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*The voice of Australian farmers since 1979*



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**NFF SUBMISSION  
TO THE  
INQUIRY INTO PACIFIC REGION  
SEASONAL CONTRACT LABOUR**

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27 MARCH 2006

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# EXECUTIVE SUMMARY

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- ◆ The National Farmers' Federation (NFF) has recognised that there is a labour shortage affecting the agricultural industry in Australia to such an extent that it is and will in the future constrain Australian farmers ability to achieve their productive potential.
- ◆ The NFF Labour Shortage Action Plan, launched in September 2005, identified that the resolution of labour shortage problems is multifaceted and has resulted in a broad range of interlinking factors, therefore, there is not one simple solution.
- ◆ The NFF Labour Shortage Action Plan concluded that

*"Seasonal influences and their impact on labour demands in agriculture will always be a significant problem. It is clear that seasonal labour shortages are a consequence of both the failure of employers to effectively link up with and attract prospective employees, as well as the absence of prospective employees all together. It is, therefore, necessary to address the problem on both fronts."*

The approaches to address labour shortages on "both fronts" is then considered throughout the remaining components of the Action Plan, being education and training, workplace relations, employment participation and population strategy. Included in the population component is immigration policy. One of the facets included in the immigration policy is the consideration of a seasonal worker visa program.

- ◆ A specific recommendation of NFF Labour Shortage Action Plan was as follows: *"That discussions commence with the Federal Government as to a review of existing migration options and the consideration of a guest worker visa in relation to the labour shortages being experienced in the agriculture industry"*. NFF commends the Federal Government for initiating the Senate Inquiry as a response to the Action Plan.
- ◆ NFF believes that any introduction of a seasonal worker program should be confined to regional areas that cannot access sufficient labour through alternative means. That is, other solutions have been tested and shown to still be inadequate to resolve the ability of the industry to attract productive farm-skilled workers.
- ◆ If it were the opinion of the Committee that a seasonal worker visa should be introduced or that at least a pilot program should be run to test the concept, NFF proposes key criteria as the basis for the operation of such a program.
- ◆ NFF is of the opinion that a seasonal worker visa, particularly given the international experience has the potential to technically, legally and administratively work. However, in light of overseas examples, the NFF believes that strong safeguards will be necessary to arrive at a positive overall outcome.

- ◆ NFF recommends that the inquiry requests for its assistance, the development of cost models to be undertaken to determine the economic viability under different conditions to determine the question of cost effectiveness of the program for the farmer and the worker.
- ◆ NFF believes it is only fair that those industries that are not covered by skilled migration options have the opportunity to work with the Government to develop a workable model for access to reliable overseas workers for seasonal work. This conclusion needs to be based on evidence to justify the need for such workers and an acknowledgement that the invitation to do seasonal work is to date not being readily accepted by many Australians as an employment option either on a short-term or long-term basis and despite the definite increase in numbers through the working holiday maker visa extension that has been greatly welcomed by the industry.

# TERMS OF REFERENCE

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1. The National Farmers' Federation (NFF) seeks to provide information to the Senate Employment, Workplace Relations and Education Committee Inquiry Pacific region seasonal contract labour.
2. The NFF is the peak farm lobby group in Australia and represents producers of all major commodities in the federal arena. NFF is responsible for international and national issues which affect more than one State or more than one commodity. NFF does not have individual farmer members rather NFF members are either State Farm Organisations or National Commodity Councils.
3. The terms of reference of the Committee are:

*The committee will examine the viability of a contract labour scheme between Australia and countries in the Pacific region, for the purposes of providing labour for selected rural industries. In doing so, the committee will take account of the following:*

- a) *labour shortages in rural and regional Australia;*
  - b) *the availability and mobility of domestic contract labour, and the likely effects of such a scheme on the current seasonal workforce;*
  - c) *social and economic effects of the scheme on local communities;*
  - d) *likely technical, legal and administrative considerations for such a scheme; and the effects of the scheme on the economies of Pacific nations.*
4. In September 2005, the NFF released the NFF Labour Shortage Action Plan that broadly outlines the difficulties faced by the agricultural industry in attracting labour and lists a range of recommendations as to how labour shortages being experienced in the industry could be overcome. The Labour Shortage Action plan is attached and marked 1.

5. While the plan considers labour shortages for all commodity groups and all skill levels in the industry there are a number of sections within the Plan that specifically refers to the issue of labour shortages for seasonal work. One of the specific recommendations relates to the concept of a guest worker visa that is, effectively the subject of the current inquiry. The recommendation is as follows:

*“That discussions commence with the Federal Government as to a review of existing migration options and the consideration of a guest worker visa in relation to the labour shortages being experienced in the agriculture industry”*

6. Included in the NFF Labour Shortage Action Plan was a discussion paper (Appendix D) on migration options including a guest worker visa. Appendix D of the NFF Labour Shortage Action Plan is also included in Attachment 1 to this submission. The discussion paper outlines what a feasibility study should consider in respect to a guest worker visa and also how NFF views the operation of a guest worker visa if it was determined that such a visa had merit.
7. Consistent with the Labour Shortage Action Plan, NFF has taken a strategic overview approach to respond to the issues raised within the terms of reference. That is, NFF seeks to outline the questions that need to be considered during the inquiry and conceptually how a seasonal worker visa program could work in practice if there is sufficient evidence to justify a visa of that nature.
8. In respect to the issue of the inquiry being limited to workers from the Pacific Islands, NFF notes that it is the policy position of NFF that if a seasonal worker visa were introduced such workers should be selected from Pacific Region countries and/or countries receiving Aid from Australia to assist in the economic development of those relevant countries.

# INTRODUCTION

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9. NFF has recognised that there is a labour shortage affecting the agricultural industry in Australia to such an extent that it is and will in the future constrain Australian farmers ability to achieve their productive potential.
10. The NFF Labour Shortage Action Plan identified that the resolution of labour shortage problems is multifaceted and has resulted in a broad range of interlinking factors, therefore, there is not one simple solution.
11. The very nature of the agricultural industry will always result in increased labour demands for seasonal workers, particularly in the labour reliant horticultural sector. The major difficulty in attracting workers for seasonal jobs is the lack of ongoing and secure employment.
12. The NFF Labour Shortage Action Plan concluded that

*“Seasonal influences and their impact on labour demands in agriculture will always be a significant problem. It is clear that seasonal labour shortages are a consequence of both the failure of employers to effectively link up with and attract prospective employees, as well as the absence of prospective employees all together. It is, therefore, necessary to address the problem on both fronts.”*
13. The approaches to address labour shortages on “both fronts” is then considered throughout the remaining components of the Action Plan, being education and training, workplace relations, employment participation and population strategy. Included in the population component is immigration policy. One of the facets included in the immigration policy is the consideration of a guest worker program.
14. The approach by NFF to this inquiry needs to be considered in the context of the findings and recommendations of the NFF Labour Shortage Action Plan. NFF believes there are a range of solutions to resolve seasonal labour shortages and that the seasonal worker visa concept is just one proposal that could potentially be used to achieve that goal. NFF’s

position in relation to a seasonal worker visa program to be outlined in this submission should not be seen as the only solution nor should it be considered without reviewing the broader issues outlined in the NFF Labour Shortage Action Plan.

15. It is also clear from the NFF Labour Shortage Action Plan (see Appendix D) that NFF believes that any introduction of a seasonal worker visa program should be confined to regional areas that cannot access sufficient labour through alternative means. That is, other solutions including those outlined in the Action Plan have been tested and shown to still be inadequate to resolve the ability of the industry to attract productive farm-skilled workers.
16. NFF, therefore, believes the key considerations of the inquiry should focus on the following issues:
  - ◆ The labour needs of the agricultural industry.
  - ◆ Identification of regional areas that will continue to experience labour shortages despite the introduction of new initiatives other than a seasonal worker visa program.
  - ◆ Review of any Australian studies or projects undertaken in respect to a seasonal worker visa program.
  - ◆ International experiences with similar schemes such as the Canadian and USA models.
  - ◆ Review of any international conventions on seasonal worker visa programs.
  - ◆ Relationship with countries identified as potential suppliers of labour through a seasonal worker visa program.
  - ◆ Analysis of the risks associated with introducing a program including overstay problems and whether or not any model could negate or minimise those risks.
  - ◆ Cost benefit analysis for the agriculture industry and its current workforce.
  - ◆ Cost benefit analysis for workers selected to participate
  - ◆ Cost benefit analysis for any countries selected to participate.



# LABOUR SHORTAGES

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## HOW MANY SEASONAL WORKERS & HOW MANY MORE?

17. Key industry statistics that set the scene are as follows:

- ◆ Approximately 60% of Australia's land mass is utilised for agricultural purposes that is represented by 120,000 commercial farms. (Australian Agriculture and Food Sector Stocktake, Department of Agriculture, Fisheries and Forestry, March 2005, page 4, [Stocktake])
- ◆ The most recent figures from the Australian Bureau of Statistics, Australian Labour Market Statistics, Category 6105.0, record 328,000 people employed in agriculture and services to agriculture as at November 2005.
- ◆ The agricultural industry now represents around 3.5% of all employed persons in Australia (Stocktake, p 11).
- ◆ In terms of specific industries, employment in agriculture can be broken down to the following (Stocktake, Industry Profiles, pp 26-72):

<b>Commodity</b>	<b>Percentage of Employment in Agricultural Industry</b>
Horticulture	25%
Beef	22%
Mixed cropping (grain/sheep or grain/cattle)	14%
Dairy	10%
Sheep (meat & wool)	8%
Cropping	6%
Wine Grapes and Wine	5%
Sugar	3%
Cotton	2%
Poultry	1.5%
Pig Meat	1%

18. As at 2003 approximately 68,000 were employed in the horticulture sector with an increase of 40% over a 10 year period (Australian Farm Institute, *Australian Farm Sector Demography: Analysis of Current Trends and Future Farm Policy Implications*, 2005 [Farm Sector Demography Analysis]).
19. The groups of potential workers that currently exist to supply the needs for seasonal workers are as follows:
  - a) Regionally based individuals willing to work with an employer on an ad hoc basis.
  - b) Backpackers, either Australia or international
  - c) Retirees, the "grey nomads"
  - d) Contractors/Labour Hire Agencies
  - e) Unemployed
  - f) Students (both Australian and foreign)

A similar grouping is also identified in the *Farm Sector Demography Analysis*.

20. The *Farm Sector Demography Analysis* concluded that there are no credible statistics as to the size nationally of the seasonal workforce.
21. The Report of the National Harvest Train Working Group, *Harvesting Australia* (June 2000)<sup>1</sup> also sought to quantify the seasonal labour needs of the agricultural industry and concluded that it was difficult to estimate the size of the seasonal labour force and the likely number of additional workers to meet the demand. Evidence to the Group was based on newspaper headlines and written submissions from regional and industry groups but there was no attempt to estimate a national figure as to the number of people working in seasonal labour or the number of jobs unable to be filled for seasonal work.
22. There have been numerous other studies, inquiries and reports into seasonal labour shortages where evidence has been established to identify the economic consequences to

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<sup>1</sup> The Working Group was chaired By Mrs Christine Gallus MP and its membership consisted of a number of Members of Parliament and industry representatives. The NFF Labour Shortage Action Plan notes that not all recommendations of the Report have been implemented and a stocktake of the recommendations from the Report should be undertaken.

the Australian agricultural industry when there is insufficient labour available for seasonal work.<sup>2</sup>

23. NFF is concerned, therefore, that not only is there insufficient detail as to the numbers sought to resolve the labour shortages for seasonal workers but there is also a need to quantify the actual current seasonal workforce. Quantification is very difficult, as the numbers required would vary from season to season and is highly dependent on the climate conditions during the season itself.
24. NFF proposes that one of the outcomes for the inquiry is to quantify, at least on an approximate basis, the agricultural seasonal workforce and the potential number of jobs that continue to be unfilled each season both now and into the immediate future.

## TYPE OF WORKERS REQUIRED FOR SEASONAL EMPLOYMENT

25. Care has to be taken by the Committee in understanding the type of worker required by the industry to undertake seasonal jobs. There is an incorrect perception that there is no skill required to undertake seasonal work particularly harvesting. While there is not necessarily any need for formally acquired skills, farm skills are still needed and people can learn on the job. There is a need for workers to have the right attitude, the right physical attributes and preferably previous experience to successfully complete the job at maximum productivity levels.
26. The preferred option for farmers is the ability to have access to reliable and productive short-term seasonal workers. In many instances, this objective is not being met and as a consequence has an impact on the outcomes achieved for the sector that operates under very tight margins.
27. For example, one of the arguments put as a positive attribute of a seasonal worker visa is the consistency and reliability factor that is not a characteristic of workers on a working holiday visa. Undoubtedly the second year extension of the working holiday maker visa if 3 months work is undertaken in seasonal work has significantly increased the number of working holiday maker visa holders working in seasonal work. However, the likelihood of them returning to seasonal work during their second visa and utilising their skills from the

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<sup>2</sup> For example, Senate Inquiry into Australia's relationship with PNG and the island states of the West Pacific, 2003

previous season has yet to be quantified. So while the criteria for the new second visa has increased the numbers of working holiday makers working in seasonal jobs, a study will need to be undertaken in the next 12 months to see how many of those return in order to address the lack of consistency and reliability and consistency in the current seasonal workforce.

# STATUS AND IMPACT ON THE CURRENT SEASONAL WORKFORCE

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28. The NFF Labour Shortage Action Plan outlines in some detail the issues regarding the availability and mobility of domestic labour. We commend the report to the committee and do not intend to replicate the commentary and recommendations contained in the Plan in this submission.
29. Any proposed seasonal worker visa program could have an impact on domestic labour. Hence the reason for the criteria outlined by the NFF earlier in this submission. That is, any introduction of a seasonal worker visa program should be confined to regional areas that cannot access sufficient labour through alternative means. Further, in accordance with the issues raised in the Introduction section of this submission, the inquiry needs to seek evidence to determine the answers to the following issues:
- ◆ which regional areas will continue to experience labour shortages despite the introduction of alternative initiatives other than a seasonal worker visa program; and
  - ◆ what is the impact of a cost benefit analysis for the agriculture industry on the current workforce if a seasonal worker visa program were introduced?
30. There does not appear to be any detailed research carried out in Australia on the socio-economic impact of seasonal contract labour schemes other than a study by Stilwell in 2003<sup>3</sup>, which examined how Afghan refugees living in the NSW country town of Young between 2001 and 2003 affected the regional economy. The study assess the economic contribution of Afghan refugees, primarily through their work at the Burrangong meatworks, through their local expenditures and more indirectly, through their impact on social capital and the dynamism of the regional economy. It also reflects, more broadly on the social

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<sup>3</sup> Stilwell, F, 2003, 'Refugees in a Region: Afghans in Young, NSW', Urban Policy and Research, vol21, No.3 September, Taylor and Francis Group

implications of this experience and some lessons about refugee policies and their relationship to regional development.

31. In consideration of how such a scheme would impact on the current seasonal workforce, the Committee can consider the international experiences where seasonal worker visa models are already in place. Countries such as Canada, Germany, the United Kingdom and the United States of America all have a seasonal worker migration scheme in place. An international analysis was undertaken in 2003.<sup>4</sup>

## THE CANADIAN EXPERIENCE

32. Bauder et al<sup>5</sup> have reported on the impacts of such schemes in Canada. The authors have highlighted that country towns benefit from the multiplier effect of spending by seasonal workers on goods and services, particularly food, entertainment, hardware products and telecommunications especially phone cards. The authors also reported that a shop owner in the Canadian town of Simcoe was of the view that the effect of local spending by seasonal workers was 'literally like Christmas in September'.
33. It has also been reported that some shop owners in Canadian towns believe that migrant workers sustain the viability of their business, which would otherwise have closed down. The Canadian experience shows that seasonal workers are frequent users of banks and post offices, particularly to transfer money. In this way, it has helped local communities to lobby for the retention and even expansion of services, which might otherwise have closed down. Banks and post offices in some Canadian towns have altered their business hours to open in the evening, to cater for migrant workers who due to the nature of their work are unable to come into town during the day. Such arrangements have indirectly benefited all townspeople with more flexible opening hours. It has been shown that the presence of seasonal workers has had an effect on reviving some religious organisations.
34. However, there has been some downside to Canada's Seasonal Agricultural Workers Program (CSAWP). According to Preibisch<sup>6</sup>, workers have suffered racial attacks after

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<sup>4</sup> P.L. Martin, *Managing Labour Migration: Temporary Worker Programs for the 21<sup>st</sup> Century*, International Institute for Labour Studies, Geneva, September 2003, <http://www.ilo.org/public/english/bureau/inst/research/migration.htm>

<sup>5</sup> Bauder, H, Preibisch, K, Sutherland, S and Nash, K. 2003, 'Impacts of foreign farm workers in Ontario communities' *Communities' Sustainable Rural Communities Program*, OMAFRA, <http://www.uoguelph.ca/geography/research/ffw/papers/impacts.pdf>

<sup>6</sup> Preibisch, K. 2004, 'Social relations between agricultural workers, their employers and the residents of rural Ontario', North South Institute, <http://www.nsi-ins.ca/ensi/research/completed/c05.html>

becoming involved with Canadian women. Such outbursts of animosity may explain why the workers themselves perceive that the local community views them negatively.

35. However Preibisch, 2004 and Basok 2003 have reported a deepening of relations between Canadian residents and seasonal workers which has come about as a result of critical academic scrutiny and negative media reports about the rights and conditions accorded to workers. The authors have reported that Church communities and a leading trade union have generated more meaningful forms of interaction between workers and local residents. Some of the initiatives put into place include neighbourhood houses where workers can meet on their days off and access counselling and advice services, joint worship services, sports fixtures, dances and barbecues.

# TECHNICAL, LEGAL AND ADMINISTRATIVE CONSIDERATIONS

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36. If it were the opinion of the Committee that a seasonal worker visa should be introduced or that at least a pilot program should be run to test the concept, NFF proposes the following criteria as the basis for the operation of such a program:

- ◆ Seasonal Workers are selected from Pacific Region countries and/or countries receiving Aid from Australia;
- ◆ Seasonal Workers are selected through a comprehensive selection process including the criteria that they are from rural areas to enable rural skills gained in Australia to assist in long-term agricultural development in their own country;
- ◆ That the seasonal workers visa is for a short-term period (no more than 6 months) to minimise any consideration of overstay.
- ◆ That if the seasonal worker complies with all employment and immigration conditions of their first season in Australia that they are eligible to return for the following season to enable Australian farmers to maximise productivity gains through the availability of a consistent and reliable workforce.
- ◆ That all seasonal workers are provided with basic training including occupational health and safety training and cultural training prior to commencing work in Australia.
- ◆ That induction training is undertaken at each workplace prior to the commencement of work at each placement of the seasonal worker.
- ◆ That a seasonal worker visa program is only available to approved labour hire companies or farmers that meets standards set by a centrally coordinated body to oversee the program. For example, that there is no evidence of prior breaches by the



employer of immigration or workplace relations laws and that the employment conditions meet minimum standards as established by the co-ordinating body.

- ◆ Adequate co-ordination and assistance is provided to the seasonal worker including team leaders, appropriate accommodation and transport and a dispute resolution process.
- ◆ That seasonal workers are only selected for regional areas that cannot access sufficient labour through alternative means, that is, labour market testing would be criteria for assessment on any application to access the visa.

37. NFF is of the opinion that a seasonal worker visa program, particularly given the international experience has the potential to technically, legally and administratively work. However, in light of overseas examples, the NFF believes that strong safeguards will be necessary to arrive at a positive overall outcome.

38. After baseline qualifications have been identified, that is, a seasonal worker visa program is needed for the benefit of farmers requiring seasonal work, that it has no adverse impact on the domestic labour market, that it provides benefits to the participant countries, and can technically, legally and administratively work, the key question that needs to be determined by the Committee is whether or not a seasonal worker visa program established pursuant to the above conditions is economically feasible for the farmers and the workers?

39. The limited feedback provided to the NFF from third parties to the NFF migration options discussion paper is that a seasonal worker visa program has the capacity to be economically feasible but only under certain conditions. The main conditions proposed by third parties to NFF were the following:

- a) That a minimum duration of 3 months is required to cover the costs associated with set-up, accommodation and transport and will usually require the worker to work with more than one farmer, therefore, there is better economic return for the employer to be a contractor or a very large operation with numerous sites.
- b) That the costs associated for set up, accommodation and transport should be shared between the worker and the farmer (via the contractor) to ensure adequate "take-home" pay for the worker but also that the overheads for the employer are not cost prohibitive given that farmers usually do not currently pay for accommodation or transport for domestic labour. It should be noted that there is some dispute within the industry as to who should be responsible for the overhead costs. For example, a recent study

concluded that most farmers in the Murray Valley region did not want to pay a levy to fund the scheme (Peter Mares, *Labour shortages in Murray Valley horticulture: a survey of growers' needs and attitudes*, 2006)

- c) That an agreement is established with each worker as to their pay and entitlements that covers rates of pay, accommodation and transport arrangements and the process of payment in line with Australian workplace relations laws and any further criteria established under a program. It was suggested that workers should only receive an agreed nominal wage for personal use and the remainder is placed in an account managed by the employer in the form of a trust account. When the worker returns to their country of origin the balance is paid into their personal bank account. In addition, prior to return, some of the funds could be made available to the family still located in the country of origin.
40. An additional component for consideration is the question of tax rates applying to such workers. NFF believes the current inequitable taxation arrangements between Australian seasonal workers and working holiday makers needs to be removed so that all seasonal workers are taxed at the same rate. NFF argues that for a seasonal worker visa scheme to be cost effective the same seasonal tax rate needs to apply across the board regardless of the working rights for any seasonal worker. For further detail, NFF refers the Committee to the relevant section contained in the Labour Shortage Action Plan.
41. NFF recommends that the inquiry requests for its assistance, the development of cost models to be undertaken to determine the economic viability under different conditions to determine the question of cost effectiveness of the program for the farmer and the worker.

# CONCLUSION

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42. The concept of a seasonal worker visa program is a contentious one, however, debate over the issue has been extensive over the past 2 years and needs to be considered seriously through a structured and transparent format. NFF commends the Federal Government's initiative in responding to the request of the industry for a study or inquiry of this nature to be undertaken to determine the feasibility of such a concept as sought by the NFF in its discussion paper in September 2005.
43. As identified by NFF in its Labour Shortage Action Plan, the seasonal worker visa is not the only proposal that could resolve the ongoing problems associated with seasonal labour shortages. However, given the changing aspirations of Australians and the increasing reliance on skilled migrants to resolve labour shortages, NFF believes it is only fair that those industries that are not covered by skilled migration options have the opportunity to work with the Government to develop a workable model for access to reliable overseas workers for seasonal work. This conclusion needs to be based on evidence to justify the need for such workers and an acknowledgement that the invitation to do seasonal work is to date not being readily accepted by many Australians as an employment option either on a short-term or long-term basis and despite the definite increase in numbers through the working holiday maker visa extension that has been greatly welcomed by the industry.