



SEASONAL WORKERS AUSTRALIA

SUBMISSION TO:

THE NEW 2015 INQUIRY INTO THE SEASONAL WORKER PROGRAMME

The terms of reference for the inquiry include examining:

The role of seasonal workers in the horticulture industry

The role of seasonal workers in the horticulture industry is now more critical than ever. In light of recent changes to 417 Working Holiday Visas and National Taskforce raids across Australia, a critical labour supply shortage could eventuate in the horticulture and agriculture sectors in the medium to long term.

Increased investment in Australian horticulture over the past decade and increasing interest in the sector by multinational companies continues to ramp up production, which in turn requires additional seasonal labour.

By 2050, population growth by an estimated 3 billion more people will significantly increase world food demand. Increasing domestic and worldwide demand needs someone to fill an increasing number of mouths. To do this the Australian horticulture and agriculture industry will require stable, committed and productive seasonal workers to capitalise on future opportunities and meet demand. Otherwise we may experience a famine in the future.

Australia may have its own food crisis, with the WA Vegetable Growers Association indicating their fear that WA will be unable to feed itself with local produce by 2020 and fear an exodus of growers from the industry. Chief Executive of WA Vegetable Growers Association, Jim Turley, labelled the current system as unsustainable.

Grower's margins have become an issue as skyrocketing costs outweigh any increases in sale prices" – Vegetable Growers Association of Victoria Reporter: Jodie Thomson, May 16 2008
http://www.vga.org.au/communication/e_news/australian_food-crisis_ahead.htm

The Parliamentary Inquiry (2004-2009) into the "Question of labour shortages in horticulture, the Committee indicated that it was "concerned that current policy might result in a future government becoming complacent about the labour needs of the horticultural sector, especially if the ripple effects of structural change result in labour shortages becoming a major problem..... There is a danger that a future government might be caught off guard and forced to rush through ill-considered measures to fill a serious labour shortage, with unforeseen consequences."....."There is even a concern in some quarters that failure to expand the seasonal workforce will place restrictions on the investment and expansion opportunities of companies which invest heavily in horticulture."

Working holiday visas have existed since 2005 to try to address acute shortages of workers in agriculture. While the visas were established to service the horticulture industry, in recent years it has expanded to include agriculture more generally, as well as mining and construction. Agriculture is the main user of the scheme, with around 90 per cent of visas being agricultural in nature.

With new tax implications for 417 Working Holiday Visa holders, anyone on a working holiday visa will now have to pay tax from their first dollar earned which is in line with taxation arrangements under the Seasonal Worker Programme (SWP). This will effectively reduce the net pay earned by the 417 Visa holders historically which may have an impact on them wanting to work in the horticulture sector and may reduce available numbers in the labour pool. This remains to be seen however there is now a level playing field with regards to taxation for these respective labour pools.

The Parliamentary Inquiry Committees Report into the “*The Question of labour shortages in horticulture*” - “Chapter 2.6” – indicated that “Backpackers are, for an increasing proportion of growers, the backbone of the harvest labour supply. They are simultaneously growers’ most important asset and the source of much of their frustration. Although the energy of backpackers and their willingness to work long hours is seldom matched by a commitment to stay with one grower to the end of the harvest, and they lack motivation to stay on the job for more than one or two days.....”

The Department of Agriculture ABARES Research study also found that:

“Seasonal workers (SWP) were on average, significantly more efficient than Working Holiday Makers. Of the seasonal workers, those who returned for another season were more efficient than new workers.

The Committees Report Conclusion suggested that “Since the absolute value of the t statistic is greater than the critical value, we reject the null hypothesis at the 99 per cent confidence interval, and accept the alternative: that seasonal workers are more efficient than working holiday makers.”- *Measuring the efficiency of horticulture labour – Case study on seasonal workers and working holiday makers*” Robert Leith & Alistair Davidson Research by the Australian Bureau of Agricultural and Resource Economics & Sciences December 2013

The National Taskforce and Immigration raids over the past 12 months allegedly identified numerous unlawful non-citizens across Australia. They identified what has been reported in the media an ‘underbelly of black market foreign labour’ in the sector. This may well be entrenched in the sector and a challenge to stamp out. Unscrupulous Labour Hire Contractors if identified and apprehended, close down the business when the heat is turned up and just setup a new business in a different name and then it is business as usual.

An official round table conference hosted in the Canberra offices of the then DEEWR in 2010 and which was attended by horticulture industry leaders, senior union leaders, SWP Approved Employers, Department Heads and senior representatives from Fair Work Australia, ATO, Dept of Immigration and Centrelink were told that estimates of between 60-65% of fruit and vegetables harvested in Australia were likely to be picked by contracting gangs of dubious bona fides. This is a staggering figure and a stark reminder of the desperation our farmers have often had to resort to so they are able to provide food for us and the rest of the world. Further information on this roundtable conference can be provided upon request.

The challenge horticulture producer’s face is being reliant on these unscrupulous contractors to be ethical, compliant with relevant employment standards, supply compliant workers and conduct ethical work practices. Until the growers are able to take control back of their seasonal workforce it will be a challenge to sustainably expand to meet growing demand.

Conclusion

Taking into account the current horticulture labour force issues in conjunction with the points outlined above, the Seasonal Worker Programme is an extremely important initiative for the horticulture sector going forward. The Programme will develop into an integral part of the horticulture (and now the broader Agriculture sector) production supply chain and be a catalyst for workforce change. The Pacific Island Nations workers are passionate, reliable, hardworking and productive. They “display a commitment not seen in the sector for a long time” – GM Riviera Farms Feb 2015.

They are quick learners and with *initial* flexible training and support will prove to be valuable assets to growers. The SWP provides growers with seasonal workers that return year after year and on the return trip hit the paddock running, with limited supervision or training required making it cost effective for the grower. In the second season a reduction in supervision and training is evident. The SWP workers are in Australia to work hard and earn money to improve the lives of their families and communities back home, instilling a high level commitment and attitude to work, a difficult characteristic to find for the horticulture production roles.

An accredited and fully compliant Federal Government Approved Employer delivering a trained and experienced returning Pacific Island workforce reduces the cost of continually retraining and micro managing other workforce options. The grower can rest easy and confidently plan for the future with a seasonal workforce that is secure, compliant, committed and productive. Under the SWP growers can take control of their workforce which will in turn improve sustainability and the ability to expand their business. “Since using the Seasonal Worker Program wastage has reduced from around 12-13% to 2-3%,” a significant cost saving and production improvement.” GM Vizzari Farms 2014

Expanding the Seasonal Worker Programme to other countries and sectors

Recent announcements by the Federal Government heralding the expansion of the SWP into other sectors, removing the incomprehensible cap on intake numbers and other fine tuning has been unanimously welcomed.

At the time of writing this submission our federal government is still finalising the expansion of the program into new but as yet unannounced sectors so further comment is hard to make.

The SWP is organic in nature and will form a vital and growing component of Australia’s overall labour marketplace. As labour mobility in our region (as it has throughout the world) becomes commonplace, we would strongly encourage emphasis be given to nurturing the SWP on an ongoing basis to ensure that its integrity remains intact but equally important, that it has the ability to continually adapt and react to recommendations made to it by an experienced Approved Employer Representative Group.

We also feel that any expansion of the Programme to other countries outside the existing regions included must be considered in due course. Having said this, it is vital for our immediate regions future economic welfare that increasing demand for SWP workers from within the current pool be strongly increased first to ensure that its positive multiplier effects in those countries can be truly felt. This can only be achieved by increased demand leading to increasing intakes.

Some of the countries that could be included in the program:

- Indonesia;
- Malaysia;
- Vietnam;
- Cambodia;
- Thailand;
- Philippines

These countries are of particular interest to horticulture producers because their citizens (generally and respectfully speaking) have smaller frames and are able to work more effectively in certain crops.

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.

NOTE: S.E Asian region – we must ensure compliant and regulated systems are in place to replace the current underbelly black market labour scene that involves many innocent people from the S.E Asian region procured by unscrupulous local Australian organisers in conjunction recruiters in the country of origin.

The current and projected future workforce requirements for sectors that may benefit from seasonal workers include:

- The scale of ongoing and increasing demand is significant and must be met under ethical and organised methods such as through the SWP. The horticulture sector alone will require tens of thousands of such trained and returning workers for the sector to reach its true potential.
- As the large numbers of illegal contracting gangs are slowly pressured out of business, we need a reliable, sizable and cost effective replacement workforce to fill that generational gap. The SWP has the proven capacity to do that.
- With growers constantly changing or expanding product lines to accommodate the changing market place needs, additional unskilled and lower level skilled and experienced SWP candidates will be required in the horticulture sector.
- Permanent residency to the selected Pacific Island Team Leaders for identified growers to manage the changeover of workers, training and induction processes and performance management of larger SWP groups.
- The potential for higher level skill-set occupations.
- Transportation, Truck, tractor drivers, machinery operators.
- Many sectors including agriculture have a high percentile of people involved who are in older age groups. Who will assist or replace them in time?? That clock is ticking faster.

The impact on the Australian labour force of the current and projected seasonal worker Programme

There will be a minimal impact on the Australian labour force. The positions that Pacific Island Nation workers will be competing for are jobs that Australian workers, adults, youth, men or women do not want to do or aspire to these types of positions.

The positive implication of having the SWP in place is that it helps the horticulture sector to secure a committed, productive, compliant workforce and in turn builds grower confidence to invest, increase production, profitability and sustainability. With this confidence, security, increased output and business expansion, additional higher level skills in Supervisor/Management roles and across the business will be required as the business develops. This will ultimately provide additional skilled and experienced employment opportunities for the Australian workforce.

It must also be said that as the large number of illegal contracting gangs are slowly pressured out of business, resulting higher rates of legal remuneration (as is the case with the SWP) may be an encouragement to local jobseekers to apply for such positions!

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).

The merits and challenges of increased recruitment of overseas workers / in particular providing increased access for women and youth workers

At the outset we would say the surest and most natural way to increase intakes of women and youth workers is for there to be increasing demand for SWP workers.

There would be advantages in providing increased worker numbers and increased access for women involved in the SWP. The market place among growers require women or people of smaller stature and physique for various products that are either lower to the ground or require faster eye to hand coordination than male workers can deliver. This makes the women quicker and more productive in the vital processing lines and the field with products such as baby vegetables, herbs and smaller varieties of salads. To date, penetration into these areas has been minimal and offers enormous potential for increased intakes.

The challenge in this area is the need for more intensive Pastoral Care to ensure the ladies are well settled and have the desired level of care to support their needs. With close knit families, husbands, boyfriends, brothers, sisters and children back home Approved Employers need to be mindful of the cultural issues that could impact on performance of workers here and implement strategies that mitigate these potential risks.

The Approved Employers (AE) operational costs may potentially increase somewhat (from prior experience) while providing an appropriate level of Pastoral Care to teams of women. Whilst not a barrier it nevertheless must be noted.

Accommodating seasonal workers in regional areas is a considerable challenge at the best of times. Increased numbers will bring additional challenges and increasing pastoral care operational expenses. We believe that to successfully increase access to the Programme for women, ensuring separate accommodation to the male workers is available should be a priority in the decision making process. This is due to cultural and family laws and close connections to the people back home.

As the current program accepts people with a minimum age of 21 the need to reduce that age to include younger youth workers would not be required. 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.

Regional Councils must also play a proactive role and coordinate with State governments to ensure adequate and compliant accommodation can be provided both “on farm” and in purpose built clusters in regional “hotspots” such as has been seen in mining centres. This will provide larger scale accommodation often for 200-300 people or more. Significant capital / cultural inflows for those regions will be a result of direct action.

The importance of this vital consideration cannot be understated!

The role of the Seasonal Worker Programme in supporting development assistance in the Pacific

With every AUD\$ brought back to the workers home countries it provides a direct impact on the communities and provides for a multiplier effect of close to one in five. That is for every \$ earned and brought home up to five people are positively affected.

The benefits of the Programme are incredibly broad reaching and cannot be underestimated or overstated!

The fact that remittances into these nations land directly in the villages and pockets of community members and then work their way across, down and up the economic spectrum has undeniable positive benefits which we are sure will be demonstrated through evidence provided by NGO's closely involved with the Programme from its inception through to current day.

After 5 – 6 years involvement in the Pacific Seasonal Worker Pilot Scheme (PSWPS) and the current Seasonal Worker Programme (SWP) the Connect Group have identified the need to conduct training on site in Vanuatu. The aim is to establish training opportunities for community members interested in trying out for a role in Australia.

We hope to also implement such a facility in the near future within Timor Leste.

The objective is to implement skill transfer and development activities, building the community's skills and cultural capacity, as well as providing some exposure and practical experience in the types of crops being harvested and tasks being completed in Australia. An additional aim is to evaluate the level of skills, physical fitness and suitability of potential candidates.

Grant assistance for infrastructure set up and training costs. Consideration could also be given to providing subsidies / grants to complete Recognition for Prior Learning (RPL) assessments for the returning or 2 years experienced Pacific Island seasonal workers. The intention will be to get the workers accredited in Certificate 1 to Certificate 1V Horticulture Production further enhancing their skill development.

Even now the participants in the program have learnt horticulture skills, communication and worldly skills that can be transferred to their community back home.

Closer working relationships and cooperation with Pacific Training Colleges should be encouraged and facilitated through appropriate ministerial or departmental head dialogue!

The possibilities of some re-targeting of foreign aid to these nations to assist in this is something we also suggest is worthy of strong consideration!

Any legislative and other impediments in attracting seasonal workers

- During the inaugural Seasonal Worker Programme Conference held in Sydney in August 2012, the delegates were addressed by the head of the New Zealand RSE delegation who strongly emphasized that Australia's SWP was floundering in comparison to the RSE **as not enough consideration was given to enticing growers to switch from other less ethical (and less expensive) forms of labour supply to the SWP.**
- Provide more flexibility in response to continuing AE (Approved Employer) frustration with regards to Labour Market Testing (we are quite sure this will be a common theme amongst AE's in submissions to the Inquiry).
- The waiting period (3 months) between applying to recruit workers to the end approval. This will also be a common theme we believe.

The visa regime for seasonal workers / including compliance and related issues

The use of illegal contracting gangs proliferates throughout this sector as has been widely documented and acknowledged.

So called contractors expose their workers and their grower clients to exploitation and high risk and they do this deliberately. All know that the risks are minimal compared to the rewards on offer in this country and as such the marketplace has flourished for a generation or more.

Most AE's such as us have as their main competition, illegal contracting gangs which flies in the face of what can even remotely be called a level playing field and is a sad tale in itself.

This cohort utilises labour sourced from three main categories as follows:

- **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.**

Virtually all levels of statutory bodies (state and federal) are defrauded of vital funds due to laundering of payments, cash payments, underpayment or no payment of GST, PAYG, Payroll Tax, Workers Compensation, other insurances by such illegal labour hire contractors.

As has been previously mentioned in this submission, an official roundtable meeting hosted by the then DEEWR in Canberra in 2010 resulted in all participating parties (departmental/agency officials did not wholly participate in this solution discussion) agreed that the most cost efficient and effective method of addressing this “marketplace” was the implementation of a simple grower reporting system.

That is, in conjunction with growers existing obligations, 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 / visa / passport details and would be contained on a standardised form.

A central body receiving this information electronically could then simply divert the information specific to each instance to the appropriate state and federal bodies (ATO for GST/PAYG/Superannuation; various State Revenue offices for Payroll Tax; various State Workers Compensation Authorities for Workers Compensation premiums; Immigration Department for visa cross checks; FWA for compliant remuneration).

A grower complying fully and wholly with this request would satisfy due diligence obligations under the law. A non-complying grower would face prosecution under a strengthened regime that would incorporate more severe sanctions and simpler burden of proof.

Relevant State and Federal bodies also need to ramp up their ability to fine illegal activities of contractors and clients.

Examples such as the one attached to this submission are nothing more than embarrassing. Whilst they comply with the law as it stands and can be justified through that, they make a mockery of the need to comply with legal and moral obligations!