



# **Building a Stronger Pacific Family: reforming the PALM scheme Discussion Paper**

**AFPA Submission**

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## About the Australian Fresh Produce Alliance

The Australian Fresh Produce Alliance (AFPA) is made up of Australia's key fresh produce growers and suppliers. The members include:

Costa Group	Australian Produce Partners
Perfection Fresh	Driscoll's
Montague	Premier Fresh Australia
One Harvest	Rugby Farming
Pinata Farms	Freshmax
Fresh Select	Fresh Produce Group.
Mackay's Banana Marketing	

These businesses represent:

- half the industry turnover of the Australian fresh produce (fruit and vegetables) sector - \$4.5 billion of the \$9.1 billion total
- a quarter of the volume of fresh produce grown in Australia - 1 million of the 3.9 million tonne total
- more than a third of fresh produce exports - \$410 million of the \$1.2 billion export total
- more than 1,000 growers through commercial arrangements, and
- more than 15,000 direct employees through peak harvest, and up to 25,000 employees in the grower network.

The key issues the AFPA is focusing on include:

- packaging and the role it plays in product shelf life and reducing food waste landfill,
- labour and the need for both a permanent and temporary supply of workers,
- market access to key export markets for Australian produce,
- product integrity both within and outside of the supply chain,
- pollination and research into alternative sources, and
- water security, including clear direction as to the allocation and trading of water rights.

The AFPA's aim therefore is to become the first-choice fresh produce group that retailers and government go to for discussion and outcomes on issues involving the growing and supply of fresh produce.

Products grown by AFPA Member companies include:

Apples	Broccolini	Mandarins	Cucumber
Apricots	Brussel Sprouts	Mango	Raspberries
Asparagus	Butternut Pumpkin	Mushrooms	Salad leaf
Avocado	Cabbage	Nectarines	Spinach
Baby	Cauliflower	Onions	Strawberries
Broccoli	Celery	Oranges	Sweet
Baby Corn	Cherries	Peaches	Corn
Bananas	Fioretto	Pears	Table grapes
Beetroot	Green Beans	Pineapples	Tomatoes
Blackberries	Herbs	Plums	Water Cress
Blueberries	Lemons	Potatoes	Wombok
Broccoli	Lettuce		



## Summary

Over the last two years the PALM scheme has evolved due to its rapid expansion and the challenges of the COVID-19 pandemic. Through the PALM scheme, the horticulture sector now engages over twice as many workers (compared to 2018/19). The ongoing operation PALM scheme has now become vital to Australia's supply of fruit and vegetables.

In line with the PALM scheme reforms discussion paper, the AFPA supports ongoing development of policies that expand and improve the operations of the PALM scheme to the betterment of workers, employers, Pacific nations and Timor-Leste, and the Australian community. With regard to specific reforms outlined in the discussion paper:

### **1. Expanding and improving the PALM scheme**

The AFPA is supportive of a targeted expansion of the PALM scheme taking into account specific country needs across the Pacific and Timor Leste. In expanding and improving the PALM scheme, the focus should be on maintaining worker welfare while ensuring that Approved Employers are not weighed down by unnecessary administrative processes.

### **2. Family accompaniment**

Family accompaniment within the PALM scheme is likely to create significant operational challenges, however, the AFPA supports a trial or pilot of family accompaniment for workers within the long term stream of the program that is strongly supported by a small number of approved employers (AEs) committed to a pilot.

### **3. Making seasonal/short term deployments more attractive for employers**

The AFPA supports enabling more suitable employers having the opportunity to engage workers through the PALM scheme. Within the horticulture sector, a number of smaller employers have raised access to accommodation, minimum engagement periods and administrative challenges as the key barriers to participating in the scheme. While the AFPA understands that the Federal Government made a budget neutral election commitment to fund and recover upfront international flight costs, the AFPA is supportive of an alternative underwriting model. An underwriting model would ensure that where a worker does not complete their recruitment, the AE is able to lodge a claim for reimbursement of the worker's international flights costs from the Government. This initiative would significantly reduce a significant financial risk associated with participation in the program, thereby making short term deployments more attractive to employers.

### **4. Relocate the Australian Agriculture Visa within the PALM scheme**

The AFPA continues to support and call for a Harvest Work Visa that complements the PALM scheme by offering greater levels of flexibility and worker mobility to support peak harvest labour requirements. Notwithstanding this, a greater level of portability and mobility enables greater flexibility and direct employment within the PALM scheme. Key to integrating improved portability within the PALM scheme is to maintain high standards for AEs, and high standards and expectations for worker welfare. The AFPA supports the employer initiated options for portability outlined in the discussion paper as a first step. Learnings from its implementation can be used to best guide any further reforms or changes to worker mobility and portability within the Scheme.

The value of the PALM scheme to horticulture sector cannot be understated, it enables workers to return to Australia year on year, offers opportunities for skills and training development, and delivers increased productivity. The AFPA supports an ongoing focus on practical reforms that improve program engagement and efficiency while continuing to deliver on the original policy intent of the PALM scheme – a circular migration program that provides remittances to Pacific nations and Timor-Leste.



## Background

Australia's diverse climate and growing regions support a thriving horticulture industry which ensures an ongoing supply of fresh fruit and vegetables to all Australians. In 2020-21, the value of Australia's fruit and vegetable production was \$10.67 billion. Collectively, the fresh produce sector is estimated to directly support between 65,500-80,000 full-time-equivalent positions and is a major economic contributor to regional Australia.

Horticulture remains the fastest growing agriculture sector despite challenging growing conditions and has significant export potential pending market access improvements.

However, labour shortages are hindering Australia's fruit and vegetable production, impacting cost and supply to consumers, and stifling economic growth. To overcome this challenge, the sector seeks to establish a productive and returning harvest workforce and develop its skilled workforce.

Labour is the largest cost unit in fresh produce businesses, accounting for up to 60 per cent of the total cost of production in some instances. The fresh produce sector's workforce can be categorised into harvest (80% of roles), technical (15%) and managerial and administrative (5%) roles.

Harvest workers makes up the largest proportion of the sector's workforce, 80 per cent. Harvest workers underpin the entire industry, including 19,000 horticulture businesses, and Australia's ability to produce fresh fruit and vegetables. Harvest work is seasonal (temporary), regional, variable (influenced by weather and other factors) and physical. The characteristics of harvest work, particularly in today's labour market, are unattractive to most Australians and therefore the industry has become reliant on overseas workers.

Work undertaken by Ernst & Young in 2020 found that on average, temporary visa holders (Working Holiday Makers [WHMs], Seasonal Worker Program and Pacific Labour Scheme workers) made up 70% of the harvest workforce. WHMs were historically relied upon for most harvest labour, however between January 2020 and October 2021, during the COVID-19 pandemic, the number of WHMs in Australia declined by 80% from 141,000 people to around 29,000.

The industry now heavily relies upon workers through the PALM scheme. The PALM scheme was originally piloted in 2009 with a foreign aid objectives; the PALM scheme *"allows Pacific and Timor-Leste workers to take up jobs in Australia, develop their skills and send income home to support their families and communities"* while at the same time filling *"labour gaps in rural and regional Australia"*.

The value of the PALM scheme to horticulture sector cannot be understated, it enables workers to return to Australia year on year, offers opportunities for skills and training development, and delivers increased productivity to employers. An ongoing expansion of the PALM scheme, which supports Pacific countries is critical.



## Current context of the PALM scheme in the fresh produce industry

The PALM scheme is of great benefit to the fresh produce sector. The PALM scheme's expansion has been vital to the industry and there are now more than double number of PALM workers engaged in the horticulture sector compared to 2018/19.

The PALM scheme was designed with a foreign aid objective (enabling workers to be employed in Australia and send remittance home). The PALM scheme was also designed to support circular migration, by enabling work in Australia on a short or long term basis, with the ability for workers to return home and to Australia year on year.

Over the past two years, the vast majority of PALM workers in horticulture were engaged under the seasonal nine-month arrangement, however, due to international border closures as a result of the COVID pandemic, PALM workers have remained in Australia beyond their intended nine month recruitment. As a result, many PALM workers have transitioned to a 408 pandemic visa and continue remain and work in Australia. These PALM workers are filling critical roles in the fresh produce sector and, given Australia's ongoing labour shortages, consideration on how to repatriate and mobilise workers in sync is vital in ensuring these shortages are not further exacerbated.

With such a high-volume of new PALM workers in country who have not yet returned home, the fresh produce sector and government have not fully tested how the circular nature of the expanded PALM scheme will operate, specifically, the management (required by employers, workers, government and sending countries) of multiple worker movements and recruitments annually. In order to maintain current worker numbers within the short term PALM stream, it is estimated that approximately 20,000 worker mobilisations would be required annually.

Furthermore, the government has made clear its intentions to continue to increase the number PALM workers coming to Australia. For example, the government seeks to enable PALM workers to take up more roles in the aged care sector, which is estimated to have an annual shortfall of 30,000-35,000 care workers.

While AFPA welcomes increased opportunities for Pacific and Timor-Leste nationals to work in Australia, this must be facilitated in a stable and measured way, to safeguard the integrity of the PALM scheme, and industries that rely on it so heavily.

Increasing recruitments under the PALM scheme must be done in cooperation with participating countries, to ensure the needs of Pacific nations and Timor-Leste are also met through the program. Some countries already have a significant number of their working aged population engaged in Australia's scheme (i.e. 11% of the working aged population of Tonga). Complaints of a "brain-drain" have arisen from some sending countries and some Pacific Governments are reviewing their labour sending arrangements in response. Ongoing support for the PALM scheme cannot come at the jeopardy of the domestic economic recovery and growth post COVID of the Pacific and Timor Leste.

A continued rapid expansion of the program is also not possible while administration processes are faltering, and broader challenges remain. For example, there is a backlog of existing AE applications that would need to be resolved to support future growth, and the lack of available accommodation remains a persistent challenge. Staff in the Department of Foreign Affairs and Trade (DFAT) and Department of Employment and Workplace Relations (DEWR) are doing a commendable job given the increasing task, but are clearly under-resourced to support the expanded scheme.

Further, the new, consolidated PALM scheme Deed of Agreement and associated guidelines, should be complemented with consolidated management structure, so the scheme is led by a single government agency (DFAT). This will reduce unnecessary duplication and improve policy and operational outcomes.



The PALM scheme's new Deed of Agreement and associated guidelines must also reflect that operational practices have changed as a result of the COVID pandemic. For example, a worker was previously redeployed in only exceptional circumstances, now workers are regularly redeployed, moving from one employer to another.

PALM workers now make up the core of the industry's harvest workforce (over 20,000 workers) and members of the AFPA continue to be strong supporters of the PALM scheme, and are committed to continuing to recruit and employ PALM workers both directly and indirectly.

## Expanding and improving the PALM scheme

As part of any expansion of the PALM scheme, the government should consider country specific settings and strategies, which are formulated in collaboration with each participating nation. Working closely with Pacific partners is key to ensuring the ongoing success of the PALM scheme.

A review of the current data shows that some Pacific countries have a significant proportion of their working age population working in Australia, or in New Zealand, while other countries in the Pacific, and Timor Leste, have a much lower proportion of their working age population in Australia. For example, Tonga currently has 11% of their working engaged population employed in Australia or New Zealand, compared to only 0.2% of Timor Leste's population is currently working in Australia or New Zealand.

Countries with a significant proportion of their workforce employed in Australia and New Zealand are reporting challenges with finding enough workers in their home countries as their tourism industry recovers, and 'brain drain' as their most experienced workers are working overseas. In contrast, some countries, may benefit from additional support for their population to be better able to take up opportunities.

For countries with larger populations in the Pacific, and Timor Leste, the proportion of their workforce in Australia and/or New Zealand is much lower (generally under 2 per cent). The Solomon Islands, Fiji, Timor Leste, and Papua New Guinea all have larger total populations but relatively low utilisation of the Australia and New Zealand workforce programs. In consultation with individual Pacific countries, there is a significant opportunity to expand Australia's PALM scheme in those countries with larger populations in particular.

In addition, Government actions and commitments to improve and better safeguard worker welfare should also be progressed, including initiatives that have a broader application than to the PALM scheme alone. For example, the introduction of a National Labour Hire Licence (committed to by Government) would help to mitigate the risk of unethical employment practices and poor workers treatment by excluding wilfully non-compliant companies from business.

Expanding the PALM scheme at the expense of its standards and worker protections should not be contemplated. The PALM scheme should enable good employers to have good access to workers. Program settings can be adjusted, such as enabling greater worker portability, to support smaller growers better utilise the PALM scheme.

More broadly, if there is a commitment to expand the PALM scheme in terms of worker numbers, it is important to acknowledge that the PALM scheme's recent growth has outpaced its resourcing, this is causing most processing and administrative issues. For example, delays processing employer applications, visas, accommodation checks, etc. are all hindering the PALM scheme's functionality not because they shouldn't exist, or are necessarily too onerous, but due to a lack of department capacity to process documents, respond to enquiries, support employers, etc. The Government should review its resourcing and investment to ensure it can continue to support the expanded PALM scheme.

In terms of improvements to the PALM scheme, employers would welcome a new, consolidated PALM scheme Deed of Agreement and associated guidelines. A single set of program arrangements for employers with options to recruit seasonal and long-term workers should reduce administrative duplication, streamline applications and



other tasks, increase the proficiency of existing government resources and more. Further there are a number of “red tape” issues and scheme improvements that would enhance the program and better support workers and employers. A sample of these are:

- An improved IT platform: aspects of “red tape” could be resolved with improvements to the current IT platform, reducing double handling of information. While this would require significant investment, if the objective is to support growth and facilitate their mobilisation goals, these improvements are critical.
- A single system for long and short term PALM workers: currently, there are two separate processes that are completely disconnected – for example, accommodation needs separate approval, the same AE has different contract managers, etc. A single contract manager, and integrated system is a high priority for red tape reduction.
- Improved Letter of Offer templates: an improved Letter of Offer template would enable the inclusion of terms of employment that are specific to each EA, critical information and up to date information specifically as it relates to the piece rate provisions within the Horticulture Award.

## Family Accompaniment

The welfare of workers is a significant factor in the ongoing success of the PALM scheme and should be of paramount importance to all parties. Long absences from family can be very challenging for anyone. For long-term (up to four years) PALM scheme visa holders, AFPA is supportive of family accompaniment under the right circumstances and with the right government support in place.

In considering family accompaniment within the PALM scheme, taking into account the holistic policy intent of the PALM scheme is critical. The PALM scheme was developed as a circular migration program, that delivered foreign aid objectives to the Pacific and Timor Leste. The program is based on workers in Australia providing income via remittance to their families and communities in the Pacific. The PALM scheme to date has been incredibly successful in this respect.

If the Government’s intent is to continue to ensure that the PALM scheme is a circular migration program, that provides remittances to the Pacific and Timor Leste, this creates an important framework for family accompaniment; specifically that family accompaniment is likely to not enhance remittances to Pacific nations and Timor Leste. The discussion paper outlines that family accompaniment has the potential to foster deeper connections with our Pacific family – this objective is important and therefore, carefully considered implementation of this commitment is critical.

Some matters to consider as part of facilitating family accompaniment include accommodation (noting the significant shortages of accommodation, in Australia and particularly in regional communities), the working rights of accompanying family members, family integration in often regional/isolated communities, care of young/vulnerable dependents, education of school-aged children, health insurance, pregnancies and the status of children born in Australia, the rights of family members in the event the family unit separates.

Further to the specific obstacles listed above, the Government must also consider the repercussions of allowing a family to settle in Australia for multiple years without an appropriate pathway to permanent residency and, beyond this, the implications of offering a pathway to permanent residency from the perspective of Pacific and Timor-Leste governments.

Given the significant complexity of family accompaniment and difficulties noted above, AFPA recommends Government undertake a small pilot of family accompaniment for PALM long term stream workers with supportive employers. The AFPA does not support family accompaniment for seasonal stream workers, given the short term nature of recruitment, it would be difficult to relocate a worker’s family and settle them appropriately





in this short duration. Further, short term PALM workers often relocate or move between employment locations, this is also likely to be unsuitable when considering the welfare of accompanying family members.

## **Making seasonal/short term deployments more attractive for employers**

The PALM scheme has become vital to the horticulture industry and is already very attractive to growers because it enables them to develop a productive and returning workforce. PALM workers have also been found to be up to three-times more productive than Working Holiday Makers (backpackers) due to their year on year return, the experience they accrue and their motive for being in Australia.

PALM workers now make up the core of the industry's harvest workforce (over 20,000 workers), which demonstrates that many growers are able to engage PALM workers, either directly or through labour hire companies.

Despite many growers/AEs successfully participating in the scheme, AFPA recognises that small and medium size employers, with short or sporadic work requirements, are likely to experience challenges in recruiting PALM workers directly. Challenges in direct engagement of workers can be attributed to:

- Meeting the required minimum employment duration and minimum guaranteed hours per week.
  - Growers of produce with a short harvest period (i.e., cherries – 12 weeks) do not have the ability to support PALM workers for the minimum required duration. Likewise, some growers have stated they cannot guarantee the minimum hours required due to the variable nature of a season.
- Sourcing appropriate accommodation
  - Access to suitable accommodation is a significant challenge for employers. This challenge is due to low vacancy levels for rental accommodation in regional locations (with many locations experiencing a 0.5% vacancy rate), challenges with construction on farm accommodation due to local council and state planning regulations, accessing capital (and subsequent return on capital) to invest in constructing accommodation and a range of other challenges.
- Complexity of the program
  - Many employers indicate that engagement and management of workers is perceived to be complex with significant administrative reporting requirements
- Financial outlay and risk
  - Participating in the PALM scheme does require an upfront financial commitment and ongoing risk management. Upfront program costs may include engagement of support services, additional welfare and support costs, transport costs or relevant equipment for transport (i.e. purchasing of vehicles) and other program requirements (visa requirements etc). These costs may be viewed as a barrier to participation.
  - Upfront flight costs also present a level of risk to employers - engaging PALM workers directly has upfront costs for growers. While this cost is typically recovered from workers once they have commenced work, if workers fail to commence work, or otherwise disengage from the program, this cost is not able to be recovered by the employer.

While all employers must commit resources to engaging a new employee and can experience any one or a combination of the challenges meeting the PALM scheme's requirements, AFPA is aware that some sections of the industry experience a greater degree of difficulty engaging PALM workers.

For these sections of industry who can demonstrate a significant challenge participating in the PALM scheme, considering tailored solutions to overcome specific challenges is preferable, rather than broad changes to the PALM scheme that could have unintended repercussions. For example, lowering or weakening



standards/requirements (i.e., removing the minimum hours per week guarantee) is not a preferable solution, as it makes the scheme less attractive to workers.

In light of above, the AFPA is not supportive of the Government's pre-election proposal to meet short term PALM workers' international and domestic travel costs upfront (less \$300 to be met by approved employers), with costs recovered from workers through the tax system or superannuation as this is very difficult to operationalise, as it may be unfair to PALM workers and will create an additional burden on AEs.

- Recovery via the tax system is likely to be unequitable between visa holders. The likely outcome of this policy in practice is that workers with shorter and cheaper airfares will need to pay more, and in effect subsidise other workers. This is not a good outcome for workers (or if employers instead need to apply multiple tax rates across different types of workers).
- Recovery of costs via super, is likely to require AEs to assist workers to apply to retrieve their Super. It is likely that this will add a significant administrative burden to AEs, and given four year visa lengths for workers, is likely to result in workers choosing not to access their superannuation on completion of their visa as a significant portion of this will be paid as tax or flight cost repayments.

While the AFPA understands that the Federal Government made a budget neutral election commitment to fund and recover the international flight costs, the AFPA would support an alternative underwriting model. An underwriting model would ensure that where a worker does not complete their recruitment, the AE is able to lodge a claim for reimbursement of the workers international flights costs from the Government. This initiative would significantly reduce a key financial risk associated with participation in the program.

This model is the preference of AFPA members, who are some of the largest employers in the PALM scheme by numbers of workers engaged, in terms of minimizing financial risk to an AE while also being less onerous (administratively) on AEs.

As part of the election commitment Government noted: *At present Australian farmers are required to meet workers' travel costs upfront and recover it from workers' pay packets. Farmers have said the high upfront travel costs are a disincentive for using the SWP*

If the intent of this commitment was to remove barriers to entry for the program, as referenced above, this needs to be considered in a wholistic way, as flight costs are often not reported as the most or only significant barrier.

There are several alternatives to consider that may better assist smaller growers to access the PALM including:

- Better supporting worker mobility to enable PALM workers (and associated financial costs) to be shared across 2-3 direct employers (currently being explored as part of these reforms)
- A role and financial support for industry to assist in helping employers access the program, and potentially helping to link employers to share workers
- In line with "red tape reduction" working groups, establish a small employers working group with the role of understanding key impediments to PALM scheme participation and to develop industry led and delivered solutions to address identified issues.

## Relocating the Australian Agriculture Visa within the PALM scheme

The AFPA continues to support and call for a Harvest Work Visa that complements the PALM scheme by offering greater levels of flexibility and worker mobility to support peak harvest labour requirements. Notwithstanding this, there are a number of settings discussed as part of the Agriculture Visa co-design process that could be implemented within the PALM scheme. In particular this includes worker mobility and portability, broader agriculture industry participation and use of third party employer accreditation schemes.



## **Worker Movement – Portability and Mobility**

The AFPA supports the Government's consideration of greater PALM worker portability and mobility, and the eventual establishment of a 'marketplace model', noting the complexity of these concepts and required changes to visa settings.

The portability arrangements proposed under the PALM scheme (offshore and onshore transfers and secondments) should be progressed in the first instance. Embedding improved portability policies into the scheme will provide workers with greater access to employment opportunities, and assist in ensuring existing and future AEs are better able to engage in the PALM scheme.

The following are some key points on the three options for portability under consideration:

- Transfer agreed offshore
  - This method provides the greatest opportunity to ensure that workers are correctly informed of their employment arrangements, enables more AEs/growers to participate in the scheme while maintaining the scheme's current level of standards and worker support, and offers Government a controlled and predictable environment to manage and support the movement of workers (as its pre-arranged).
  - At the point of each transfer, growers/AEs should be required to report to Government that the workers have left their employment and the receiving AE should have to make similar declaration that workers have arrived and commenced employment (in line with recruitment plan/s). This will ensure that Government are best able to follow up on transfer of welfare management as required.
  
- Transfer agreed onshore
  - Allowing the transfer of workers onshore creates a more flexible environment for AEs and workers to operate in, which is beneficial, but more complex than offshore (pre-agreed) transfers.
  - Onshore transfers will assist in managing unforeseen circumstances and would facilitate a movement of worker obligations from one employer to another, as distinct from the secondment option.
  - As with transfers agreed offshore, at the point of each transfer, AEs should be required to report to DFAT that the workers that have left their employment and receiving AE should have to make similar declaration that workers have arrived and commenced employment (in line with recruitment plan/s). This will ensure that government are best able to follow up on transfer of welfare management as required.
  
- Secondments (unplanned)
  - The AFPA supports the intent of enabling short-term secondments within the PALM scheme, however only between approved AEs or employers with a level of suitable accreditation (e.g. Fair Farms). Weather events and crop failures are challenges in the horticulture sector that can result in workers not having access to a suitable amount of work for a period of time. The ability to arrange suitable secondments for workers to ensure that workers have appropriate hours and therefore earning capacity is important to the success of the program.
  - In order to ensure that secondments are successful, guidelines around how to ensure worker welfare is maintained during the secondment would be essential. These guidelines could be developed in consultation with existing AEs who are labour hire providers and are more familiar working with host employers.
  - Secondments would also need to carefully consider relevant state or territory labour hire licensing arrangements.

The AFPA propose Government endorse worker movement over the short term as part of the upcoming proposed changes to the PALM scheme via the new Deed and Guidelines – employer agreed movements, both on and



offshore and secondments, noting that the challenges and successes of these changes will be critical in informing the future direction of a marketplace model.

In the medium to long term, refine and develop parameters for a small scale trial of worker initiated portability (i.e. the 'marketplace model' referenced in question 3 & 4) including:

- Criteria for employer and worker participation
- Consideration of how movement will be facilitated
- How will outlined challenges, and those found during employer initiated portability be addressed

### **Streamlined employer accreditation options**

The PALM scheme currently requires all employers to become AEs via an application process that sees a range of suitability criteria considered. The AFPA continue to support the AE process, and the delivery of this process by Government.

The horticulture industry currently operates a range of third party audited, ethical auditing schemes including SEDEX SMETA, GLOBAL GAP GRASP and Fair Farms. These programs typically include an annual audit, completed by a third party and address all relevant legal and ethical employment standards.

While these types of third party accreditation schemes are valuable, they should replace the PALM scheme's current Approved Employer process. These schemes, and others, for example, StaffSure could be better utilised as part of a broader 'Trusted Trader' program; a third party audited scheme may form part of the criteria for an AE to participated in a Trusted Trader model.

With regards to a Trusted Trade program, broadly, 'Trusted Traders' that can demonstrate a positive employment record and meet government requirements should be provided increased benefits, such as the fast-tracking of approval processes. Consideration should also be given to tiered levels of 'Trusted Traders'. This system would encourage AEs to move to a higher tier, incentivising continuous improvement and best practice within the program. Benefits at higher level tiers may include AEs being subject to less rigorous oversight by government to ensure resources are most effectively utilised.

### **Broadened geographic coverage**

The AFPA supports targeted expansion of the PALM scheme through a targeted broadening of the definition of agriculture. Within the horticulture sector, there are examples of businesses operating with urban or peri-urban areas, who are unable to engage PALM workers due to their post code. This is particularly prominent in horticulture processing businesses – for example businesses that further pack or minimally process fresh produce.

Understanding that there is likely to be increasing demand for workers through the PALM scheme both within agriculture and the economy more broadly (health and aged care sectors in particular), a considered approach to expanding the definition of agriculture should be implemented. This definition should include meat processing and horticulture processing but may not be suitable to extend to traditional manufacturing. A limited definition may call out minimally processed agriculture or may require a significant portion of the manufactured product is from a domestically produced input.



## Response to Discussion Paper questions

### Expanding and improving the PALM scheme

- 1. What aspects of the PALM scheme result in 'red tape' for stakeholders (for employers, workers and participating countries)?*
- 2. Is the 'red tape reduction working group' the appropriate avenue to take forward the red-tape reduction agenda?*
- 3. In your opinion, are there other aspects of the scheme that need to change to improve the scheme? If so, what are they, and what changes would you suggest?*

There are a number of “red tape” issues and scheme improvements that would enhance the program and better support workers and employers. A sample of these include:

#### **IT Platform**

Aspects of “red tape” could be resolved with improvements to the current IT platform, reducing double handling of information. While this would require significant investment, if the objective is to support growth and facilitate their mobilisation goals, these improvements are critical.

For example, the current SWP platform operates in terms of cohorts of recruitments, not individual workers. Information on individual workers is uploaded on arrival, but this information isn't transferrable anywhere else in the system. This means every time an AE makes an update, creates an incident report, completes a departure report, information on each worker must be re-entered. This also means that PALM and LSUs cannot track individual workers through the program. An update here would reduce double handling for employers, improve visibility for PALM, and facilitate better mobilisation. A model could look something like this:

- Each worker has a profile in the system.
- The LSU creates that profile as a part of their onshore mobilisation, including basic information about the worker. A profile only needs to be created for a person once, so return workers retain their history.
- The employer creates a recruitment.
- As a part of the arrival process, the employer attaches these workers to their recruitment and updates with basic information (like Australian contact details)
- This process of attaching workers to incidents, departures, accommodation, etc, flows through the system.
- There is an ability to search by worker, so LSUs, PALM and employers could search for the worker and see their contact information, associated incidents, etc.

This would also facilitate PALM being able to review workers before approving their worker driven transfers (for example, if a worker is under investigation for sexual harassment, has a pending court case, etc). It could potentially streamline the transfer of information between LSUs and employers. The history of prior other organisation's recruitments and incidents does not necessarily need to be visible to employers, but if LSUs had this information it would enable them to lookup prior employers and provide references to enable us to do the same checks that AEs undertake for Australian placements.

It is worth noting that long term recruitments are currently completed by paper/PDF. This is a significant red tape impost and should be updated as a priority.

#### **One system – long and short-term pathways**

There must be a transition to a single system for long and short-term pathways. Currently, there are two separate processes that are completely disconnected – for example, accommodation needs separate approval,



the same AE has different contract managers, etc. A single contract manager, and integrated system is a high priority for red tape reduction.

## Letters of Offer Templates

There is currently significant push back on an AE using their own Letter of Offer format for new recruits. Currently, the system is inflexible, with recruitments denied unless a PLF/DEWR/DFAT format is used.

As with any other Australian employee, an employer should be able to outline terms of employment in their own employment contract. Many of these terms are standard forms in an employment contract, and excluding these from the current letter of offer, an employer's ability to operate effectively is limited. There is an opportunity for industry and government and other relevant stakeholders to work together to develop a format that includes information critical to government but also includes relevant terms of employment. Some examples of additional terms include:

- Abandonment of employment – Outline in our contracts when it is considered that someone has abandoned their employment. Modern awards no longer include this, and the law is not specific on the period of time. In a program where worker disengagement requires significant management, outlining these requirements better serves all program stakeholders.  
[https://www.fairwork.gov.au/tools-and-resources/library/K600465\\_Abandonment-of-employment](https://www.fairwork.gov.au/tools-and-resources/library/K600465_Abandonment-of-employment)
- Charges for damage – Employers and workers entering an agreement in regard to the supply accommodation and neither party has a contract outlining the terms. This is not good for all stakeholders. Outlining the responsibilities for worker accommodation, when an AE will forward workers charges for damaging property and workers obligations to cover those costs will create an environment where all parties are clear on their obligations. Employees need to be empowered to understand the conditions of their employment, including the supply of accommodation as it relates to that employment – this should be able to be clearly articulated upfront.
- Obligations to operate in accordance with company policies – it's standard for employment contracts require employees to follow company policies. Being clear on their obligation to work within company policies, including things like sexual harassment, bullying, etc. is important in ensuring a safe and productive work environment for all workers not just those within the PALM scheme.
- For long term pathways – these are permanent maximum term contracts, and yet an AE cannot include critical components of an employment contract including clauses regarding leave entitlements, direction to not attend work, confidential information, summary dismissal, etc.

The current Letter of Offer templates are also out of date and misleading. For example, these templates require an AE to supply a piece work record as a part of the LOO that is in the Government's (DEWR) format, which includes things that are not required by Fair Work (like an employee signature). Piece work records are completed before they undertake the task under changes to the Horticulture Award in 2022.

Further engagement on red tape reduction and scheme improvements must focus on engaging directly with AEs rather than industry groups and other stakeholders. AEs are best placed to identify areas of red tape in the first instance. A broader consultative mechanism (i.e. inclusion of unions, community groups and industry groups) may be required to develop and implement solutions.

#### ***4. How could existing structures for consultation (e.g., PALM Advisory Group, sector committees, HOM roundtables and regular online LSU updates) be adjusted to improve consultation? Are additional consultation fora needed?***



The current structures for consultation have a strong focus on industry representative groups, an increased focus on engaging directly with AEs is likely deliver more targeted feedback on areas of improvement and methods of improvement.

Given the strong focus of some parts of the horticulture sector on improving access to the program for small businesses and employers, a small employer working group may be beneficial in drawing out key barriers and working with relevant industry groups to implement a solution.

## Family accompaniment

### ***1. In what circumstances would you support families accompanying workers and are there any circumstances under which you would not support this initiative?***

The AFPA does not support family accompaniment for workers participating in the short term PALM visa scheme. Given the short nature of the recruitment, the AFPA would contend that relocation of family members for fewer than 12 months is not in the welfare interests of workers or their families.

In order to best protect worker welfare, and that of workers' families, strong support from an AE would be required to facilitate family accompaniment. In order to best understand challenges, opportunities and limitations of family accompaniment a small scale pilot or trial should be implemented, with learnings from this trial used to better facilitated this commitment.

### ***2. How would you suggest we overcome any identified challenges for workers who bring their families to Australia? Are there additional implementation challenges or risks the Government should be considering?***

Some matters to consider as part of facilitating family accompaniment include accommodation (shortages), the working rights of accompanying family members, family integration in often regional/isolated communities, care of young/vulnerable dependents, education of school-aged children, health insurance, pregnancies and the status of children born in Australia, the rights of family members in the event the family unit separates.

Further to the specific obstacles listed above, the Government must also consider the repercussions of allowing a family to settle in Australia for multiple years without an appropriate pathway to permanent residency and, beyond this, the implications of offering a pathway to permanent residency from the perspective of Pacific and Timor-Leste governments.

### ***3. How would you like to be involved in the staged implementation of Family Accompaniment? Are there locations, sectors or employers who would be well placed to support the initial cohort of families?***

### ***4. What criteria, if any, should workers and families be required to meet in order to participate?***

Given the significant complexity of family accompaniment and difficulties noted above, AFPA recommends Government undertake a small pilot of family accompaniment with supportive employers.



## Making seasonal/short term deployments more attractive for employers

- 1. What are the biggest obstacles to more employers joining the scheme?**
- 2. Are there other ways to make the scheme more attractive to employers of seasonal workers?**

Despite many growers/AEs successfully participating the PALM scheme, AFPA recognises that small and medium size employers, with short or sporadic work requirements, are likely to experience challenges in recruiting PALM workers directly. Challenges in direct engagement of workers can be attributed to:

- Meeting the required minimum employment duration and minimum guaranteed hours per week.
  - Growers of produce with a short harvest period (i.e., cherries – 12 weeks) do not have the ability to support PALM workers for the minimum required duration. Likewise, some growers have stated they cannot guarantee the minimum hours required due to the variable nature of a season.
- Sourcing appropriate accommodation
  - Access to suitable accommodation is a significant challenge for employers. This challenge is due to low vacancy levels for rental accommodation in regional locations (many fewer than 0.5% vacancy levels), challenges with construction on farm accommodation due to local council and state planning regulations, accessing capital (and subsequent return on capital) to invest in constructing accommodation and a range of other challenges.
- Complexity of the program
  - Many employers indicate that engagement and management of workers is perceived to be complex with significant administrative reporting requirements
- Financial outlay and risk
  - Participating in the PALM scheme does require an upfront financial commitment and ongoing risk management. Upfront program costs may include engagement of support services, additional welfare and support costs, transport costs or relevant equipment for transport (i.e. purchasing of vehicles) and other program requirements (visa requirements etc). These costs may be viewed as a barrier to participation.
  - Upfront flight costs also present a level of risk to employers - engaging PALM workers directly have upfront costs for growers. While this cost is typically recovered from workers once they have commenced work, if workers fail to commence work, or otherwise disengage from the program, this cost is not recovered by the employer.

In terms of promoting uptake within the PALM scheme, addressing mobility and portability will be key, however, industry led solutions will also support smaller growers to access the PALM. These options could include:

- Better supporting worker mobility to enable PALM workers (and associated financial costs) to be shared across 2-3 direct employers (currently being explored as part of these reforms)
- A role and financial support for industry to assist in helping employers access the program, and potentially helping to link employers to share workers
- In line with “red tape reduction” working groups, establish a small employers working group with the role of understanding key impediments to PALM scheme participation and to develop industry led and delivered solutions to address identified issues.

- 3. As an employer, what would be the implementation challenges associated with delivering this commitment?**
- 4. How do you think this policy can be administered effectively (invoicing, system changes, communications)?**
- 5. What additional obligations or costs will this commitment bring on employers?**





## **6. How soon could (employer) business systems be in place to support implementation of this measure?**

The AFPA supports an alternative approach to the outlined election commitment that would see the cost of international airfares underwritten – meaning that government expense is only incurred in the event a worker disengages from the program.

Assuming an underwriting model moves forward, little operational change will be required. In order to implement an underwriting model, close engagement with industry is required to ensure that there is an appropriate reimbursement process in place that operates with efficiency and integrity.

## **Relocating the Australian Agriculture Visa within the PALM scheme**

### **1. Do the employer-initiated options for portability already negotiated in the context of the AAV and the PALM scheme remain appropriate? These include:**

- *Transfer agreed between approved employers (AEs) offshore (prior to mobilisation).*
- *Transfer agreed onshore between AEs (unplanned or details of an agreed offshore transfer not finalised).*
- *Secondments (unplanned) to host employers who may not be PALM AEs.*

The AFPA supports the Government’s consideration of greater PALM worker portability and mobility, and the eventual establishment of a ‘marketplace model’, noting the complexity of these concepts and changes to visa settings.

The portability arrangements proposed under the PALM scheme should be progressed in the first instance (offshore agreement, onshore agreement and secondments). Embedding improved portability policies into the scheme will provide workers with greater access to employment opportunities, ensure that more approved employers (AEs) are able to participate in the program and can be done without lowering the PALM scheme’s standards and worker protection.

### **2. Under proposed arrangements the cost of travel between employers would be incurred by employers. Which employer should bear these costs? Similarly, how would the transfer of other administrative responsibilities best operate?**

In terms of operationalising employer initiated movement, key to the success of this will be ensuring that employers have commercial arrangements in place to manage financial welfare obligations to workers including travel costs and health insurance. These commercial arrangements will assist in managing risk for employers, while protecting workers. Commercial arrangements between employers also enable AEs to develop suitable cost sharing arrangements with limited impact on individual workers.

### **3. How would you envisage a marketplace model operating and what would need to be in place to deliver this function effectively without risking the welfare of workers?**

### **4. What are the risks for workers associated with a marketplace model and how would you propose managing these?**

Critically, worker initiated movements cannot be a substitute for resolving welfare concerns. Worker autonomy is an important component of mobility and welfare, however, should not replace employers’ responsibilities (which must move with workers), program oversight or roles of unions and community groups.

In order to ensure ongoing program integrity, employer obligations and worker welfare standards must be maintained, this includes:

- Suitable and approved accommodation must be available to workers
- Visa obligations (i.e. health insurance) must be maintained



- Appropriate repayments and deductions where required must still be applied
- AE sponsorship requirements (TAS) must continue to apply

In order to address concerns, there are a range of parameters for worker movement under a marketplace (or similar) model that could be considered including:

- Requiring PALM workers must be familiar with employment in Australia before being able to relocate (with the exception of welfare concerns)
  - Parameters could be after a determined period workers are able to enter the marketplace model (propose 3 months) OR
  - Returning workers on a second year visa/secondment may be automatically able to participate
  - Consideration to other “standards” or ways to demonstrate that workers have sufficient ability to initiate their own movements in a way that maintains program integrity and worker welfare standards should be considered .
    - E.g. Workers should hold a driver’s licence
- Only trusted employers be able to operate in the Marketplace Model
  - A marketplace model is likely to have less program oversight, therefore only trusted employers should be able to participate in a marketplace model
    - Methods for this could be considering a “trusted trader” model based on experience within the program or
    - Demonstrated third-party accredited systems, internal processes, or other relevant measures to enable access to the marketplace model
- Worker initiated movement is at the cost of the worker
  - Where a worker initiates movement, they must be responsible for the cost of relocation and movement to new place of work
    - This doesn’t prohibit employers from paying the cost, it would however be at their discretion
    - This parameter ensures that workers are making their own decision to relocate, and are not coerced into moving employers

In exploring worker movement models, there are a number of practical challenges to consider including:

- The relationship between employer obligations and worker portability
  - For example, where AEs are paying (and deducting) health insurance for workers, how does the insurance transfer with a worker – this is an employer to employer commercial conversation, but initiated by a worker. This extends to accommodation.
  - The inability to move the TAS (and therefore obligations) between AEs as workers relocate
- Costs of relocation
  - Proposed that workers cover the cost to enable autonomy, rather than relying on a different employer to cover costs and potentially coerce workers
- Costs incurred by employers
  - Where an employer has incurred costs on behalf of a worker, and the worker moves to a new employer, consideration needs to be given to how the initial employer recoups costs.
- The provision of minimum hours of employment
  - Need to consider how this protection is incorporated by considering minimum length of engagement with an employer



- Suggest minimum engagement period of 4 weeks, with an average of 38 hours/week measured over the engagement
- The responsibility of worker welfare while transitioning between employers and monitoring of their adherence to visa conditions.

**5. *How should worker movements be tracked and monitored and who should be responsible?***

6. As described above, at the point of each transfer, growers/AEs should be required to report to Government that the workers have left their employment and receiving AE should have to make similar declaration that workers have arrived and commenced employment (in line with recruitment plan/s). This will ensure that Government are best able to follow up on transfer of welfare management as required. ***What role do you see industry accreditation schemes playing in the PALM scheme?***

**7. *Which schemes are sufficiently robust to give confidence to Government that would enable fast-tracking of approval processes? How would this apply outside the agriculture sector?***

Industry accreditation schemes should not replace the Government's role in the Approved Employer process, rather, accreditation would be better utilised as part of a Trusted Trader program.

Importantly in considering industry accreditation, is that accreditation must be focussed on ethical sourcing or employment standards (rather than other whole of sector best management practice programs) and be independently audited to provide a greater level of confidence in the scheme and the level of accreditation.

The horticulture industry operates a number of these schemes (SEDEX SMETA, GLOBAL GAP GRASP and Fair Farms). Understanding that such accreditation may not be widely used beyond horticulture, existing systems including StaffSure and SEDEX SMETA and GLOBAL GAP have broader applications beyond the horticulture sector specifically and may be able to be utilised by other agriculture sectors and other sectors outside of agriculture.

**8. *Should a 'trusted trader' concept be introduced where employers may benefit under the scheme based on a track record of compliance and program performance? What benefits would be considered the most valuable by employers? Fast tracked access to workers? Reduced reporting requirements? Others?***

**9. *Do you envisage risks to worker welfare associated with expanded accreditation options.***

The AFPA support a 'Trusted Traders' concept. A 'Trusted Traders' concept would build additional credibility into the scheme, encourage better worker support and protection and reward good employers. 'Trusted Traders' status would need to be defined, appointed, and enforced by Government, however, could be linked to pre-existing third-party ethical-employment auditing schemes.

'Trusted Traders' that can demonstrate a positive employment record and meet government requirements should be provided increased rights, such as the fast-tracking of approval processes ability to participate in onshore transfers. There could also be different tiers of 'Trusted Traders', where the top tier of exemplary businesses are subject to less rigorous oversight by government to ensure resources are effectively utilised.

**10. *In your opinion, should the definition of 'agriculture' under the PALM scheme be expanded so that workers can be employed by meat processing businesses in urban areas?***

**11. *Would broadening geographic coverage to include urban areas pose a risk to workers?***

**12. *Would this affect labour markets in rural and regional areas?***

The AFPA supports targeted expansion of the PALM scheme through a broadening of the definition of agriculture. Within the horticulture sector, there are examples of businesses operating with urban or peri-urban areas, who



are unable to engage PALM workers due to their post code. This is particularly prominent in horticulture processing businesses – for example businesses that further pack or minimally process fresh produce.

Understanding that there is likely to be increasing demand for the PALM scheme both within agriculture and the economy more broadly (sectors like health and aged care in particular), a considered approach to expanding the definition of agriculture should be implemented. This definition should include meat processing and horticulture processing but may not be suitable to extend to traditional manufacturing. A limited definition may call out minimally processed agriculture or may require a significant portion of the manufactured product is from a domestically produced input.

Broadening the definition of agriculture to incorporate minimal processing (meat processing and further horticulture processing or packing) is unlikely to pose a risk to workers, many of whom are undertaking this work utilising previous post code exemptions. Further, this is unlikely to have a negative impact on labour markets in rural and regional areas – conversely improved access to the scheme is likely to increase productivity and labour use efficiency while supporting other ongoing roles in regional economies.

***13. Are there any other specific features of the proposed AAV that should be incorporated into the PALM scheme?***

***14. How would you implement these features and what would be the timeframe for implementation?***

The AFPA continue to support and advocate for the introduction of a Harvest Work Visa to complete the PALM scheme. This visa would enable greater movement of workers within a framework of trusted employers. Given the foreign aid objectives associated with the PALM scheme and therefore the high welfare requirements, features of the Ag Visa may not be directly transferable to the PALM scheme.

Implementation of Ag Visa measures should be considered a priority, with worker movements (offshore and onshore agreement and secondments) and an expanded definition of agriculture a priority for immediate implementation.

