

## Role of seasonal workers in the horticulture industry

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- jobactive, including Harvest Labour Services and the National Harvest Labour Information Service
- the Seasonal Worker Programme<sup>16</sup> and
- Working Holiday Makers [WHM].<sup>17</sup>

## Jobactive

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

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

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

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

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

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

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

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

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

## Working Holiday Maker visa programme

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

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

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

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

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

**Table 3.1 Summary of Working Holiday Maker visa arrangements**

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

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

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

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

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

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

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

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

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

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

(subclass 462) grants increased by 17.3 per cent compared with the same period in 2013–14.<sup>26</sup>

## Second Working Holiday initiative

- 3.25 Introduced on 1 November 2005, the second working holiday visa allows subclass 417 visa holders the ability to acquire eligibility to apply for a second visa by undertaking 88 days work in the agriculture, mining and construction industries in regional Australia.<sup>27</sup>
- 3.26 Second working holiday visa grants have grown significantly over the past 10 years with 2,692 visas granted in 2005-06 and 41,339 granted in 2014-15.<sup>28</sup>
- 3.27 The agriculture industry has been the 'primary beneficiary of the initiative since its inception':<sup>29</sup>
- In 2014-15, around 92 per cent of the second Working Holiday visa applicants indicated they engaged in agricultural work to acquire eligibility [for a second working holiday visa].<sup>30</sup>
- 3.28 In its submission, the Development Policy Centre and World Bank (DPC) provided the following chart highlighting the reliance that Australian farms place on WHM's compared to SWP participants.

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

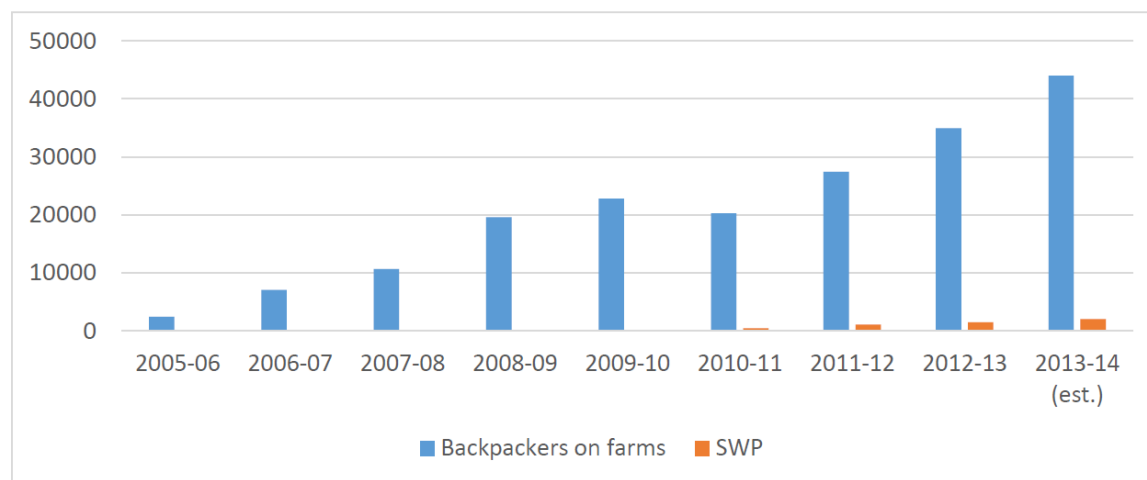
27 Department of Immigration and Border Protection, *Working Holiday Maker visa programme report*, 30 June 2015, p. 8.

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

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

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



**Figure 3.1 Backpackers and SWP workers on Australia's farms**

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

3.29 In the 2014-15 period, the:

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

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

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

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

- agriculture, forestry and fishing
- tourism and hospitality
- mining and construction
- disability and aged care.<sup>32</sup>

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

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

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

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

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

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

## Working holiday makers in the horticulture industry

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 3.56 APAL believed that second year WHMs were more productive than their first year counterparts<sup>58</sup> in addition to providing a more flexible labour hire approach:

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

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

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

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

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

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

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

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

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

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

countries would impose similar restrictions upon Australians;  
and

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

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

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

## Proposed changes to the tax free threshold

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

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

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

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

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

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

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

This new policy, in combination with the directive being enforced since 31 August 2015<sup>65</sup> could substantially increase the incentives for tax evasion, fraud and the number of working holiday makers may diminish rapidly as soon as visa holders perceive there is less economic benefit to undertaking work that most Australians are reluctant to do, such as picking fruit, cleaning and casual hospitality.<sup>66</sup>

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

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

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

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

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

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

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

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

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

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

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

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



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

### **Committee comment**

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

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

**Recommendation 1**

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