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### **New Inquiry into the Seasonal Worker Programme**

MADEC Australia has been an Approved Employer under the Seasonal Worker Program since the beginning of the Pilot.

In the past 6 years MADEC have recruited from 595 individual workers from 5 countries – Tonga, Samoa, PNG, East Timor and Kiribati.

MADEC is a strong supporter of the program, and would like to see it continue to grow in the future.

This submission presents recommendations from MADEC which we believe will enable the program to flourish.

Kind Regards

Laurence Burt  
CEO

## **MADEC COMMENTS AGAINST TERMS OF REFERENCE**

### **Expanding the Seasonal Worker Programme to other countries and sectors.**

#### Other Countries

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

#### Other Sectors

There has been interest shown from other primary industry sectors that rely on the backpacker workforce and find the turnover of staff to be a burden. These include:

- Sandalwood and Tea Tree (Silviculture Award 2010 MA000040)
- Wholesale Nurseries (Nursery Award 2010 MA000033)
- Dairy (Pastoral Award 2010 MA000035)

These industries have similar characteristics to Horticulture in terms of tasks required and seasonality, and MADEC supports the inclusion of these additional industries in SWP.

### **The impact on the Australian labour force of the current and projected seasonal worker programme.**

MADEC do not consider the impact on the Australian Labour Force of the current and projected SWP to be significant, the program is demand driven and priority given to available and willing Australian Employees.

The positions taken up by workers under the SWP are short-term, can be inconsistent and subject to sudden change due to climatic and market conditions, and in many cases cannot provide full-time working hours. It is unskilled manual labour, paid at the minimum wage that does not necessarily provide the continuity or job security desirable to the Australian Labour Force.

Our experience to date shows that the vast majority of SWP positions replace workers on a Working Holiday Visa, not Australian Residents.

This is demonstrated by our Labour Market Testing results, an important element of ensuring the Australian Labour Force is not impacted. Undertaking Labour Market testing is not overly onerous and can be made easier by implementing good process. It does require some administrative time but can be done at no additional cost.

### **The merits and challenges of increased recruitment of overseas workers, in particular providing increased access for women and youth workers.**

MADEC supports providing increased access for women. Factors that are currently limiting access for women are

- the perception that men are better physically equipped to undertake horticulture work; and
- the restriction under Program rules of having separate male and female bathroom facilities. This has the effect that one gender in a group is much easier to manage, therefore if it is considered that gender characteristics are desirable for any of the workers, the whole group are more likely to be of that gender.



The Pastoral Care issues associated with youth workers, particularly minors, would outweigh the benefits of increasing access to this co-hort. MADEC's experience has led us to steer away from young single workers under the age of 25 as in the past they have had a tendency to 'play-up', causing issues in the workplace and the community.

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

The Seasonal Worker Programme plays a significant role in supporting development assistance in the Pacific. The table below shows net earnings by MADEC employees under the program over the past 6 years. Overall, MADEC Seasonal Work Employees have netted \$11.6m, much of which will have been remitted to home countries.

**TABLE 1: Net Earnings of MADEC work from January 2009 to June 2015**

	<b>Total Net Earning</b>	<b>Number of visits</b>	<b>Number of individuals</b>	<b>Average Net Earnings per recruitment</b>	<b>Average Net Earnings per worker</b>
KIRIBATI	\$488,709	35	19	\$13,963	\$25,722
PNG	\$689,789	123	52	\$5,608	\$13,265
SAMOA	\$1,032,833	219	110	\$4,716	\$9,389
TIMOR	\$406,694	62	55	\$6,560	\$7,394
TONGA	\$8,947,831	562	359	\$15,921	\$24,924
<b>Total</b>	<b>\$11,565,856</b>	<b>1001</b>	<b>595</b>	<b>\$11,554</b>	<b>\$19,438</b>
Net earnings is equal to Gross earnings less tax and all deductible expenses (travel, visa, rent, health insurance and transport costs), but does not take into account workers day to day expenses such as food. Includes partial visits where workers start date was prior to January 2009 or end date after June 2015.					

MADEC speaks with workers before departure and also on return for subsequent working assignments about what they intend, or have already, spent their savings and remittances on. Three responses dominate:

- Building a house or improving existing housing for their immediate or extended family.
- Educating their own children, siblings or those of extended family.
- Investing in a business or income producing venture. These have included:
  - Bus service
  - Taxi service
  - Equipment to set up a gymnasium
  - Motor for fishing boat that only had a sail

These are all significant factors in supporting the development of the Pacific Nations.

### **Any legislative and other impediments in attracting seasonal workers.**

Any impediments are on the side of attracting employers to the program. The main impediment is cost, or perceived cost, of the program, with two main contributing factors:

- The cost of worker travel attributed to the Approved Employer; and
- The uneven playing field within the Horticulture Industry with many labour suppliers operating outside legislative requirements.

### Cost of travel

Under recent changes to the program, Approved Employers are required to pay a total of \$500 towards the cost of return travel from the home country to the place of work. This ultimately increases the cost of employing workers under the program for the Host Employer.

MADEC workers net an average of \$11,554 per visit, and are therefore well placed, particularly in subsequent visits, to cover a higher proportion of their cost of travel. This would bring the cost of employing a worker under the program in line with the cost of employing a working holiday maker, potentially opening the program up to more Pacific workers.

A sliding scale for the Approved Employer component of the cost of travel could be implemented. Workers able to earn high dollars from long stays could reimburse the full amount of travel costs, but workers with a shorter assignment or lesser hours reimburse only the amount over \$500.

### Uneven Playing Field

Via our Harvest Offices and NHLIS contract, MADEC staff often hear of cases where employees are not being paid their full entitlement. We are also told on occasion by a grower that the rate they are paying their contractor is far below a rate that could reasonably cover award wages and all statutory costs.

This indicates there is an element of dodgy labour hire contractors who pay cash, underpay workers and do not pay other statutory costs, or gouge workers for accommodation, transport or other 'deductions'. As long as this situation continues, there remains a financial incentive not to use SWP workers.

The recent scrutiny particularly of Labour Hire Companies following high profile media such as the Four Corners program 'Slaving Away', has seen an associated increase in enquiries from growers looking to source workers through the SWP.

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

#### Visa Activation

Currently visas are active when granted, rather than on arrival like other Australian visas. This presents 2 main issues.

- As the maximum visa period is 7 months for a 6 month stay, visas cannot be granted until 2 weeks prior to worker arrival, therefore flights also cannot be booked until that time. This means workers are paying a premium price for flights.
- It reduces our ability to be flexible in response to changed conditions on the farm workers are going to. A recent example is cooler than expected weather in WA causing a tomato crop to ripen more slowly. Although we could change worker arrival dates, given the visa expired on a particular date 7 months after issue there is very little ability to be flexible on the departure date, hence reducing workers' period of employment.

#### Health check regime

The regime of health checks, particularly chest X-rays, needs to be streamlined as the current regime results in workers being knocked out of the process so late that they cannot be replaced in time.

MADEC's experience with 8 groups from East Timor is that not one has fulfilled the full complement of workers ordered by the Host Employer arrive on the required date.



## Other concerns around the program

### Superannuation

The process for making a Departing Australia Superannuation Payout claim for workers under the program is cumbersome and difficult. This is due to workers not understanding superannuation, limited access to online facilities to make and track the claim and the requirement to keep an Australian bank account open to receive the refund due to an inability to cash Australian cheques easily in most sender countries.

This money is significant - in the past 6 years MADEC has made a total of \$1.7m in superannuation payments for workers under the program.

MADEC supports the right of all workers within Australia to access employer superannuation contributions. However, a simplified method of allowing workers to receive this money would be beneficial, possibly incorporating superannuation into the hourly rate for workers under the program.

	Total Superannuation Payments made by MADEC
KIRIBATI	\$83,094
PNG	\$111,625
SAMOA	\$199,312
TIMOR	\$76,529
TONGA	\$1,277,542
<b>Total</b>	<b>\$1,748,101</b>

## RECOMMENDATIONS

1. Expand the sectors included in the program to include Silviculture, Nursery and Pastoral;
2. Approved Employer responsibility for travel costs for first time workers be based the period of employment, and return workers' pay the full cost of travel.
3. Improve compliance of labour hire requirements in the industry overall to create a more level playing field.
4. Visas to become active on entry to Australia in line with other Australian visas.
5. Change the method of payment of superannuation to workers so the superannuation component is paid directly by the AE to the worker each pay day.