



AFPA Submission:

**Review into Key Settings of the
PALM Scheme Deed and Guidelines**
Department of Employment and Workplace
Relations

September 2025

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
- Perfection Fresh
- Montague Farms
- Pinata Farms
- Fresh Select
- Mackay's Marketing
- Driscoll's
- Australian Produce Partners
- Premier Fresh Australia
- Rugby Farming
- Fresh Produce Group

These businesses represent:

- half the industry turnover of the Australian fresh produce (fruit and vegetables) sector - \$12 billion total
- a quarter of the volume of fresh produce grown in Australia - 6.5 million tonne total
- more than a third of fresh produce exports - \$1.7 billion export total
- more than 1,000 growers through commercial arrangements, and
- more than 20,000 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 Members include:

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

Executive Summary

The AFPA welcomes the opportunity to contribute to the Department of Employment and Workplace Relations' (DEWR) *Review into Key Settings of the PALM Scheme Deed and Guidelines*.

The PALM Scheme continues to play a critical role in supporting Australia's fresh produce sector, with 55% of PALM workers engaged in agriculture, predominantly in horticulture. The Scheme not only addresses ongoing labour shortages but delivers substantial economic and social development benefits to participating Pacific Island countries and Timor-Leste. Ensuring the long-term viability of the Scheme is of strategic importance to both Australia's food security and Pacific development.

However, despite the Scheme's importance, it is in decline. This is largely attributable to the implementation of the 2023 Deed and Guidelines, which was poorly developed and introduced a range of operational challenges and unintended consequences. These include increased administrative burden, rising operational costs, and reduced flexibility – factors that have contributed to a measurable decline in PALM worker recruitment, especially in short-term stream. This trend is concerning, as the short-term stream has historically underpinned seasonal workforce needs and aligns most closely with the Scheme's original circular migration objectives.

The AFPA recognises and supports the intent of the Scheme's worker welfare safeguards. However, many of the protections introduced under the current settings are either duplicative, impractical, or add layers of complexity without clearly demonstrated benefit. Some regulatory expectations also appear disconnected from on-the-ground realities in regional Australia, exacerbating broader challenges such as housing shortages. Compounding this, many of the systems, tools, and support structures required to meet compliance obligations remain unfit for purpose or underdeveloped, in many ways all parties are still catching up to the PALM Scheme's rapid expansion.

As the Scheme becomes more complex and costly to operate, it is not just employers who are impacted. Pacific governments and communities are beginning to question whether the program continues to serve their interests. A significant shift from short- to long-term placements, without clear consultation or intent, has contributed to perceptions that the program is no longer facilitating circular migration, but instead encouraging a more permanent labour drain. Restoring confidence in and clarity around the Scheme's purpose and direction requires not only operational improvement, but also transparent engagement with labour-sending countries and a reaffirmation of shared objectives.

For many Approved Employers (AEs), confidence in the Scheme is weakening, not because they don't support its goals, but because the compliance burden and policy uncertainty are becoming too great to manage. These are not fringe or non-compliant employers, but longstanding participants who have invested heavily in the Scheme's success. It is essential that DEWR recognises this moment as a chance to pause, recalibrate, and re-establish trust. That means resisting further regulatory layering, addressing pain points that are actively driving employers away, and enabling all stakeholders to participate meaningfully in shaping the Scheme's future.

Looking ahead, the priority must be stability. If any reforms result as an outcome of this Review, they must be guided by robust evidence, not assumptions or anecdotes. Equally, genuine consultation must occur with all stakeholders and beyond this round of submissions, DEWR must thoroughly consult on draft changes to ensure unintended consequences are avoided. Upon completion, DEWR should clearly explain how stakeholder input and evidence informed final decisions.

Table 1 (over page) summarises this submission's targeted recommendations to refine several key settings and improve outcomes for workers. In most instances, the recommendation is to maintain current settings as the overriding need is to consolidate and improve, not expand and add. Further tightening or large-scale reform risks compounding existing pressures and accelerating the scheme's decline. Instead, this Review should aim to stabilise the Scheme, address priority operational pain points, and lay the foundation for a future conversation about the long-term direction of this program.

Table 1: Summary for Recommendations

Key Setting	Summary of Recommendations
Overarching approach to the Review and its outcomes	Ensure any future amendments or reforms are evidence-based, transparently developed, and meaningfully consulted across all stakeholder groups, this includes along parties to provide feedback to draft amendments.
Deductions	Allow employers to recover a portion of capital asset depreciation via transparent, consent-based deductions to create equity and support greater investment in long-term assets, such as fit-for-purpose accommodation and dedicated vehicles.
Accommodation	Maintain current standards and recognise broader challenges on sourcing housing, particularly in regional areas that are experiencing acute shortages.
Financial Safeguards (low hours safety net & minimum net pay guarantee)	Current overlapping protection measures are creating disproportionate financial risk for AEs and administrative complexity (for Workers, DEWR, regulators and AEs), with little material benefit to workers since the updated minimum hours requirement was introduced in July 2024. Consideration should be given to ongoing requirement for clauses 3.7.10 and 5.1.7, particularly the low hours safety net, given the protection now provided by the updated Minimum Hours Guarantee.
Pay Parity	Maintain current standards, however, improve guidance, templates, and advisory support for classification and pay rate alignment across multiple employers, Awards and EBAs.
Welfare & Wellbeing Support	Allow greater flexibility around face-to-face meeting and geographic requirements. Permit experienced PALM workers to act as support persons.
Cultural Competency	Maintain current standards but improve system functionality. Extend to more stakeholders and extend frequency of retraining requirement to align with Deed duration or another appropriate period.
Transport Standards	Remove AE liability for private worker transport, or provide clear compliance criteria.
Minimum Hours	Permanently adopt current minimum hours setting (120 hours over 4 weeks) to balance protection and operational viability.
Portability	Review current portability arrangements with stakeholders, particularly pre-agreed portability to ensure that these settings are appropriate to support facilitating increased opportunities for PALM workers.

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1. Introduction

The AFPA welcomes the opportunity to provide a submission to DEWR's *Review into the Impact of key PALM Scheme Deed and Guideline Settings* (the Review).

The AFPA has long supported the PALM Scheme as a critical part of the solution for labour shortages in the horticulture sector. The Scheme provides a reliable, productive workforce for seasonal and longer-term roles, while delivering meaningful development outcomes for participating Pacific countries and Timor-Leste. The stability and continued success of the PALM Scheme is essential for maintaining the supply of fresh fruit and vegetables to Australian households and businesses, particularly during peak harvest periods.

This Review presents a timely and important opportunity to assess key settings introduced in July 2023. The AFPA and broader industry have consistently raised concerns about the operational burden, inflexibility, and cost implications of the current settings. While some progress has been made through successive amendments to the Guidelines, there remains a need to address key issues, ensure any future reform is evidence-based, and restore confidence in the program's governance. AFPA welcomes this Review as a constructive mechanism to help stabilise and strengthen the PALM Scheme in the interests of all stakeholders – workers, employers, governments, international partners, unions, and local communities alike.

2. PALM in Agriculture: Past, current and future considerations

Over half of all participants in the PALM scheme (55%) are engaged in the agriculture sector, in the majority employed as harvest workers in horticulture production. During peak season, AFPA members collectively employ (directly and indirectly) up to 6,000 PALM workers (historically as high as 7,500).

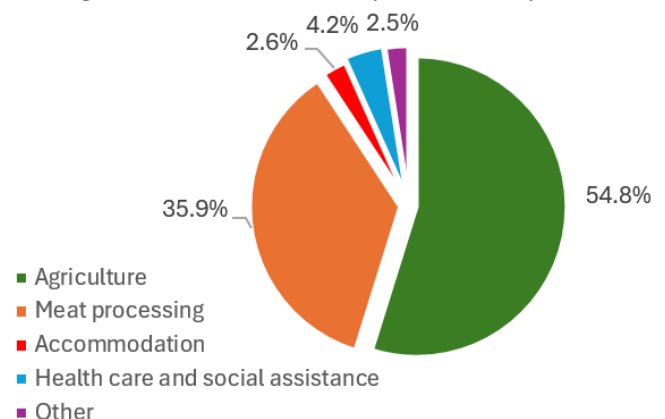
The value of the PALM scheme to the fresh produce sector cannot be understated, it provides stable access to a much-needed workforce and enables workers to return to Australia year on year boosting productivity. The PALM Scheme's ongoing success is of paramount importance to industry and to safeguarding the steady supply of fresh produce to Australian households.

Equally valuable, the PALM scheme provides significant benefits to the participating workers and countries in the form of both financial remittance and the flow of ideas, knowledge, experiences, and other social capital back to Pacific communities.

Between December 2022 to March 2023, prior to the implementation of the current Deed & Guideline settings, the World Bank and Australian National University (ANU) partnered to survey¹ more than 2,000 Pacific workers participating in the PALM and RSE Scheme (New Zealand based program). The survey found PALM worker satisfaction with their working experience in Australia was rated on average 8.6 out of 10, and furthermore:

- 98% would recommend the program to others
- 92% wanted to work under the scheme again
- 90% of workers reported being treated fairly by their employers
- 90% of workers were satisfied with their accommodation
- Workers are working an average of 46 hours per week
- Scheme participants were earning significantly more than what they would at home – on average 4.3 times higher, and up to 10 times higher for some countries.

Figure 1: PALM Workers by Sector – July 2025



¹ [Report: The Gains and Pains of Working Away from Home the case of Pacific workers and their families](#)

The World Bank and ANU survey is the only large-scale study of PALM worker views of the Scheme. Unfortunately, it was released in November 2023, too late to inform the development of the current PALM Scheme's Deed and Guidelines settings and requirements.

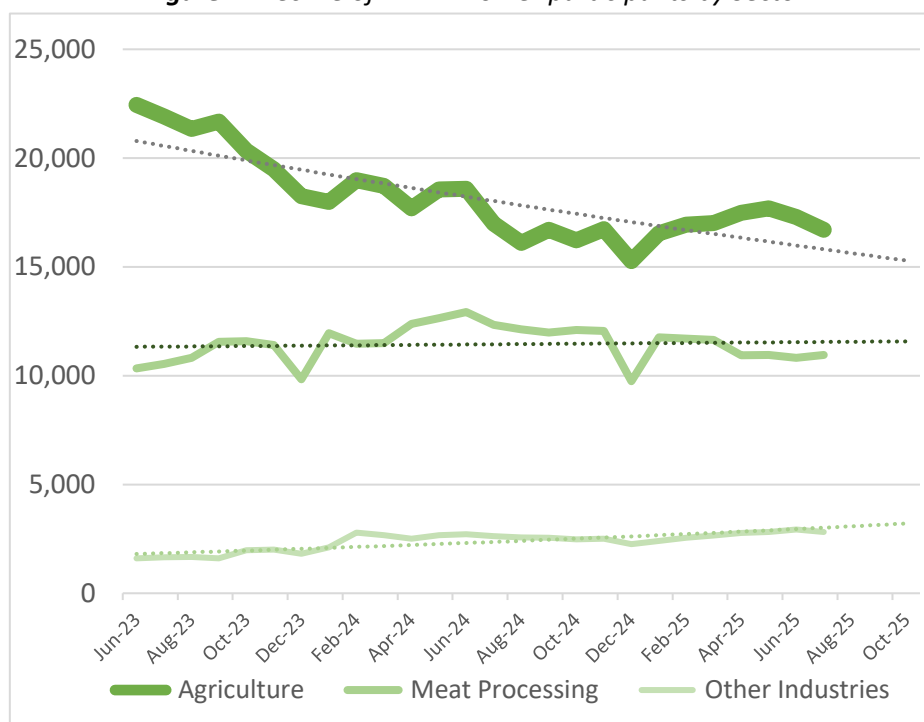
This Review considers key settings of the PALM Scheme's Deed and Guidelines, the document that guides the operations and requirements of Approved Employers (AEs).

The PALM Scheme's Deed and Guidelines were implemented in July 2023 amid much controversy and angst from stakeholders, notably AEs. This was due to a range of reasons including dissatisfaction relating to the consultation process and lack of material evidence to support substantial tightening of regulation and introduction of new requirements, as well as the scale and pace of change being introduced at a period when the program was experiencing significant growth and uncertainty – having expanded from approximately 7,000 (SWP² & PLS³) workers in June 2021 to near 35,000 in June 2023; and the Government was embarking on an ambitious transition of management of the program's in-country operations from an external provider to DEWR, which involved the establishment of a new division and recruitment and training of hundreds of staff.

Since July 2023 there has been constant dialogue between all stakeholders about the program's settings and ten separate series of amendments to the Guidelines to address various issues, conflicting clauses, ambiguity, and inoperable requirements, as well as introduce new components, such as family accompaniment. Further amendments have been flagged by DEWR for publishing in the coming months, separate to this Review.

The changes introduced by the PALM Scheme Deed and Guidelines in July 2023 and general turbulence around the program have made the program more complex and costly to operate, and increasingly unviable for the Agriculture (Horticulture) Sector. Prior to the implementation of the Deed and Guidelines, in June 2023, there was 22,445 PALM workers engaged in the Agriculture Sector, in July 2025 there was 16,705 workers, the number of workers has fallen by an approximately 25.6% (5,740 less workers). This now exceeds the results of a survey conducted by the Approved Employers Association (AEA) and AFPA in late 2023 that found employers expected to reduce their short-term stream PALM workers by between 17 to 25% to manage the new financial risk and loss of flexibility – further decline is forecast.

Figure 2: Decline of PALM worker participants by Sector



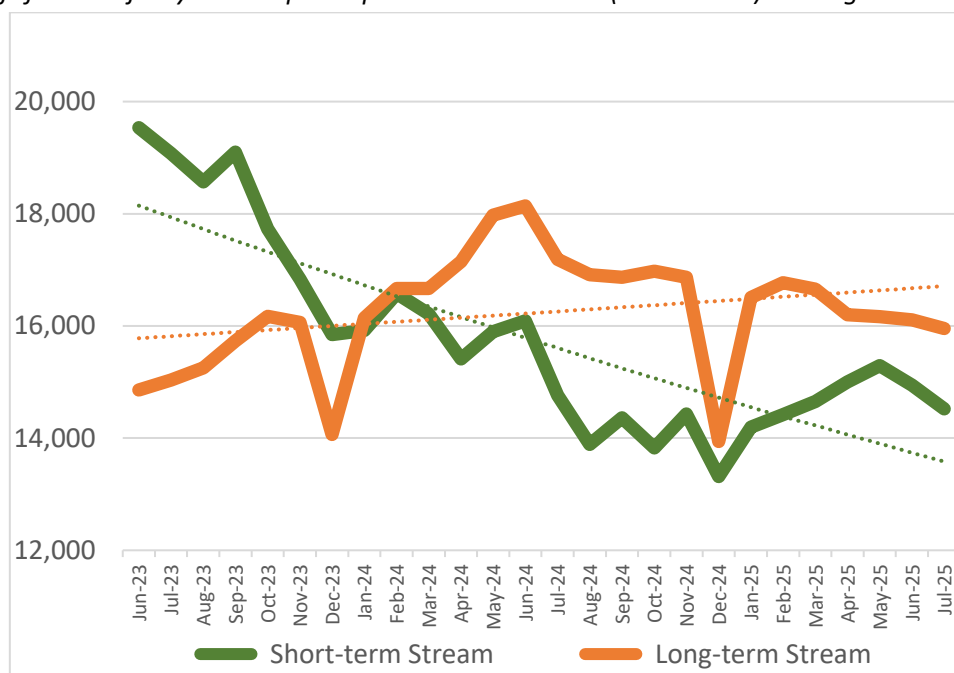
² [Asia & the Pacific Policy Studies - Australia's Seasonal Worker Program: Working Out Ways to Manage Risk](#)

³ [Devpolicy Blog - Pacific Labour Scheme: expanding while borders are closed](#)

A portion of the reduction in PALM workers can be attributed to the return of Working Holiday Makers (WHMs) to Australia post-COVID-19 boarder restrictions lifting. WHMs are a highly mobile workforce with short-term employment expectations, typically only seeking to fulfill the 88-day specified work requirement to qualify for a second (and third) visa extension. However, there is a declining number of WHMs working in agriculture due changes in government policy beginning in July 2019 that made other types of regional work eligible for visa extension. In 2023-24⁴ less than half [47%] of WHMs undertook their specified work in the agriculture sector. The removal of the requirement of British nationals to undertake any specified work to qualify for a visa extensions further reduces this labour force. While important, WHMs are not, nor have ever been, an ideal workforce solution for producers, as they have been found to be less productive (by 20% on average⁵) than workers whose primary purpose in Australia is to work, such as PALM workers, and have a high-turnover, as they return to their holiday travels – if the PALM scheme remained a more viable option, most employers would not have reduced recruitment and engaged WHMs.

As illustrated by Figure 2, accounting for fluctuations in recruitment, the number of PALM workers engaged in the agriculture sector continues to trend down, however are expected to plateau between 15-16,000 if program settings remain unchanged (this includes permanently extending the current minimum hours provision, the averaging of 120 hours offered over four weeks). The Scheme’s other sectors, such as meat processing, accommodation and health care, have experienced moderate increases in recruitment (through the long-term stream), but not enough to offset losses. The entire number of workers engaged in the PALM scheme is down 11.4% or 3,925 workers (July 2025 compared to June 2023).

Figure 3: Shift from majority worker participation in Short-term (6-9 months) to Long-term Stream (4 years)



The Scheme’s overall decline and increasing shift to longer-term (more permanent) employment will only heighten concerns held by some pacific countries and their key decisions makers that the program is no longer working in their best interest, as it was originally designed to facilitate a steady two-way flow of people (circular migration) and be an avenue for domestic economic uplift, not a pathway for their population’s exodus.

While beyond the scope of this Review, there is merit in considering both how the program should evolve to better meet the needs of the Pacific, and whether the short and long-term stream of the PALM Scheme should continue to be governed by a single Deed and Guidelines, or alternatively approached to better tailor settings to the distinctly different pathways.

⁴ [Department of Home Affairs - Working Holiday Maker visa program report – June 2024](#)

⁵ [DAFF - A comparison between seasonal workers and working holiday makers – February 2018](#)

The AFPA continues to welcome a conversation with Government and all stakeholders about the future of the program and strongly cautions against further reform and expansion in the interim. The current focus must be on creating greater stability and resolving existing operational issues within the scope of this Review.

Given the historical challenges surrounding the development and implementation of the current Deed and Guidelines, AFPA strongly recommends that this Review be used as an opportunity to reset the approach to program reform. Key recommendations for the conduct and outcomes of this Review include:

Overarching Recommendations

1. Evidence-Based Approach

- All proposed changes must be grounded in robust, transparent evidence, including economic and social impact assessments, industry workforce data, and direct worker feedback at scale.
- Where worker safety or welfare concerns are cited as justification for new requirements, these should be clearly substantiated with empirical findings, not anecdotal or assumed risk.

2. Genuine Stakeholder Consultation

- DEWR should ensure all stakeholders, including AEs, unions, industry groups, community representatives, Pacific governments and workers, are meaningfully consulted.
- A formal draft stage must be built into the process, with all stakeholders given adequate time to review and provide feedback on proposed changes before they are implemented.

3. Transparency and Accountability

- DEWR should publish all consultation feedback (in anonymised or summarised form if necessary) and clearly explain how stakeholder views were considered in shaping final decisions.
- The rationale for accepting or rejecting proposals must be publicly communicated to rebuild trust and transparency in program governance.

4. Phased Implementation

- Any changes recommended by the Review must include clear implementation timeframes and transitional arrangements to avoid disruption.
- Adequate lead time and communication are critical for AEs to update processes, consult with workers, and ensure compliance.

5. Program Stability and its Future

- The Review should prioritise stabilising current operations before introducing further reforms or expanding eligibility settings.
- Longer-term questions, such as the future direction of the program, the balance between short- and long-term streams, should be addressed through a separate review in partnership with Pacific governments.

In addition to above, any Government policy direction underpinning the PALM Scheme must be transparent. Industry is still unclear whether the shift in program composition, from a majority short-term to majority long-term workforce, reflects an intentional change in Government policy or an unintended consequence of the issues surrounding the development of the current Deed and Guidelines highlighted earlier in this section. If it is the Government's intent, this objective should be clearly articulated and openly discussed, so stakeholders can provide informed input and adjust their operations accordingly – AEs are responsible for delivering the program after all.

In the absence of such clarity on this or any other policy directions set, there is a risk of further unintended consequences undermining the very outcomes the Scheme is designed to achieve. A more transparent, consultative, and evidence-based approach will help to safeguard the PALM Scheme's integrity and ensure it remains viable into the future.

3. Key Settings under review

Deductions

Guidelines Reference

- Chapter 11: Deductions from Worker Wages (pg. 83)

Issue

- Under current DEWR interpretations of the Deed and Guidelines, AEs are not permitted to recover or depreciate the cost of certain capital investments made to meet the PALM Scheme requirements.
- This policy interpretation actively disincentivises AEs from making long-term investments in high-quality housing and transport, exactly the kinds of improvements that enhance the overall quality and sustainability of the PALM Scheme. Employers are penalised for owning and investing in better outcomes, while third-party providers are financially rewarded, even when offering less value-for-money.
- As a result:
 - PALM workers bear higher costs, as third-party providers typically apply additional profit margins that employers could avoid through direct ownership.
 - Employers are less likely to invest in long-term, high-standard infrastructure and assets, instead relying on inconsistent, outsourced services that may not prioritise worker welfare.
 - Program sustainability is undermined, particularly in remote and regional areas where suitable third-party providers may not exist or offer substandard services at inflated prices.
 - Policy objectives risk being undermined, as the rules inadvertently discourage precisely the kind of employer-led investment that would promote better housing, transport, and community integration for workers.
- Ultimately, unless resolved, this approach runs counter to both the economic efficiency and ethical intent of the PALM Scheme. It reduces the program's effectiveness in delivering affordable, high-quality outcomes for workers and increases its operational cost and complexity for employers, limiting future growth and participation. A more balanced framework that allows reasonable cost recovery for capital investments would ensure better outcomes for all stakeholders and promote the long-term viability of the Scheme.

Explanatory Scenario

- An AE purchases a mini-bus for \$60,000 to transport PALM workers to and from work and community activities. The vehicle has an expected useful life of 10 years. Under basic accounting principles, this equates to a depreciation cost of \$6,000 per annum (or approximately \$115 per week). If used by a consistent cohort of PALM workers, a reasonable weekly contribution (e.g. \$10–15 per worker) could recover the asset over time.
- However, under current DEWR guidance:
 - No cost recovery is allowed if the AE owns the vehicle.
 - If the AE instead leases the vehicle from a third-party provider (at, say, \$200 per week), that full cost—including depreciation and a profit margin—can be deducted from worker wages (subject to consent and reasonableness). This typically results in a \$20–25 per worker weekly charge.
- A similar dynamic affects potential investments in purpose-built accommodation. While these facilities may better support the Scheme's long-term sustainability and worker wellbeing, employers are unable to recoup any part of the capital cost via deductions, whereas third-party accommodation providers can build this cost recovery into rent charged to workers.

Recommendation

- That AEs be permitted to recover a reasonable portion of the depreciation of capital assets acquired for the express purpose of meeting PALM Scheme requirements, such as vehicles, accommodation, or key infrastructure, via transparent and consent-based deductions from PALM workers.
- Depreciation is a standard accounting method to allocate the cost of a tangible asset over its useful life and is widely accepted.
- A framework could be established to define:
 - Eligible assets (e.g. transport vehicles, purpose-built accommodation),
 - Depreciation timeframes (e.g. 5–15 years depending on asset type), and
 - Transparent consent and record-keeping obligations consistent with Fair Work Act.
- Such a model would:
 - Support better living and working conditions for PALM workers,
 - Reduce upstream costs passed to workers through third-party markups, and
 - Encourage greater employer investment in infrastructure that supports the Scheme's long-term growth and sustainability.

Accommodation

Guidelines Reference

- Chapter 10: Accommodation for Workers (pg. 74)

Issue

- Australia is experiencing severe accommodation shortages and increasing housing costs. This is being most acutely experienced in regional areas.
 - Vacancy rates remain at or near record lows, below 1% in most key production regions (e.g. Riverina, Coffs Harbour, North Queensland, Launceston, etc.)⁶
 - Housing construction costs continue rising and construction rates remain below the ten-year average – national dwelling approvals are currently 23.9% below the national housing accord targets⁷
 - Rents continue increasing – up 5.4% over the last 12 months across regional Australia, compared to a 2.7% in capital cities. The median rent in regional Australia is now \$582 per week.⁸
- The lack of appropriate accommodation and rising costs is a major challenge to industry to attract and retain workers in general and is not specifically a PALM Scheme issue.
- However, the PALM Scheme's high accommodation standards, intended to safeguard worker welfare and wellbeing, reduce the available pool of accommodation – exacerbating the challenge.
- AEs are further challenged by third-party landlord bias towards longer-term, Australian citizen tenants that do not require building modifications (e.g. converting internal bedroom doors to be lockable).
- Several Guideline clauses (e.g. 10.1.5) require AEs to *ensure accommodation costs are comparable to local market rates*. While the intent is understood, the reality is accommodation provided to PALM workers by third-parties is often not easily comparable to the market – this can be due to the short-term tenancy, provision of furniture and appliances, requested building modifications, higher occupancy (e.g. two per bedroom in a four bedroom dwelling) and, therefore, increased use of utilities, and general wear and tear (e.g. showers per day, use of a toaster, etc.).
- AEs are deterred from constructing new, purpose-built accommodation due to Guidelines limitations regarding cost recovery of investments (made to meet scheme requirements). However, third-party landlords and service providers can recuperate funds to fully-cover investment in new assets, creating inequity and poorer outcomes – see *Submission section 3. Deductions*

Recommendation:

- No further changes should be made to the accommodation standards; active maintenance of compliance should be maintained. Increasing requirements, however well-meaning, would further restrict already limited housing supply and discourage participation in the Scheme, with no guaranteed benefit to workers.
- Recognise the structural nature of the accommodation crisis. The challenges in sourcing suitable housing for PALM workers are a reflection of broader pressures in regional housing markets. Addressing this issue effectively requires Scheme settings to account for the persistent undersupply of affordable accommodation, particularly in agricultural production regions experiencing acute shortages. Simply stated, Accommodation standards cannot increase without further restricting the pool of available dwellings.
- Government should focus on enabling investment in fit-for-purpose accommodation (e.g. through equitable cost recovery – see *Section 3. Deductions*), rather than applying additional layers of compliance that may produce unintended consequences.

⁶ [SQM – Residential Vacancy Rates](#)

⁷ [Cotality – Monthly Housing Chart Pack – July 2025](#)

⁸ [Cotality – Quarterly Rental Review – July 2025](#)

Financial Safeguards (Low hours safety net & Minimum net pay guarantee)

Guidelines Reference

- 3.7 Minimum Hours (pg. 29)
- 3.7.10 Limits on deductions where Workers offered less than 20 hours work in a week (pg. 30)
- 5.1.7 You must ensure a minimum net pay guarantee for Workers of \$200 per week after tax and deductions (debt repayment can be extended). (pg. 41)

Issues

- Ensuring PALM workers economically benefit from their participation in the PALM Scheme is essential to the success of the program.
- In the Short-Term Stream, this economic benefit is assured through the safeguard of a minimum 120 hours of work offered over each four-week period by an AE during the worker's placement.
 - Furthermore, **Clause 3.7.2** specifies that when an AE does not offer a Short-Term Worker the required minimum hours, they must pay the Worker the equivalent of the difference that has not been offered to the Worker. This requirement exists regardless of whether a Worker is engaged as a casual employee, a unique aspect of the PALM Scheme.
- Other safeguards:
 - **Clause 3.7.10** requires that where a Worker is offered fewer than 20 hours of work in any week, the AE must cover the cost of the Worker's accommodation and transport for that week.
 - **Clause 5.1.7** establishes a Minimum Net Pay Guarantee of \$200 per week after tax and deductions. This guarantee is structured as a loan from the AE to the Worker and must be agreed to in writing.
 - Note that any debt accrued by a worker will be deducted from the Worker's pay over a minimum period of 12 weeks, unless another period is agreed to in writing by the Worker.
- The two safeguards listed above, 3.7.10 and 5.1.7, were developed prior to the introduction of Clause 3.7.2 in July 2024 and are arguably redundant as they now overlap safeguards, create administrative complexity and inequitable financial risk for AEs as demonstrated by the scenario below.

Concurrent Safety Nets in Operation - Explanatory Scenario

Consider the following case over a four-week period:

Week	Hours Offered	Notes
Week 1	32	Standard offering
Week 2	32	Standard offering
Week 3	16	Reduced hours due to unsafe weather
Week 4	36	Increased offering
Total	116 hours	4 hours below the 120-hour minimum

- In Week 3, because the Worker was offered fewer than 20 hours:
 - The AE must cover the Worker's accommodation and transport.
 - And if the Worker's net pay is below \$200 (the minimum net pay threshold), due to other deductions such as airfares for travel to and from Australia, the AE must also offer the Worker a "cash advance" or loan (that the Worker may or may not accept) for the difference between their net pay and \$200, e.g. a cash advance of \$6, if the net pay is \$194.
- At the end of the four-week cycle, the Worker is paid the equivalent of 120 hours, including a top-up payment for the 4-hour shortfall under Clause 3.7.2.
- While the Worker's earnings are protected, the AE has:
 - Incurred non-recoverable costs (accommodation and transport),
 - Provided a loan of \$6, to be recovered over the minimum 12 weeks period at 50 cents per week, and
 - Paid a wage top-up of four hours not worked.
- This situation, when scaled across employers engaging hundreds or thousands of PALM workers, creates a complex, resource-intensive admin burden for managing compliance and recovering small (but cumulatively necessary) debts. It also introduces financial exposure for employers, especially during periods of weather disruption or market volatility.

- This scenario demonstrates the unintended impact of overlapping protections on employer viability – a key reason for AEs exiting the program or reducing recruitment.
 - A 2018 study completed by DAFF⁶ found that “the non-wage labour cost related to seasonal (PALM) workers was 2.3 times higher per hour worked than for working holiday makers”, this was prior to the introduction of the current Deed and Guidelines (that carry significantly higher requirements, such as the safeguards listed above) and therefore today’s non-wage labour cost can safely assume to be several times higher.
 - Of note, Clause 5.1.8 also states that any outstanding debt cannot be carried over after the Worker has completed their Placement in Australia and returned to their Home Country.
- This complex and overlapping system of safeguards also imposes a significant administrative and resourcing burden on DEWR. As the Scheme Regulator, DEWR must monitor and enforce compliance against the Deed and Guidelines. The overlapping safeguards would increase the volume of issues requiring clarification or review, resulting in confusion not only for employers but also for DEWR staff responsible for interpreting and applying the Guidelines.
- While robust financial safeguards are vital to protect PALM workers’ economic interests, their design must avoid unnecessary duplication and disproportionate red tape on AEs and regulators. As is true for the broader settings of the Scheme, the financial safeguards for PALM workers must be carefully balanced with the regulatory burden of the program for DEWR and financial risk borne by AEs (and overall expense of engaging workers through the program) – if not in equilibrium, recruitment will fall, or prospective workers will be deterred from participating.
- If the Scheme’s setting were to be redesigned from scratch, a streamlined safeguard framework to eliminate duplication would be the likely outcome - a single, predictable safety net for workers without layering multiple weekly tests and loan arrangements. However, in the current circumstances, considering the Minimum Hours Guarantee provides the broadest level of protection, any amendments to the safeguards should be anchored around this clause.

Note: While the content above primarily relates to short-term workers, it is important to recognise that overlapping obligations and financial risks similarly apply to the long-term stream workers. Long-Term PALM workers are engaged under full-time employment contracts and are therefore afforded greater stability in working hours and income, however, Clause 3.7.10 and Clause 5.1.7 still apply to this cohort.

Recommendation:

- Consideration should be given to ongoing requirement for clauses 3.7.10 and 5.1.7, particularly the low hours safety net, given the protection now provided by the updated Minimum Hours Guarantee.
- These obligations create administrative burden for AEs and carry the same risk of unrecoverable costs. Accordingly, any reform to streamline and rationalise financial safeguards should provide clarity for both Short-Term and Long-Term employers, without diminishing worker protections.

Pay parity

Guidelines Reference

- 2.3. Pay Parity (pg. 20)

Issue

- The AFPA support the principle of pay parity, however, recognises that the operationalisation of this requirement has presented a range of practical and administrative challenges for AEs, especially those operating in complex and diverse labour environments.
- AEs are required to align PALM workers' remuneration with the full rate of pay under the relevant Fair Work Instrument applying to comparable employees at the same work site. However, in practice, many enterprises engage workers under multiple employment arrangements, including:
 - Modern Awards (e.g., the Horticulture Award 2020, Nursery Award 2020, etc),
 - One or more Enterprise Bargaining Agreements (EBAs) across different sites or functions,
- Reconciling which instrument and classification level appropriately applies to PALM workers performing comparable tasks can become administratively burdensome and legally ambiguous.
- Labour hire providers face an additional layer of complexity due to clause 2.3.5 *b*, as they must not only determine the applicable rate that would apply if the Host Organisation had directly employed the PALM worker, but also secure a countersigned agreement from the Host confirming this rate – which assumes all parties have contemporary knowledge and a shared understanding and agreement of the appropriate classifications or inclusions to apply.
- Even after an applicable instrument is identified, the requirement to ensure ongoing pay parity over the duration of a placement demands significant administrative oversight to track changes, make amendments and ensure records are accurate and of an auditable standard to demonstrate compliance.
- For many SMEs in horticulture, these processes require specialist industrial relations knowledge that is often not available in-house and must be sourced at additional cost.
- The cumulative effect of these challenges increases the risk of inadvertent non-compliance by well-intentioned AEs and host organisations that lack the resources to navigate the industrial framework fully. Given that PALM employers are subject to high compliance thresholds and audit scrutiny, this risk carries serious implications, potentially resulting in exclusion from the scheme, reputational harm, or regulatory penalties.

Recommendations:

- Enhance education, guidance materials, and direct support for Approved Employers (particularly labour hire providers) and Host Organisations to build shared understanding of relevant industrial instruments, support accurate classification decisions, and reduce ambiguity in rate-setting. This could include template agreements, practical case studies, and streamlined tools to help identify comparable roles and rates of pay.
- Consider introducing a mechanism (e.g. through DEWR or the Fair Work Ombudsman) to provide pre-assessment or advisory support for complex pay parity queries, particularly in cases involving multiple EBAs or mixed-instrument workforces.

Welfare and wellbeing support

Guidelines Reference

- Chapter 9: Enhancing Worker Welfare, Wellbeing, and Capacity (pg.64)

Issue

- The Scheme's welfare obligations include, but are not limited to:
 - Comprehensive induction processes covering rights, responsibilities, and local information, that requires AEs invite the Fair Work Ombudsman and Unions to participate.
 - Engagement of a dedicated Welfare and Wellbeing Support Person (1 to every 65 workers, located within 200km travel distance of each Placement)
 - Provision of an emergency contact number manned by an appropriately trained person 24 hours a day, seven days a week.
 - Provision of a grievance mechanism that is culturally appropriate and accessible,
 - Ensuring access to health and support services, and
 - Regular communication with workers and DEWR-appointed liaison officers and community-support personnel.
- Collectively, these mechanisms together provide a strong foundation for positive worker experiences and outcomes. However, several operational aspects of the current framework present practical challenges for AEs, particularly in regional and remote contexts.
- Geographic constraints:
 - Clause 9.6.6 requires that Welfare and Wellbeing Support Persons be located within 200km of the workers they support. In many regional and remote locations, this restricts the available pool of suitable personnel and may require hiring additional staff solely to meet locational compliance, rather than capacity or need.
- Restrictions on appointing PALM workers:
 - AEs are not permitted to appoint PALM workers themselves as designated Welfare and Wellbeing Support Persons. This restriction overlooks the potential of experienced PALM workers, particularly returning workers with multiple placements, to serve as peer leaders or trusted cultural liaisons. This may also support great skills development and pathways to permanent roles with a host organisation.
- Fortnightly face-to-face meeting requirement:
 - The Guidelines require support personnel to meet with each Worker at least once every two weeks (Clause 9.6.6), ideally face-to-face. While virtual check-ins are permitted during public health emergencies, they are not considered an acceptable default.
- This standard is operationally burdensome, especially for employers managing large or geographically dispersed cohorts. Gathering all workers for in-person sessions can be logistically complex, and workers can be less inclined to raise sensitive issues in group settings, further reducing the effectiveness of such meetings.

Recommendations:

- While recognising the importance of strong welfare oversight, greater flexibility in implementation would improve the effectiveness and sustainability of the current framework. For example:
 - Allowing exceptions to the "within 200km" requirements in regions with limited workforce or transport connectivity.
 - Accepting alternate check-in mechanisms (specifically online video calls) instead of fortnightly in-person meetings.
 - Reconsidering the exclusion of experienced PALM workers from being designated support persons, under appropriate supervision.
- These modest adjustments would help ensure the welfare framework remains responsive, culturally appropriate, and operationally practical, without compromising the protections it is designed to deliver.

Cultural competency

Guidelines Reference

- 9.2. Cultural Competency and Effective Communication (pg.65)

Issue

- The AFPA strongly supports the objective of building culturally safe and inclusive workplaces for PALM workers and acknowledges that cultural competency plays a critical role in ensuring workers feel respected, supported, and effectively integrated into their place of employment and broader community.
- Previous concerns about the lack of clarity regarding what constituted acceptable evidence of cultural competency have been partially resolved by the introduction of DEWR's Cultural Competency Training (in March 2024). However, while the training is now in place, AEs have reported a range of ongoing system-level and practical implementation challenges that impact their ability to effectively comply, for example:
 - There is no certificate or downloadable proof of completion issued to participants once they finish the training, making it difficult for both staff and employers to manage compliance obligations.
 - The current DEWR training system lacks basic functionality to support large, multi-site or labour hire-dependent AEs. For example, there is no dashboard available to employers to monitor which of their staff have completed the required training. Instead, AEs must request DEWR to manually generate and provide a report, delaying internal compliance checks and creating administrative inefficiency.
 - The system does not support employees linking their training record to multiple AE profiles or licences. For example, AEs can hold more than one PALM approval (for direct recruitment of PALM workers) and also engage workers (indirectly) from labour hire providers, however AE staff are unable to reflect this within the training system (only able to link their training to one licence), creating duplicative efforts and inaccurate records.
- These issues significantly undermine the efficiency and value of the cultural competency requirement, particularly for high-volume employers or those interacting with workers across multiple AEs/licences, who are already subject to rigorous audit obligations.
- Further to above, additional concerns include:
 - The training requirement currently applies only to AEs and their key staff, excluding other relevant parties such as Host Organisations, community representatives, and union delegates—despite these groups playing a critical role in shaping a PALM worker's overall experience.
 - The 12-month retraining requirement, while postponed until 2026, remains unnecessarily frequent. For organisations with low staff turnover or limited annual recruitment, a longer interval (e.g. every 2–3 years or aligned with the Deed duration) may be more appropriate.
 - The effectiveness of the training modules have not yet been formally reviewed. As the requirement has now been in effect for more than 12 months, the AFPA supports a structured review to assess whether the training is achieving its intended outcomes and remains relevant and practical.

Recommendation

- Maintain the current requirement for key AE staff to complete DEWR cultural competency training, but address basic functionality gaps in the training system—specifically, enabling employers to:
 - Access a live dashboard of staff completions,
 - Allow individuals to associate their training record with multiple AE licences or organisations,
 - Receive a certificate or proof of completion, and
 - Automate reminders ahead of training expiry dates.
- Expand training to other parties frequently interacting with PALM workers to support consistency in culturally safe practices across all aspects of the worker experience.
- Review the current 12-month retraining frequency and consider adopting a longer renewal period that balances compliance with practical workforce management.
- Undertake a formal evaluation of the training content and delivery method in 2026 to ensure the modules are fit for purpose and achieving measurable improvements in cultural safety.

Transport standards

Guidelines Reference

- 10.11. Transport Plan (pg.87)

Issue

- Under the current Guidelines, AEs are required to determine whether they are “satisfied” that a PALM worker’s own transport is “suitable (safe, reliable and affordable)” before ceasing employer-provided transport and related deductions (Clause 10.11.9). If not satisfied, AEs must continue to provide transport (Clause 10.11.10).
- While the intent is to protect worker welfare, this requirement imposes significant practical and legal burdens on AEs and undermines the independence of the worker:
 - Ambiguity and liability
 - What constitutes “safe, reliable and affordable” is undefined. AEs are not qualified transport inspectors or financial advisors. For example, if a worker purchases a used vehicle or motorbike, the AE is unlikely to have the skills or expertise to inspect it, nor can they compel the worker to submit it for review.
 - This creates a potential liability risk should an incident occur, it is unclear what legal responsibility the AE carries after declaring the vehicle "suitable."
 - Unreasonable expectations:
 - For examples, public transport services vary significantly across Australia. Requiring AEs to judge whether a regional bus service is "reliable" or "affordable" introduces further ambiguity.
 - Workers purchasing their own vehicle (particularly long-term PALM participants) is common and should be encouraged as part of their integration and independence; arguably current settings do not support this level of worker agency.
 - Privacy and consent:
 - Expecting workers to share personal transport details or permit inspection of private vehicles may breach privacy norms and undermine worker trust.
 - There is no clear mechanism to resolve situations where a worker refuses to participate in a review of their transport.
- DEWR previously accepted the issue and published an FAQ (see Appendix 1) to partially clarify the above issues, however that guidance has since been removed and not replaced.

Recommendation

- Remove or amend the relevant clauses to better reflect a fair and practical approach to transport responsibilities. Specifically:
 - Replace Clause 10.11.9 with a simplified notification requirement:
“You must notify us when a Worker has arranged their own transport and confirm that you are no longer deducting transport costs from the Worker/s.”
 - Delete Clause 10.11.10 requiring continued provision of AE-arranged transport where worker transport is deemed “unsuitable.”
- If the current requirement is retained, DEWR must provide:
 - Clear, written guidance on how an AE can discharge their duty and avoid liability, e.g. stating that a valid roadworthy certificate or registration is sufficient proof of safety.
 - A definition or checklist of what constitutes “safe, reliable and affordable” transport.
 - Recognition of privacy boundaries, including that AEs cannot compel inspection or enforce conditions beyond their control.

4. Other Issues

Minimum Hours

Issue

- From 31 March 2026 onward (postponed from 1 July 2024, and again from 1 July 2025), the horticulture industry loses the ability to average work hours offered over any period and must offer each Short-Term Worker “30 hours per week, every week during the Worker's Placement”.
- Averaging hours provides employers flexibility to respond to the natural variability of each season’s harvest and weather conditions, e.g. heavy rain can prevent harvest work taking place for a short period, as it may be too dangerous or too wet for machinery during and after the rain.
 - This is considered separately to a significant weather event or disruption that would trigger contingency planning provisions within the Deed and Guidelines.
- Under arrangements from 31 March 2026, if an employer is unable to provide 30 hours of work due to a minor disruption, the employer will be required to pay the PALM Workers the minimum 30 hours of work to avoid breaching the guidelines and losing their ability to employ PALM workers.
 - Under this arrangement, in many circumstances, employers will effectively have to pay twice for the same work to be complete – see explanatory scenario (over page).
- Considering the variability of horticulture work, the requirement to provide a set number of hours every week introduces a significant financial cost and risk to employing PALM workers (unlike other workers), and therefore the price of produce will increase as a result of these increased costs.
- Approved employers of PALM workers estimate this requirement will increase production costs by 5.5% due to additional wages and administration costs, which will increase the price of fruit and vegetables for all Australians. Cost increase may be higher than 5.5% for regions that experience unfavourably disruptive weather during peak-season (e.g. if the winter vegetable production season in southeast Queensland is disrupted by heavy intermittent rain).
- To manage the increased costs, over the medium to long-term, fewer PALM workers will be engaged for shorter periods of time (e.g. only during peak-harvest, not shoulder periods).
- There has already been significant disruption to the PALM Scheme since July 2023, the result of which has been a notable decline in the number of PALM workers in the horticulture sector.
- This demonstrates that employment of short-term workers in the agriculture sector has been the most impacted by program changes and broader economic impacts (i.e. production cost increases) and will likely continue to be the most sensitive sector to shocks.

Explanatory Scenario: Consequence of 30 hours every week, no averaging

- A Grower (Approved Employer) employs a cohort of 10 PALM workers on their orange orchard in Mildura. In the first week, the PALM workers are provided 30 hours of work. During Week 2, overnight rain causes the orchard to become muddy, operating harvest machinery and lifts is dangerous in the rain, and risks damaging the produce, crops, and tracks between rows. The Grower delays the harvest for two days while conditions improve.
- The worker, due to the rain, was unable to work for 2 days during Week 2 and as a result, only accrued 20 hours in Week 2. The Grower, under 1 July 2025 settings is therefore required to pay workers an additional 10 hours, despite no work being undertaken.
- The oranges that were not harvested in Week 2, still need to be harvested for the Grower to meet supply orders and manage orchard health. The PALM workers work an extra 10 hours in Week 3 to finish harvesting Week 2's oranges. The PALM workers are offered and worked 30 hours during Week 4 with no disruptions.
- Over the course of four weeks, this equates to 130 hours of labour cost for 120 hours of output (oranges harvested), which is an additional 8% labour cost, and therefore increased the farm gate price by 4% to break even.

	Week	Week	Week	Week	
50					
40					
30					
20					
10					
Hours Worked	30	20	40	30	= 120hrs
Hours Paid	30	30	40	30	= 130hrs

Industry Analysis of Current Minimum Hours Settings

- The current minimum hours settings (Section 3.7 of the Guidelines) are based on an industry driven proposal.
- These settings appropriately balance the need to ensure minimum earnings outcomes for PALM workers and the need for flexibility in the horticulture industry as a result of weather, crop seasonality and other external factors beyond employers' control.
- These settings have objectively been successful:
 - Government's own assessment in 2024 of a sample of nearly a third of PALM scheme agriculture employers with short-term workers found 100% compliance with the current minimum hours requirements – guaranteeing that short term PALM workers are meeting minimum earnings outcomes.
 - These settings have been adopted by the New Zealand RSE Scheme in place of the previous setting of requiring employers to offer workers 30 hours of work per week. This setting was unable to be met by employers in New Zealand, causing a reduction of RSE workers in the horticulture industry.
- In November 2024, industry conducted a survey accounting for over one third of all short-term PALM workers engaged (5,963 workers). Key results of this survey include:
 - Fifty percent (50%) of employers had topped-up a PALM workers wage on one or more occasion during this period for an average amount of 4 ½ hours
 - The largest top-up reported was 24 hours due to a delayed start to a season (weather/climate related)

- Weather related issues, creating an unsafe or unworkable environment, was the primary cause for employers not being able to offer minimum hours of work.
- On average, short-term PALM workers were offered 149 hours of work each four-week period, and worked 142 hours.
- The fact that PALM workers on average were offered and worked more than 120 hours per four week period does not mean that employers can offer 30 hours per week, it means that producers are capable of meeting the 120 hour minimum, despite managing weather events and external factors that may contribute to a worker's ability to attend work.
- The industry survey also indicated that if the current minimum hours settings were not continued, and employers were required to offer 30 hours of work per week, employers would reduce their recruitment of PALM workers by a further 22% on average.
- This validates the innate challenges faced by horticulture producers and the necessity of averaging to allow employers to manage these challenges where possible; and where the challenges cannot be managed, the 'top-up' arrangement provides a safety net for workers.

Recommendation

- The horticulture industry is seeking the continuation of the current minimum hours settings for short term PALM workers as a permanent setting of the program.
- As demonstrated by the survey and analysis, the horticulture industry remains unable to meet the requirements of the settings proposed from 31 March 2026, which will require employers to offer short term PALM workers a minimum of 30 hours per week. The result of imposing these requirements in the place of current averaging arrangements will likely include;
 - Overall reduction in PALM worker numbers in the horticulture sector
 - Shorter engagement periods; reduction in worker contract length from 9 months to 6 months – resulting in a significant lowering of remittances.
 - Engaging the reduced number of PALM workers more frequently as part-time employees, removing casual loading from PALM workers' wages.
 - Increase in employment of other workers, notably Working Holiday Maker visa holders or "backpackers".
- It is strongly recommended that the Federal Government confirm that the current minimum hours requirements expressed in Section 3.7 of the Guidelines as a permanent setting
 - Ensuring that these settings are permanent and ongoing, rather than extended for a further period of time is essential to support certainty for employers in their workforce planning – the ongoing uncertainty of settings in the PALM Scheme is one factor that is impacting ongoing employer use of the program in horticulture

Worker Initiated Portability

Issue

- The introduction of worker-initiated portability within the PALM Scheme has been called for by some stakeholders as an avenue that could improve worker welfare
- Under current arrangements, PALM workers, participating in the program are in Australia under sponsored visa arrangements. These sponsorship arrangements enable the PALM program to have robust regulatory settings (Deed of Agreement) and enforceable standards.
- While the AFPA acknowledges and understands the motivation behind calls for increased portability, it's important to recognise that the current PALM Scheme structure, including limited portability, is designed to enable high levels of regulation and support for workers.
 - Greater portability would necessitate a reduction in this support. For example, employers are currently required under the Deed and Guidelines to secure appropriate accommodation, often through long-term leases, and to employ permanent welfare and wellbeing officers in their businesses. These are significant investments that cannot reasonably be made without certainty that PALM workers are able to be recruited and mobilised for a specified period (i.e. a season).
 - It is also important to consider that with greater portability, workers would effectively be enabled to be in Australia without a guaranteed job, accommodation, transport and income. Current program settings prevent these outcomes while workers remain engaged in the program.
- Introducing broad portability without undermining protections and program regulation would be extremely complex. It is important that all stakeholders are open to considering reforms that strike a workable balance, but any change should preserve, not weaken, the core worker safeguards for workers that are central to the PALM Scheme's integrity.

Context

PALM Worker Mobility

- Providing PALM workers with greater mobility has long been a discussion topic of the program due to the potential benefits to all parties, especially for returning workers with experience in Australia.
- The horticulture sector would have the most distinct need for mobility and portability within the workforce due to the seasonal nature of the work.
- Other sectors, such as meat processing, are more focussed long-term stream PALM workers. Therefore, portability and mobility do not seem to be a key focus, however, still have some benefits.

The PALM Scheme is sponsored visa program, enabling high worker welfare and wellbeing standards

- A sponsored visa arrangement typically refers to a situation where an employer or organisation sponsors a foreign worker to come to Australia temporarily or permanently for work. This arrangement involves the sponsor demonstrating a genuine need for the worker and committing to certain obligations – in the case of the PALM Scheme, the employer must meet a range of worker welfare and wellbeing requirements, including the provision of minimum hours, accommodation, transport, etc.
- To meet PALM Scheme requirements, Employers must make investments in staff and their training (e.g. employment of Welfare & Wellbeing Officers, cultural competency training, etc.), assets (e.g. mini-buses, accommodation, etc.) and systems to support workers, compliance, monitoring, and reporting. These upfront and ongoing investments are a key part of the PALM Scheme's emphasis on ethical recruitment and fair working conditions.
- In return, employers gain access to a reliable workforce to help meet persistent labour shortages, particularly in regional and remote areas. With proper support, PALM workers become productive, engaged team members who may return for multiple seasons or years, reducing turnover and recruitment costs and contributing to a more stable, skilled, and experienced workforce over time.

Enabling worker-initiated movements necessitates a different approach to worker welfare and wellbeing standards

- Allowing PALM workers to initiate movements would represent a significant shift from the current sponsored model, where the employer bears primary responsibility for the worker's welfare. In a system where workers can move between employers, the structure of accountability, oversight, and support would need to be fundamentally rethought.
- Under the current PALM Scheme, employers are required to meet a broad range of welfare and wellbeing obligations precisely because they have exclusive access to the worker's labour. These obligations are clearly defined, resourced, and monitored, forming a core part of the ethical recruitment framework. However, if PALM workers were empowered to move between employers—similar to more flexible visa categories such as the Working Holiday Maker program—these supports would no longer be tied to a single sponsoring employer.
- In such a model, several challenges arise:
 - Dilution of accountability: No single employer would hold end-to-end responsibility for a worker's accommodation, transport, or pastoral care.
 - Increased administrative complexity: Monitoring worker movement and compliance across multiple short-term employers may strain oversight systems and risk gaps in support.
 - Disruption of employer investments: Employers may be less willing to make the substantial investments necessary to meet the program's requirements if workers can leave at any time, and instead source workers elsewhere.

Key Challenges

In exploring a portability model, 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, upfront travel expenses, etc.
 - 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 cost, i.e. upfront travel costs (e.g. international flights, etc.)
- The provision of minimum hours of employment
 - Need to consider how this protection is incorporated by considering minimum length of engagement with an employer
- The responsibility of worker welfare while transitioning between employers and monitoring of their adherence to visa conditions.
 - Furthermore, consideration must be given to the period permissible between employers.

Recommendation

- Review current portability arrangements with stakeholders, particularly pre-agreed portability to ensure that these settings are appropriate to support facilitating increased opportunities for PALM workers.

5. Background - Overview of the Fresh Produce Industry's Workforce

Australia's fresh produce sector is estimated to directly support between 65,500-80,000 full-time-equivalent positions. In 2021–22, ABARES survey data indicates⁹ the monthly average number of workers engaged on horticulture farms was 116,900; most employees are engaged on a temporary basis to support seasonal harvests, and therefore there are typically a higher number of individuals required in the sector when compared the FTE or role.

Unlike broadacre farming and other agriculture sectors, which have become highly mechanised, horticulture remains labour intensive, particularly when harvesting produce. Despite technological advancements in many areas of farming, most fruits and vegetables still need to be hand harvested due to the delicacy of the produce and need to quality control in the field.

The harvest workforce makes up the largest proportion of the industry's workforce (80 per cent) and supports the entire fresh produce industry. The remaining roles in horticulture can be categorised as either technical (e.g. food safety, irrigation and agronomy – 15%) or managerial and administrative workforce (e.g. sales, marketing, farm management – 5%). While Australian residents typically fill the skilled (technical, managerial, and administrative) positions, workers from overseas have become a significant source of labour employed on farms to meet the seasonal (short term) harvest labour demand.

The supply of fresh produce is entirely dependent on the industry's ability to engage a harvest workforce, which pick, pack, process and maintain horticulture crops, among other tasks. By its nature, harvest work is:

- **Seasonal** – depending on the commodity and location, harvest employment opportunities can range from weeks to months to years.
- **Regional** – fruit and vegetable production typically occurs in rural and remote areas.
- **Variable** – production is highly influenced by weather and other external factors; output may vary between seasons and therefore labour requirements.
- **Physical** – picking, packing, and maintaining crops can be physically demanding, with most work occurring outdoors

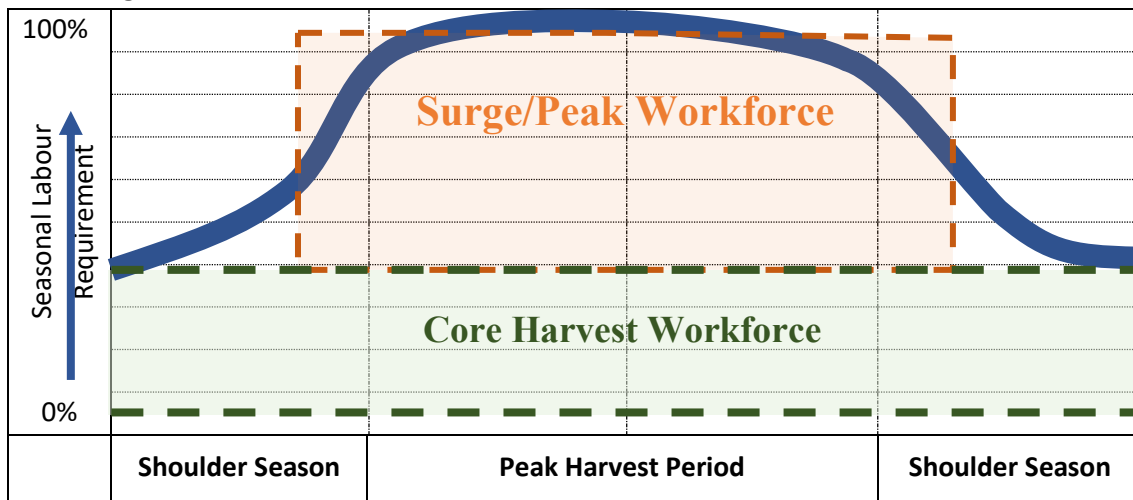
These characteristics make harvest work unattractive to many Australians. In 2020, AFPA collated data from Australia's major producers and labour hire companies and found that of 23,000 enquiries for horticulture work received between March – June 2020, only 8% were from Australians. AFPA members make concentrated efforts to engage more Australians in their harvest workforce, including running target job campaigns in local regions and providing incentives. Despite this, it remains a significant challenge to attract Australians, to undertake temporary work in remote locations, that is both physically challenging and variable. Therefore, the fresh produce industry has come to rely heavily on a large migrant workforce, most commonly made up of PALM Scheme and WHM visa holders.

The characteristics of harvest work, being remote, physical, variable and seasonal (i.e. short term), means that a considered workforce structure is required to meet business requirements. Typically, businesses consider their harvest workforce in two parts due to the seasonality of harvest and its peaks and troughs:

1. **Core Harvest Workforce** – engaged for a longer period, e.g. 3+ months, and undertakes a variety of roles in the lead up to, during and after the harvest, i.e. pruning, as well as picking, processing and packing early and late produce, as well as during peak season.
2. **Surge/Peak Workforce** – engaged for a short period, e.g. 1-3 months, purely to support picking, processing and packing during peak season, where there is a high-volume of produce ripening/ maturing and if left unharvested would be wasted.

⁹ [Labour use in Australian agriculture: Analysis of survey results, 2021–22](#) - ABARES

Figure 2. Seasonal Labour Demand and the Peak and Core Harvest Workforce



As illustrated in Figure 2 (above), the core workforce is engaged for the duration of a ‘season’, being the lead-up to, during and after the peak harvest period. The core workforce is typically a smaller cohort than the peak-harvest workforce and provides a stable labour base during the season. The core workforce:

- can be trained in an array of different tasks and roles (e.g. machinery operation, sorting and packing, etc.),
- perform critical work in preparation of the harvest (e.g. maintenance and setup of equipment, field preparation), and work following the harvest (e.g. pruning and planting), and
- covers the ‘shoulder’ periods, when the first and last produce ripens /matures for harvest, which can vary from year to year making labour planning difficult.

The vast majority of the core workforce is Australians, permanent residents and (where there are proven labour gaps) PALM workers. The work expectations / visa requirements of these cohorts better align to this longer-term, more stable work. For example, the PALM scheme requires approved employers to offer PALM workers with a minimum of six months employment and 120 hours of work across every four weeks.

By contrast, the surge/peak workforce is composed of individuals that have shorter work expectations and are typically WHMs. The peak workforce is engaged to meet the high demand periods of the harvest, they are often trained in only one task, most commonly ‘picking’, and their employment is tied specifically to the availability of produce to harvest. As its unviable to maintain a large workforce without produce to harvest and sell, as soon as the season begins to taper off, so too does the number of peak harvest workers employed. The ideal peak-harvest worker is highly mobile (able to relocate between regions as they come into season) and able to work flexibly. For these reasons, WHMs have become the primary labour source for peak-harvest workers.

Appendix 1

Extract from DEWR FAQ Document version 3 – 16 Oct 2023

How do AEs satisfy the requirement to ensure a PALM worker's own transport is suitable i.e. safe, reliable and affordable?

Worker safety is paramount. Clauses 10.5.7 and 10.11.9 of the PALM scheme Approved Employer Guidelines require AEs to satisfy themselves that worker arranged transport is suitable – i.e. safe, reliable and affordable. How AEs satisfy themselves of this will depend on the individual circumstances. In general, the department expects that AEs would discuss the transport arrangement with the worker/s and apply a 'reasonable person' test i.e. would a reasonable person, with average judgement or skill consider the transport arrangement proposed by the worker to be safe, reliable and affordable?

Some suggested areas for discussion if the worker is purchasing a vehicle:

- the need for roadworthy vehicle
- the vehicle roadworthy requirements in your State/Territory
- the costs involved in vehicle ownership (on top of the upfront costs, registration, insurance, petrol, tyres, maintenance, etc)
- obtaining a licence to drive in Australia
- if transporting other workers: what are the arrangements if the driver is not well, or needs to work late/finish early/start early?
- other things to consider: travelling distance, speed limits, the impact of fatigue, drink driving, road conditions, animals and other hazards.

This is not an exhaustive list. AE's could also provide vehicle safety information in the arrival briefing, including information regarding licensing, safe driving, registration and associated costs. AEs should apply the same judgement to a worker's own transport in the event that transport is a private or public bus service, particularly where affordability or reliability may be more of an issue than safety. AEs are experienced with Australian transport conditions and arrangements in their local areas and best placed to judge if the private or public transport service is reliable, affordable and safe.

Where an AE has concerns regarding the suitability of a worker's own transport – regardless of the mode of that transport – they should notify the department, particularly if the worker continues to use that mode of transport rather than the transport offered/provided by the AE.