australian Government to establish a licensing regime for labour hire contractors.

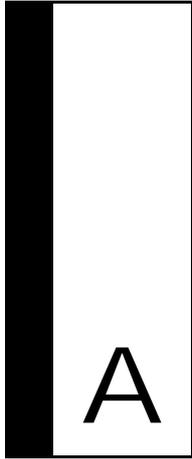
Recommendation 9

The Committee recommends that the Australian Government implement Recommendation 32 of the Senate Education and Employment References Committee report on the impact of Australia's temporary work visa programs on the Australian labour market and on the temporary work visa holders.

Mrs Louise Markus MP
Chair

5 May 2016

60 Senate Education and Employment References Committee, *A National Disgrace: The Exploitation of Temporary Work Visa Holders*, March 2016, p. xiv.

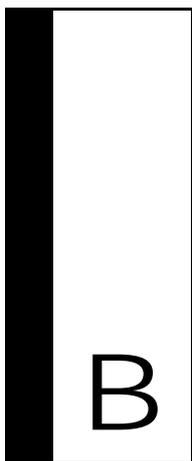


Appendix A: List of submissions

- 1 Owen Pacific Workforce
- 2 Department of Employment
- 2.1 Department of Employment – Supplementary submission
- 2.2 Department of Employment – Supplementary submission
- 2.3 Department of Employment – Supplementary submission
- 2.4 Department of Employment – Supplementary submission
- 3 Mr Paul Casey
- 4 Momack Produce Pty Ltd
- 5 Office of the Chief Trade Adviser (OCTA) for Forum Island Countries
- 6 Secretary of State for Professional Training and Employment Policy Timor-Leste
- 7 Ministry of Foreign Affairs and External Trade - Solomon Islands Government
- 8 Mossmont Nurseries Pty Ltd
- 9 Victorian Farmers Federation
- 10 Ministry of Foreign Affairs and Trade, Ministry of Business, Innovation and Employment - New Zealand
- 11 Australian Dairy Farmers
- 12 Deep Creek Organics
- 13 Vernview Pty Ltd
- 14 Gracekate Farms
- 15 Abbotsleigh Citrus
- 16 Growcom
- 17 MADEC Australia

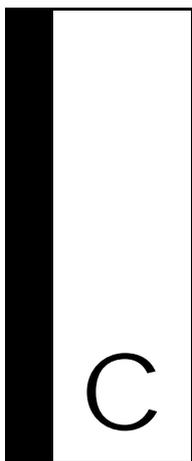
- 18 Connect Group Pty Ltd
- 19 Australian Council of Trade Unions
- 19.1 Australian Council of Trade Unions – Supplementary submission
- 20 Golden Mile No 1 Pty Ltd
- 21 National Farmers' Federation
- 21.1 National Farmers' Federation – Supplementary submission
- 22 Development Policy Centre and World Bank
- 22.1 Development Policy Centre and World Bank – Supplementary submission
- 23 Red Cross Training Services
- 24 Australian Trade Commission
- 25 AUSVEG
- 26 Tourism & Transport Forum
- 26.1 Tourism & Transport Forum – Supplementary submission
- 27 TAFE Queensland
- 27.1 TAFE Queensland – Supplementary submission
- 28 Tourism Accommodation Australia
- 28.1 Tourism Accommodation Australia – Supplementary submission
- 29 Department of Labour & Industrial Relations - Papua New Guinea
- 30 Confidential submission
- 31 International Labour Organization (ILO) Office for Pacific Island Countries
- 32 Ministry of Labour and Human Resources Development - Kiribati
- 33 Apple & Pear Australia Limited APAL
- 34 Voice of Horticulture
- 35 Confidential submission
- 36 Dr Joanna Howe
- 37 Department of Foreign Affairs and Trade
- 38 State, Society and Governance in Melanesia Program, ANU
- 38.1 State, Society and Governance in Melanesia Program, ANU – Supplementary submission
- 39 Department of Immigration and Border Protection
- 39.1 Department of Immigration and Border Protection – Supplementary submission
- 40 Union Aid Abroad – APHEDA

- 41 NT Farmers
- 42 National Union of Workers
- 43 Uniting Church in Australia, Synod of Victoria and Tasmania
- 43.1 Uniting Church in Australia, Synod of Victoria and Tasmania -
Supplementary submission
- 44 Seasonal Labour Solutions
- 44.1 Seasonal Labour Solutions - Supplementary submission
- 45 Fair Work Ombudsman



Appendix B: List of exhibits

1. Owen Pacific Workforce
Seasonal Worker Program Presentation Talk at launch of research study – ANU, Canberra
2. Development Policy Centre
Australia's Pacific Seasonal Worker Pilot Scheme: why has take-up been so low? Devpolicy Blog, April 4 2012
3. Development Policy Centre
Where are all the seasonal workers? The most comprehensive survey of employers yet. Devpolicy Blog, February 18 2015
4. Development Policy Centre
Collection of employer and recruiter perspective blogs on the Seasonal Worker Program 2012-2015, Devpolicy Blog
5. Development Policy Centre
Australia's Pacific Seasonal Worker Pilot Scheme: why has take-up been so low? Development Policy Centre Discussion Paper 2012/17
6. Development Policy Centre
Australia's Seasonal Worker Program: demand-side constraints and suggested reforms. Devpolicy/World Bank Group, February 2015
7. Dr Joanna Howe
Addressing Labour Supply Challenges and Precarious Work in Australian horticulture



Appendix C: List of public hearings

Canberra, Wednesday, 24 June 2015

Department of Employment

Ms Alison Durbin, Branch Manager, Workplace Relations Policy Group, Industries and Awards Branch

Mr Mark Roddam, Branch Manager, Workers Compensation Branch, Work Health and Safety Policy Group

Ms Susannah Smith, Workplace Relations Policy Group, Industries and Awards Branch, Seasonal Worker Programme Section

Canberra, Wednesday, 9 September 2015

Development Policy Centre

Professor Stephen Howes, Director

Canberra, Wednesday, 16 September 2015

National Farmers' Federation

Ms Sarah McKinnon, Manager, Workplace Relations and Legal Affairs

Canberra, Wednesday, 14 October 2015

State, Society and Governance in Melanesia Program, ANU

Dr Rochelle-Lee Bailey, Research Fellow

Dr Rochelle Ball, Fellow, Labour Mobility

Melbourne, Wednesday, 28 October 2015

Voice of Horticulture

Mr John Dollisson, Deputy Chair, Voice of Horticulture

Apple and Pear Australia

Mr John Dollisson, Chief Executive Officer

Ms Annie Farrow, Industry Services Manager

AUSVEG

Mr Richard Mulcahy, Chief Executive Officer

Mr Andrew White, Deputy Chief Executive Officer

Vernview Pty Ltd

Mrs Susan Elizabeth Finger, Director

Seasonal Labour Solutions Pty Ltd

Mr Mark Bartolo, Chief Financial Officer

Mr Brian Fankhauser, Director

Mossmont Nurseries Pty Ltd

Mr Jonathan Moss, Manager

Australian Council of Trade Unions

Mr Tim Shipstone, Industrial Officer

MADEC Australia

Mr Robert John Hayes, State Manager, Harvest Labour Services

Connect Group Pty Ltd

Mr Michael John Fryszer, Managing Director

Australian Dairy Farmers

Mr Noel Campbell, President

Mr Shane Hellwege, Group Manager, Industry People and Capability

Mr David Losberg, Senior Policy Manager

Cardinia, Thursday, 29 October 2015Momack Produce Pty Ltd

Mr Richard John Birtill, Export Coordinator

Garnett Pty Ltd, trading as The Big Berry

Mr Paul Aloysius Casey, Manager Director

Canberra, Friday, 13 November 2015Golden Mile No 1 Pty Ltd

Mr Henrik Petersen, Farm Manager

Department of Foreign Affairs and Trade

Dr Tanya Chakriya Bowman, Director, Economic Growth Section, Pacific Regional Branch, Pacific Division

Ms Alice Cawte, Assistant Secretary, Pacific Regional Branch, Pacific Division

Ms Katie Smith, Acting Director, Timor-Leste Section, Indonesia Program Delivery and Timor-Leste Branch, Southeast Asia Maritime Division

Private capacity

Dr Joanna Howe

TAFE Queensland South West

Mrs Michele Berkhout, Director, Corporate Solutions

Tourism Accommodation Australia

Mr Des Crowe, Chief Executive Officer, Northern Territory

Miss Olivia Graham, Policy and Research Officer

Ministry of Foreign Affairs and Trade, Ministry of Business, Innovation and Employment, New Zealand

Deputy High Commissioner Llewellyn Charles Roberts, Deputy High Commissioner

State, Society and Governance in Melanesia Program, ANU

Dr Rochelle-lee Bailey, Research Fellow

Dr Rochelle Ball, Fellow, Labour Mobility

Tourism & Transport Forum

Mr Justin Koek, Director of Policy

Ms Bianca Tomanovic, Manager of Tourism Policy

Gracekate Farms

Mrs Kerry McCarthy, Owner

Growcom

Ms Donna Mogg, Commercial Services Manager

Department of Agriculture and Water Resources

Ms Fran Freeman, First Assistant Secretary

Mr Michael Ryan, Director

Department of Employment

Mr Douglas Hay, Acting Assistant Director, Seasonal Worker Program, Wages Policy and Industries Branch

Dr Alison Morehead, Group Manager, Workplace Relations Policy Group

Ms Nicola Roach, Assistant Director, Seasonal Worker Program, Wages Policy and Industries Branch, Workplace Relations Policy Group

Department of Immigration and Border Protection

Mr David Nockels, Commander, Immigration and Customs Enforcement, Investigations Division, Australian Border Force

Mr David Wilden, First Assistant Secretary, Immigration and Citizenship Policy Division

Canberra, Wednesday, 24 February 2016

Fair Work Ombudsman

Mr Michael Campbell, Deputy Fair Work Ombudsman

Mr Anthony Fogarty, Director of Policy

Mr Tom O'Shea, Executive Director, Policy, Media and Communications

Canberra, Wednesday, 2 March 2016

Department of Employment

Ms Alison Durbin, Manager, Wages Policy and Industries Branch, Workplace Relations Policy Group

Mr Douglas Hay, Acting Assistant Director, Seasonal Worker Program Wages, Policy and Industry Branch, Workplace Relations Policy Group

Ms Sheridan Langford, Seasonal Worker Program Team, Wages, Policy and Industry Branch, Workplace Relations Policy Group

Ms Nicola Roach, Assistant Director, Seasonal Worker Program

Canberra, Wednesday, 16 March 2016

Uniting Church in Australia, Synod of Victoria and Tasmania

Dr Mark Zirnsak, Director, Justice and International Mission Unit

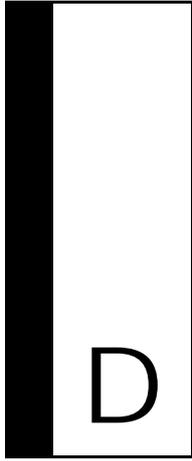
Just Integrity Solutions

Mrs Gillian Donnelly, Principal Investigator

National Union of Workers

Mr Matt Toner, Lead Organiser

Mr George Robertson, Organiser



Appendix D: Implementation arrangements for the Seasonal Worker Programme

Seasonal Worker Programme

Implementation Arrangements

Australia's Seasonal Worker Programme (SWP) commenced on 1 July 2012. .

The SWP aims to:

- contribute to economic development in partner countries by providing employment opportunities, remittances and opportunities for up-skilling and
- in doing so the SWP will also provide benefits to the Australian economy and to Australian employers who can demonstrate that they cannot source suitable Australian labour.

The following countries have been invited to participate in the Seasonal Worker Programme:

Government of the Republic of Fiji
Government of the Republic of Kiribati
Government of the Republic of Nauru
Government of the Independent State of Papua New Guinea
Government of the Independent State of Samoa
Government of Solomon Islands
Government of the Democratic Republic of Timor-Leste
Government of the Kingdom of Tonga
Government of the Government of Tuvalu
Government of the Republic of Vanuatu

Countries that have entered into a Memoranda of Understanding for the Seasonal Worker Programme are collectively known as "Participating Countries".

The IAs are comprised of the following documents:

1. Supervision and resourcing of labour sending and labour receiving arrangements
2. Recruitment
3. Programme eligibility requirements
4. Visa eligibility requirements
5. Visa application requirements and processing arrangements
6. Employment arrangements
7. Briefings
8. Monitoring and compliance
9. Capacity building for Participating Countries

1. Supervision and resourcing of labour sending and labour receiving arrangements

In order to support and facilitate recruitment of suitable, fit, healthy and work-ready Seasonal Workers from Participating Countries, each Participating Country will maintain close supervision of national labour-sending arrangements and dedicate adequate staff and resources. The nominated Ministry and/or their appointed/licensed recruitment agents will be granted the necessary authority to liaise with Approved Employers(AEs) to:

- offer AEs eligible candidates, taking account of employer requirements, development objectives and gender equity;
- assist AEs to interview and/or screen candidates;
- assist candidates to obtain health checks and police clearances;
- assist candidates to understand the recruitment process;
- assist selected candidates to understand their offer of employment;
- assist selected candidates to lodge fully completed visa applications;
- provide a pre-departure briefing for selected candidates; and
- arrange Seasonal Workers' travel arrangements.

In order to support and facilitate the recruitment of Seasonal Workers from Participating Countries, the Australian Government will maintain close supervision of national labour-receiving arrangements and dedicate adequate staff and resources. The Australian Government will ensure that AEs will:

- select eligible candidates from the nominated Ministry and/or their appointed/licensed recruitment agents; arrange and pay for the full cost of Seasonal Workers return travel to Australia up front as well as any domestic transportation arrangements from Seasonal Workers' port of entry in Australia to their host location and may then deduct in instalments from Seasonal Workers' pay the combined cost of these transportation arrangements minus \$500;
- arrange suitable accommodation and local transport for Seasonal Workers;
- provide an on-arrival briefing for Seasonal Workers;
- provide Seasonal Workers with a minimum average of 30 hours of work per week for the duration of their employment;
- provide Seasonal Workers with pastoral care (see document entitled "Employment Arrangements") and encourage interaction between Seasonal Workers and receiving communities; and
- monitor Seasonal Workers' employment.

2. Recruitment

The Participants recognise three recruitment pathways under the Seasonal Worker Programme (SWP):

1. Recruitment from a work-ready pool
2. Recruitment via appointed or licensed Agents
3. Direct recruitment by employers

The Australian Government recognises that the recruitment pathway/s available in a particular country is at the discretion of that country.

Participating Countries are to advise the Australian Government of changes to their recruitment pathways, including their preferred recruitment pathway/s.

Work-Ready Pool Recruitment

Recruitment Pathway in Fiji, Kiribati, Nauru, Papua New Guinea, Samoa, Solomon Islands, Timor-Leste, Tonga, Tuvalu and Vanuatu

The nominated Ministry in each Participating Country will establish a work-ready pool of suitable candidates from which the AEs can recruit. The Participating Country may identify individuals for possible inclusion in the work-ready pool in consultation with stakeholders (such as village councils, church representatives and other relevant community leaders).

The Participating Country will then assess these candidates against the Eligibility Requirements established in these Implementation Arrangements. A screening committee could be established to assist with this process and members could include stakeholder representatives.

Candidates who meet the criteria can then be included in the work-ready pool.

Recruitment from the work-ready pool:

- The Participants note that AEs may select Seasonal Workers with the assistance of the nominated Ministry of the Participating Country, either from Australia or by travelling to the Participating Country.
- Where an AE wishes to interview candidates, the nominated Ministry of the Participating Country will assist the AE to arrange interviews.
- The Participants note that that the AE may want to consider candidates already known to the AE or Seasonal Workers who they have previously recruited.
- The Participants note that AEs may want to consider candidates from one village, district or province, or consider candidates from different villages or districts;
- At the request of the AE, the nominated Ministry will pre-select candidates for who meet their requirements.

Direct Recruitment

Recruitment Pathway in Kiribati, Samoa, Tonga and Vanuatu. The Australian Government recognises that in Kiribati, and Samoa that recruitment via the work-ready pool is the preferred recruitment pathway. Where an AE wishes to recruit directly, the AE must advise the Australian Government and the Participating Country that they wish to undertake Direct Recruitment. The Participating Country reserves the right to final judgement on any candidate

The AEs should work with the nominated Ministry to ensure that the Seasonal Workers selected meet the Eligibility Requirements and the Seasonal Workers' details are entered in the Participating Country's work-ready pool database. The Participating Country will then ensure that each worker is given a pre-departure briefing.

Agent Recruitment

Recruitment Pathway in Kiribati, Solomon Islands and Vanuatu

AEs may undertake recruitment via a recruitment agent licensed by the nominated Ministry.

AEs wishing to recruit via an agent should contact the Australian Government which will provide contact details in the Participating Country and/or the names of all current licensees and the procedure for recruiting via an agent (depending on arrangements agreed with the individual Participating Country). Once initial advice has been provided by the Australian Government, the nominated Ministry in the Participating Country will be the primary facilitative contact for the AE.

The nominated Ministry will include all Seasonal Workers selected via agent recruitment in the work-ready pool database to allow the nominate Ministry to provide a pre-departure briefing.

Licensees will work on behalf of the AEs to identify, screen, brief and arrange transport to Australia of selected Seasonal Workers.

Any licensees engaged by AEs will be paid by AEs, but the decision to offer employment and to enter into an employment agreement remains with the AE.

Integrity of recruitment

In order to ensure the integrity of the SWP the Participants agree that:

- Seasonal Workers can only be recruited via Participating Countries nominated Ministry and/or their appointed/licensed recruitment agent. Direct recruitment can also be used if the Participating Country allows.
- Seasonal Workers can only be recruited by AEs and that the nominated Ministry and/or their appointed/licensed recruitment agent will only make an offer of employment on behalf of the an AEs' once they have been notified by the Australian Government that the recruitment exercise has been approved.
- AEs intending to recruit directly, will only make offers of employment once the nominated Ministry has been notified by the Australian Government that the recruitment exercise has been approved.
- The Participants acknowledge that it is the prerogative of AEs to decide which Participating Country they will recruit from.
- As far as possible the Participating Country will give consideration to gender equity in the composition of the work-ready pool and in the selection of candidates recommended to AEs.
- The Participating Country will manage their work-ready pool in a fair, transparent and equitable manner.
- The Australian Government will maintain an up-to-date list of AEs and alert nominated contacts via email of the approval of new AEs.

- The Participants acknowledge that the number of Seasonal Workers recruited from each Participating Country is subject to labour market demand in Australia and satisfactory functioning of recruitment mechanisms.
- The Participants will declare to each other any conflict of interest in the selection of Seasonal Workers prior to their departure to Australia. For example, in the case of a labour sending office in a participating country this would include the recruitment of direct family members by AEs via the Work Ready Pool, Direct or Agent recruitment pathways. In the case of labour receiving arrangements in Australia, this will include the approval of an organisation as an approved employer, where that organisation has a pre-existing relationship with a member of the assessment panel.

3. Programme eligibility requirements

The Participating Country will ensure that the nominated Ministry and/or their appointed/licensed recruitment agents only put forward eligible candidates to the AEs for their consideration. In addition to the eligibility requirements below, there are visa eligibility requirements for the SWP which are set out in section 4 and 5 below.

The nominated Ministry and/or their appointed/licensed recruitment agents will review the eligibility of each and every candidate for each recruitment exercise, including recruitment exercises where Seasonal Workers have been invited by an AE to return to Australia under the SWP in a later season and for Seasonal Workers recruited directly.

Where an AE can recruit directly from a Participating Country:

- the Australian Government will encourage AEs to liaise with the Participating Country to facilitate the recruitment of Seasonal Workers who meet the Programme eligibility requirements; and
- details of all Seasonal Workers recruited directly by AEs are to be submitted to the Participating Country to review their eligibility and provide a pre-departure briefing.

Eligibility criteria are as follows:

Good character

- Prospective seasonal workers must be of good character, and be able to substantiate this by presenting authentic documentation certifying that they do not have a substantial criminal record.

Fit and healthy

- Prospective Seasonal Workers must be healthy and fit for the work specified, as evidenced by undergoing a medical examination.
- Workers who have a medical condition requiring significant ongoing treatment or hospitalisation or are not deemed fit for active work will not be considered eligible for the SWP.

Age

- Prospective Seasonal Workers must have turned 21 at the time of visa application.

Citizenship

- Prospective Seasonal Workers must be citizens of the Participating Country (and not a citizen of Australia) and in the Participating Country at the time of visa application.
 - Citizens of the Participating Country who are in another country are not eligible for the SWP.

Identity

- The nominated Ministry has verified, based on sufficient inquiries and evidence, that the stated identity of the prospective worker is their real identity.

Intentions to return to the Participating Country

- Prospective Seasonal Workers have a genuine intention to enter Australia temporarily for seasonal work, and return to the Participating Country after their employment ceases.

4. Visa eligibility requirements

In order to facilitate the entry and participation of Seasonal Workers, the nominated Ministry agrees to ensure that only prospective Seasonal Workers that can meet the visa eligibility requirements submit visa applications. Visa eligibility requirements for Seasonal Worker Programme participants are set out in the Australian *Migration Act 1958*, the *Migration Regulations 1994* and the supporting policy instructions.

Seasonal Worker Programme visa applications must be made in accordance with Australian immigration law and regulations. Special Programme (subclass 416) visa category facilitates the Seasonal Worker Programme.

Guidance on the requirements may be found below and on the Department of Immigration and Border Protection's website at www.immi.gov.au/Visas/Pages/416-swp.aspx.

Participants note that visa eligibility requirements will include the criteria that:

- Prospective Seasonal Workers must be of good character.

Participating countries will ensure that prospective workers' good character is confirmed and where requested by the Department of Immigration and Border Protection present authentic documentation certifying that the prospective workers do not have a substantial criminal record

- Prospective workers must be of good health.

Seasonal workers who have a medical condition requiring significant ongoing treatment or hospitalisation may not be able to meet the visa health criteria. The health requirements for seasonal workers from Kiribati, Nauru, Papua New Guinea, Solomon Islands, Timor-Leste and Tuvalu will generally consist of a chest X-ray. Further medical assessments may also be requested of Seasonal Workers from any of the Participating Countries including Fiji, Samoa and Tonga, depending on medical history and proposed activities while in Australia

- Prospective Seasonal Workers must have turned 21 at the time of visa application.
- Prospective workers must be citizens of the Participating Country and residing in the Participating Country at the time of visa application.
- The nominated Ministry has verified, based on sufficient inquiries and evidence, that the stated identity of the prospective seasonal worker is their real identity.
- Prospective Seasonal Workers have a genuine intention to enter Australia temporarily for seasonal work, and return to their Citizenship Country after their employment ceases.
- Seasonal workers seeking to return for a subsequent season must also have complied with the previous Special Programme (subclass 416) visa requirements and visa conditions.

Prospective Seasonal Workers will also need to meet any Seasonal Worker Programme eligibility requirements that precede Visa Eligibility Requirements.

5. Visa application requirements and processing arrangements

To assist with the participation of Seasonal Workers in the Seasonal Worker Programme, and subsequent return, the Department of Immigration and Border Protection commits to timely and efficient processing of visa applications on the basis that:

- Visa applicants must complete in full the relevant application forms and provide requested documentation and evidence in support of their application. The Department of Immigration and Border Protection will provide training and assistance to Participating Country nominated Ministries on the visa application processes;
- Seasonal workers must be sponsored by an Australian organisation that has been approved as a Special Programme Sponsor for the Seasonal Worker Programme under Special Programme (Subclass 416) visa; and
- Visa applicants for the Seasonal Worker Programme will not be able to include any dependents or accompanying family members in their visa application.

Complete visa applications with supporting documentation can only be lodged at the office identified by the Department of Immigration and Border Protection for this purpose, and will comprise:

- The completed visa application form signed by the applicant including a passport photo of the visa applicant;
- The visa application charge applicable at time of lodgement;
- A certified copy of the photo identity page of the applicant's passport;
- The original or a certified copy of evidence in writing from the Special Programme Sponsor, who has agreed to sponsor the visa applicant in relation to the Seasonal Worker Programme. The evidence in writing may be in a form of a letter of invitation from the sponsor, detailing the type of employment, duration and location in Australia;
- Evidence that the Australian organisation has been approved as a Special Programme Sponsor, for example, sponsorship application ID number or sponsor approval letter; and
- Evidence of arrangements made for private health insurance while in Australia.

Where required, visa applicants must also undergo a chest X-ray (no more than 3 months before visa application) or a medical assessment at an approved radiology clinic or panel doctor.

Participants acknowledge that a decision on visa grant or refusal is the sole domain of the Australian Government. A decision to refuse to grant a visa under the SWP is merits reviewable by the Migration Review Tribunal in Australia.

Visas granted to Seasonal Workers will be valid for multiple entry, allowing for a stay of up to seven (7) months in Australia, depending on the work placement, and will be subject to the conditions that the visa holder: The maximum work period is for 6 months. The visa cannot be granted more than 2 weeks prior to the proposed travel date

- May only work for the Australian Sponsor that has sponsored the seasonal worker's employment in Australia as part of the Seasonal Worker programme (visa condition 8107); and
- Must have and maintain private health insurance at the appropriate level while in Australia (visa condition 8501); and
- Will not, after entering Australia, be entitled to be granted a substantive visa, other than a Protection Visa, while the holder remains in Australia (visa condition 8503).

The Department of Immigration and Border Protection will provide Participating Countries with information outlining seasonal worker visa obligations while in Australia and employed by the Australian Special Programme Sponsor. Application forms, current fees and other visa information about the Seasonal Worker Programme are available on the Department of Immigration and Border Protection's website at www.immi.gov.au. The Department of Immigration and Border Protection will inform Participating Countries of any updates and changes.

6. Employment arrangements

The Australian Government will ensure that Approved Employers (AEs) make a written offer of employment to a Seasonal Worker and that the offer is signed by, or on behalf of, the AE. The offer will be in line with Seasonal Worker Programme (SWP) requirements and will set out:

- pay and conditions of employment and the relevant industrial instrument;
- commencement and duration of employment;
- location of employment;
- description of the type of work the Seasonal Worker will undertake; and
- accommodation and transportation arrangements.

The employment offer is for work in Australia's agriculture (including aquaculture) industry, and in Australia's accommodation industry in locations specified by the Australian Government. Eligible occupations within these industries are set out on the Seasonal Worker Programme website www.employment.gov.au/seasonal-worker-programme. The employment offer will be made subject to a visa grant.

The nominated Ministries and/or licensed recruitment/appointed recruitment agents will:

- highlight to selected candidates that they have an opportunity to seek independent advice;
- explain the offer of employment in an appropriate language.

The selected candidate must sign the employment offer before they can submit a visa application to work in Australia under the SWP.

The nominated Ministry and/or their appointed/licensed recruitment agent will ensure the selected candidate receives and retains the employment offer.

The nominated Ministry will take a copy of the letter for their records and assist the AE to obtain a signed copy of the employment offer.

To facilitate Seasonal Workers' safe, secure and rewarding participation in the SWP, the Australian Government, will require AEs to:

- employ Seasonal Workers in accordance with an fair work instrument which may exceed (but not be less than) the minimum provided under Fair Work legislation;
- ensure Seasonal Workers are aware they can join a union;
- guarantee Seasonal Workers will be provided with a minimum average of 30 hours of work per week;
- provide employment to Seasonal Workers for up to six months, except in the case of the microstates of Kiribati, Nauru and Tuvalu, who may be employed for up to nine months. Prior to recruiting Seasonal Workers, AEs must demonstrate to the Australian Government that Seasonal Workers will benefit financially from their participation.

- submit a plan for the Australian Government's approval outlining their intended arrangements for the recruitment and pastoral care of Seasonal Workers;
- recruit in accordance with the approval provided by the Australian Government;
- provide Seasonal Workers with Australian workers' compensation insurance;
- tax Seasonal Workers in accordance with Australian taxation laws;
- pay Seasonal Workers superannuation in accordance with Australian laws;
- provide Seasonal Workers with a safe workplace in accordance with Australian Occupational Health and Safety laws;
- arrange and pay for the full cost of Seasonal Workers return travel to Australia up front as well as any domestic transportation arrangements from Seasonal Workers' port of entry in Australia to their host location and may then deduct in instalments from Seasonal Workers' pay the combined cost of these transportation arrangements minus \$500;
- only make deductions from the pay of Seasonal Workers with the written agreement of Seasonal Worker and in accordance with Australian laws;
- establish arrangements for the pastoral care of Seasonal Workers;
- assist Seasonal Workers access church, recreational and sporting activities;
- arrange suitable accommodation for Seasonal Workers;
- arrange transportation to and from accommodation to work;
- ensure Seasonal Workers have access to shops and community facilities;
- contribute information to the pre-departure briefing;
- conduct an on-arrival briefing at no charge to Seasonal Workers;
- facilitate access to personal banking;
- provide a workplace induction;
- provide necessary translation of work notices and guidelines;
- monitor Seasonal Workers progress regularly;
- report to the Australian Government on a regular basis; and
- conduct an on-return briefing at no charge to the Seasonal Worker.

7. Briefings

Pre-application briefing

The nominated Ministry will ensure that prospective candidates and their communities have access to information describing basic facts about the SWP and living and working in Australia prior to applying to participate in the Seasonal Work Programme (SWP).

The Australian Government will provide the nominated Ministry of Participating Countries with material for use in pre-application briefings.

Pre-departure briefing

In order to maximise the benefits, and minimise the risks to Seasonal Workers of employment in Australia and the adjustments involved, each Participating Country's nominated Ministry will ensure Seasonal Workers receive a pre-departure briefing.

The pre-departure briefing will address:

- Wages and conditions offered to Seasonal Workers;
- How to raise a concern with their Australian Approved Employer (AE);
- The role of the Fair Work Ombudsman (FWO);
- The role of unions in Australia;
- The deductions that can be lawfully made from Seasonal Workers' earnings;
- Taxation;
- Superannuation;
- Workers' compensation;
- Details of a payslip;
- Safety at work;
- Discrimination and harassment in the workplace;
- Productivity at work;
- The costs involved in the SWP:
 - Travel costs to and from Australia
 - Travel costs to and from work
 - Accommodation
 - Living expenses
 - Health insurance
- Financial literacy training, banking and remittance arrangements;

- Visa conditions – what they mean and implications if breached;
- What to do in an emergency;
- The location of the work and accommodation;
- Availability of services in the community;
- Staying healthy and what to do if a Seasonal Worker becomes unwell;
- Personal safety;
- Health insurance;
- Climate;
- Flights to and from Australia; and
- Australia’s customs, immigration and quarantine arrangements.

The Participating Country will invite other representatives with relevant expertise to participate in pre-departure briefings. Representatives may include:

- Unions;
- Banking or financial institutions;
- Government officials from other Ministries;
- Returned Seasonal Workers;
- Medical professionals; and
- Community organisations.

The Australian Government and AEs will make available to the nominated Ministry training materials, a DVD and information that may be drawn on for the purpose of delivering a pre-departure briefing. The Australian Government will liaise with the Ministry regarding the translation of materials, where appropriate.

On-arrival briefing

In order to maximise the benefits, and minimise the risks, to Seasonal Workers of employment in Australia and the adjustments involved, the Australian Government will ensure that AEs provide Seasonal Workers with appropriate on-arrival briefing and orientation material. The Australian Government will provide AEs with information to assist them to deliver an on-arrival briefing.

The on-arrival briefing may be undertaken in consultation with the local receiving community and will cover at a minimum:

- contacts for assistance;
- what to do in an emergency situation;
- accommodation arrangements, including:
 - toilet and washing facilities

- clothes washing and drying facilities
- food storage and cooking facilities
- cleaning arrangements
- cost and payment arrangements
- bond and bill arrangement
- fire evacuation procedure
- accommodation provider's rules
- what to do if the Seasonal Worker would like to make alternate accommodation arrangements;
- transportation arrangements, including what to do if the Seasonal Worker would like to make alternative transportation arrangements;
- local and regional orientation information, including:
 - the location of shops
 - the location of medical and health facilities
 - the location of banking and financial institutions
 - the location of religious and recreational centres
 - the location of community facilities (e.g. library);
- assistance with filling-in relevant forms;
- what to do if a Seasonal Worker becomes unwell;
- pay and conditions of employment;
- workers' rights and responsibilities;
- on the job training and employment orientation, including an occupational health and safety briefing;
- financial literacy, banking and remittance arrangements.

The AE will invite a representative from:

- the relevant union;
- the Fair Work Ombudsman; and
- a banking institution;

to address Seasonal Workers.

The AE will also:

- arrange access to personal banking for Seasonal Workers; and

- assist Seasonal Workers to apply for a tax file number and establish a superannuation account.

Pre-return briefing

The Australian Government will ensure that AEs provide Seasonal Workers with an on-return briefing, which covers at a minimum:

- Transportation arrangements to the airport;
- Finalising bills and accounts; and
- Excess luggage.
- The process for claiming superannuation

On-return briefing

The nominated Ministry will provide Seasonal Workers with an on-return briefing, which covers at a minimum:

- Earnings and Seasonal Workers' goals;
- How to claim superannuation;
- Keeping in touch in case the AE wants the Seasonal Workers to return in following years.

The nominated Ministry will also seek feedback from the Seasonal Workers on their placement and on improvements to the briefings and materials provided to assist future Seasonal Workers to be prepared for employment under the SWP.

8. Monitoring and compliance

The Participants commit to co-operatively evaluate the impacts of the Seasonal Worker Programme (SWP) on Participating Countries and Australian industry.

The Australian Government will establish a monitoring and reporting programme to ensure that Seasonal Workers are employed in accordance with the SWP requirements and Australia's Fair Work, Occupational Health and Safety, Immigration, Tax, and Workers' Compensation laws.

The Participants will promptly investigate allegations of:

- exploitation or misconduct by Australian Approved Employers;
- misconduct by Seasonal Workers; and
- breaches of mutually determined recruitment policies, including allegations of fraud or corrupt recruitment practices.

The Participants will share advice on the outcomes of any investigation.

9. Capacity Building for Participating Countries

The Australian Government will assist each Participating Country to establish the necessary mechanisms to facilitate the successful operation of the Seasonal Worker Programme (SWP). To this end, the Australian Government and each Participating Country will negotiate a programme of assistance following careful analysis of current labour-sending arrangements in each Participating Country. This support may be delivered through other development partners and/or existing development assistance programs and will be coordinated with other donors including New Zealand.

Participating Countries will provide the necessary human and funding resources required to achieve the objectives of the SWP.

The programme could include assistance for:

- strengthening Participating Countries' ability to undertake marketing and strengthen employer relationships to help increase the demand for Seasonal Workers;
- ensuring quality of the supply of Seasonal Workers;
- maximising the impact of skills and remittances; and
- improving evidence to policy and management of labour mobility programs.

The Australian Government will provide the nominated Ministry with material for use in pre-application briefings.

The Australian Government will make available to the nominated Ministry training materials, including a DVD and information booklet, which may be drawn on for the purpose of delivering a pre-departure briefing and provided to Seasonal Workers. The Australian Government will liaise with the Ministry regarding the translation of relevant parts, where appropriate.