

Submission to the Inquiry into the Seasonal Worker Program

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4. Howes, S and Hay, D 2012. "Australia's Pacific Seasonal Worker Pilot Scheme: why has take-up been so low?" Development Policy Centre Discussion Paper 17.	
5. Doyle, J and Howes, S 2015. <i>Australia's Seasonal Worker Program: demand-side constraints and suggested reforms</i> . Devpolicy/World Bank Group.	

Note: The views expressed in this submission are those of the authors and do not necessarily reflect the opinions of the Australian National University or the World Bank.

1. Introduction

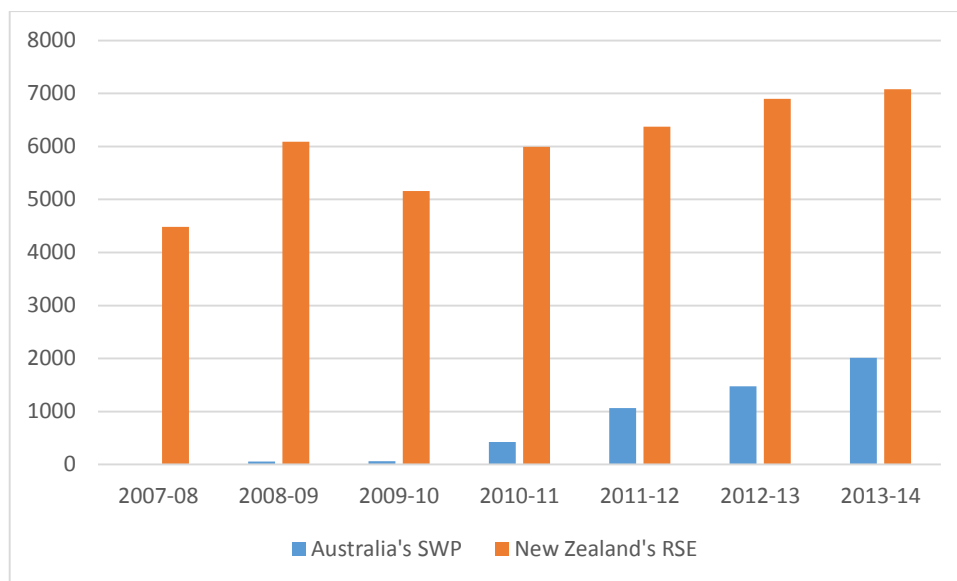
We have undertaken two surveys of Australian horticultural employers into the Seasonal Worker Program, in 2011 and in 2014. The former was undertaken by Danielle Hay and Stephen Howes of the Development Policy Centre, and the latter by Jesse Doyle of the World Bank and Stephen Howes of the Development Policy Centre. The findings from these surveys are summarized in the attached blogs (Annex [1](#) and [2](#)) and detailed in the attached discussion papers (Annex [4](#) and [5](#)).

These two surveys provide the best available evidence base regarding the SWP. Their findings are also supported by the documented views of various employers (and a backpacker) in relation to the SWP in a series of blogs which we have collated and attached as Annex 3.

Our research has focused in on the views of employers because it is clear that the extent of employer demand will determine the success or failure of the SWP. There is an almost infinite amount of labour that would be willing to come from the Pacific to work on the SWP. Various studies have shown that the scheme is hugely beneficial for the Pacific labourers who get to participate in it. The key challenge is to grow the size of the scheme.

The small size of the SWP can be illustrated in several ways. The NZ scheme, the RSE or Recognized Seasonal Employer program, commenced operations in 2007-08. It very quickly moved to its cap of 8,000. (Last year the cap was increased to 9,000 and numbers have increased again.)The Australian scheme, though it commenced in 2008, has only grown to 3,000 workers. A comparison of numbers arriving under the two schemes is shown in Figure 1 below.

Figure 1 A comparison of Australian SWP and NZ RSE workers

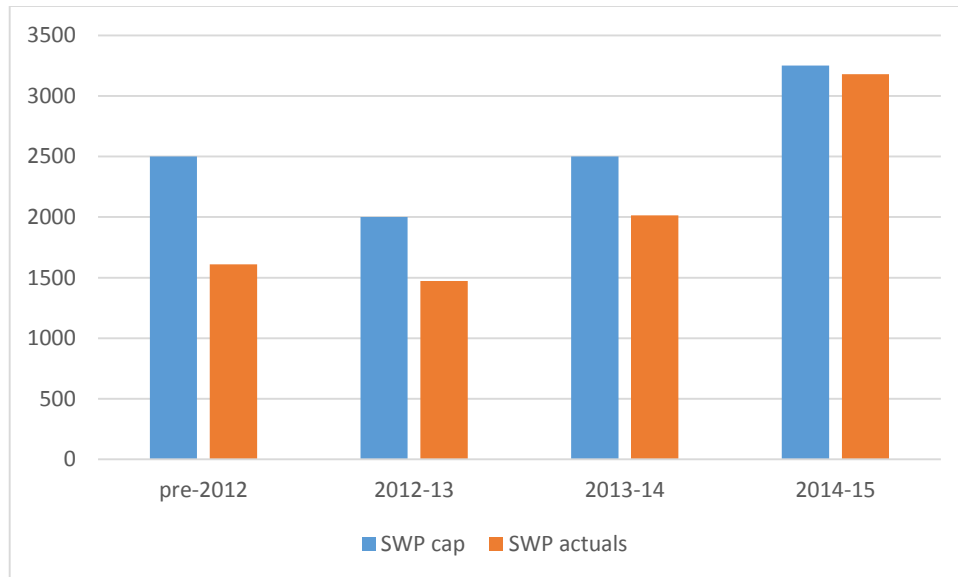


Note: Some Asian countries also participate in the NZ RSE. This figure shows only Pacific islanders. This explains why the NZ numbers are slightly below the NZ cap.

The Australian scheme is much smaller than the New Zealand one despite the fact that the Australian horticultural sector is much bigger than its NZ counterpart. While exact comparisons are difficult, available comparisons show that the value of horticultural production is higher in Australia than in NZ: \$8.4 billion in 2009-10 versus about \$NZ4.7 billion in 2008 (Hay and Howes 2012).

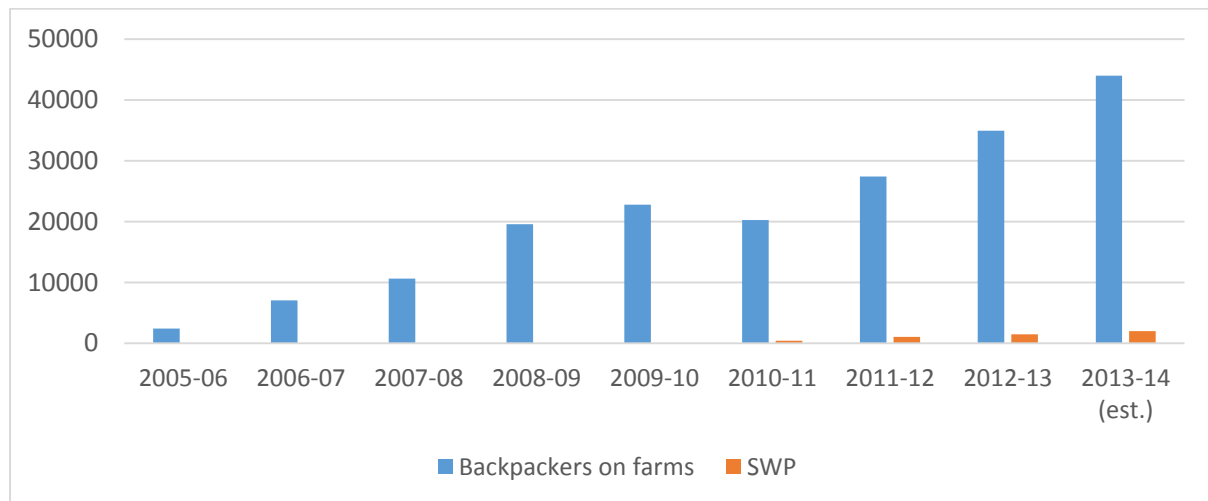
Finally, the small size of the SWP can be seen from the fact that despite the low caps of the Australian SWP compared to the NZ RSE, 2014-15 is the first year that numbers have come close to the cap. With the recent announcement abolishing caps in future years, clearly limited employer demand is the binding constraint for the SWP.

Figure 2 SWP Actuals and caps



Another relevant comparison to assess the size of the SWP is between SWP workers and backpackers (or Working Holiday Makers under visa categories 417 and 462) working on Australian farms. As the graph below shows, the latter dwarves the former.

Figure 3 Backpackers and SWP workers on Australia's farms



Note: "Backpackers on farms" are estimated as 90% of second year Working Holiday Maker visas.

While recent growth in the SWP is encouraging, there is a long way to go before the SWP can be considered a significant contributor to Australian horticulture and Pacific development. The World Bank [suggests](#) a target of 40,000 for the SWP.

The other problem with the SWP is its composition. It is dominated by Tonga, which supplies some three-quarters of all SWP workers (Figure 4). Tonga is already a highly remittance dependent economy, and it is not a particularly poor economy, especially when compared to the Melanesian

economies of Vanuatu, Solomon Islands and PNG. Again, this compares unfavourably to NZ where the supply of labour to the RSE is more diversified, and in fact Vanuatu is the larger supplier sending just under 40% of all RSE workers (Figure 5).

Figure 4 Composition of the SWP, 2012-13 and 2013-14

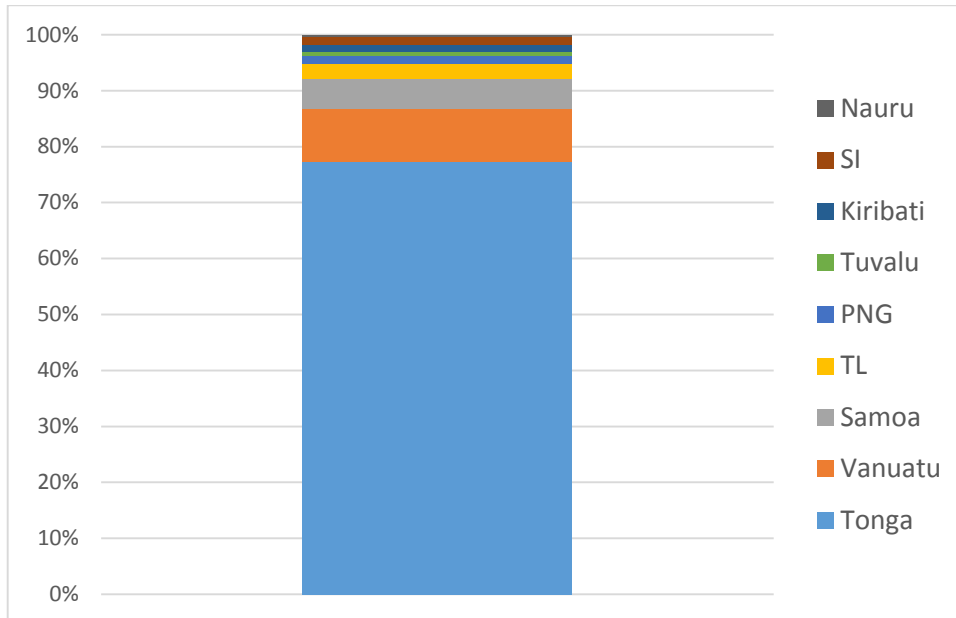
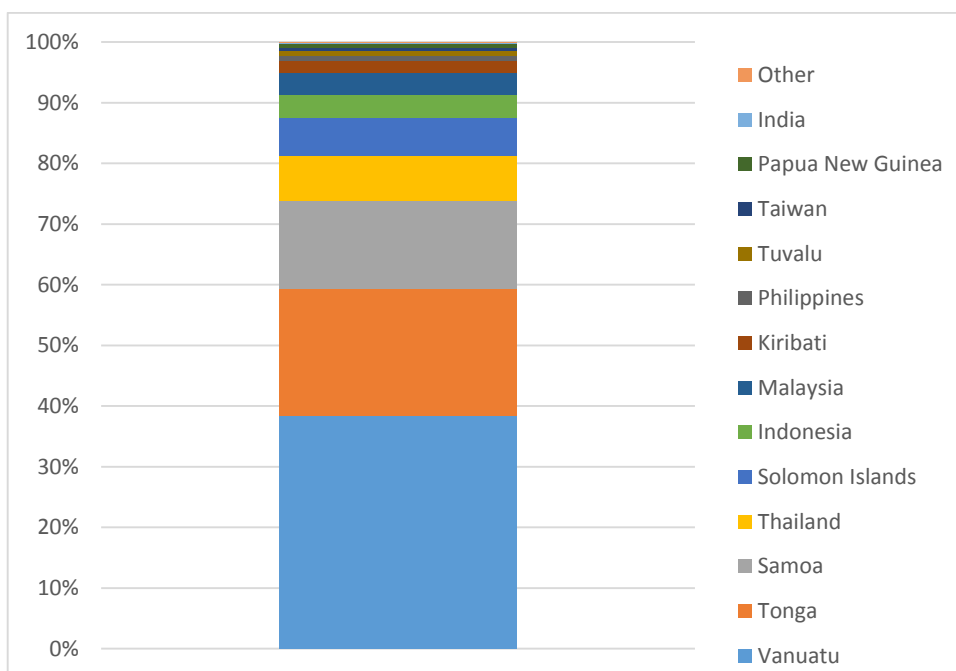


Figure 5 Composition of the RSE, 2012-2014



These two problems are related. The Australian scheme has been little supported by Australian employers. Given the lack of the demand for the scheme, the first-mover and diaspora advantages which Tonga had have proved decisive in Australia in a way that they have not been in New Zealand.

This also points to the solution. Greater diversification will come as the scheme grows. Individual country quotas should be avoided, as they will only add to the red tape.

To understand then both how the SWP can grow and how it can become more diversified we need to analyse the problems on the demand side. Readers are referred to the attached documents for a full account. Here we pull out key points, starting with a summary of our main recommendations.

2. Summary of recommendations.

The following recommendations are put forward in order to expand the SWP.

- **Recommendation 1:** Eliminate the second year visa for **backpackers**. If that is not possible, remove the incentive to work in horticulture to obtain a second year visa by making all backpacker visas for two years.
- **Recommendation 2:** Crack down on **illegal labour** in horticulture in all its forms. Increasing funding for the compliance activities undertaken by both the Department of Immigration and Border Protection and the Fair Work Ombudsman would help remove the remaining illegal workers in the horticulture industry.
- **Recommendation 3:** To reduce the **financial costs to employers**: cover new workers' costs through a revolving fund; remove the \$500 employer contribution to international airfare for returning workers; and remove employer contributions to domestic travel, and the need for employers to cover upfront costs for returning workers.
- **Recommendation 4:** To reduce the **administrative costs to employers**: quicken processing time for AE applications; streamline reporting requirements to Government; allow AEs to pay superannuation contribution directly into wage; and remove labour market testing requirements preferably entirely, but at least (a) for postcodes that qualify for the Working Holiday (subclass 417) second-year visa extension and (b) for employers whose earlier labour market testing has shown no or inadequate Australian worker interest
- **Recommendation 5:** To reduce **risks to employers** allow Pacific seasonal workers greater flexibility to shift between AEs; and give AEs a greater role in worker selection for all participating countries.
- **Recommendation 6:** To improve **awareness** of and the **reputation** of the SWP: advertise the SWP through a targeted group of horticultural industry bodies; advertise the SWP through rural media; undertake additional studies on the productivity gains of hiring Pacific seasonal workers; implement a targeted public information campaign correcting common misconceptions;
- **Recommendation 7.** To build **employer support** for the SWP, support and fund the creation of a SWP employer group.
- **Recommendation 8: Extend the recent backpacker reforms** announced in the White Paper on Developing Northern Australia to cover all of Australia.

3. Reforms to the backpacker scheme

We cannot understand the SWP in isolation. We need to start with the main competitor to the SWP scheme, the backpacker program. As Figure 3 above showed, currently backpackers almost completely outcompete seasonal workers. It is important to understand the historical factors which have given rise to this situation. In the mid-2000s horticulturalists were agitating for a solution to the

problem of labour shortages that they faced. The then Howard Government refused to implement a Pacific worker program. Instead, it introduced a reform to the backpacker visa program: namely, the introduction of a second-year visa available if you worked on a farm for at least three months. (Other jobs that also qualified for a second-year visa were construction and mining, but backpackers overwhelmingly have used the horticultural route to a second-year visa extension.) This reform was highly successful, and, along with a general increase in the number of backpackers arriving in Australia, pushed thousands of backpackers into horticulture, and solved the horticultural labour shortage problem. One experienced industry participant has [said](#) of this reform that it: “almost single handedly ... has pretty much rectified the issue of labour shortages in horticulture for unskilled worker” and that the market has moved from an “under- supply of seasonal workers to an over-supply”. Not surprisingly, the SWP has struggled since its (belated) introduction to compete with backpackers.

The backpacker visa program favours OECD or rich countries over poor countries. Only a few developing countries (and two Pacific countries, Fiji and PNG) have access to the backpacker visa. These countries only have access to the 462 visa, which puts a small cap on the number of backpackers who can participate in the visa scheme, and which adds other requirements (such as employer permission). By contrast, the 417 visa available to most OECD countries (and the 462 visa as it is applied to the United States) are open-ended visa schemes, with no caps and no government approval required.

The backpacker visa is intended to be a vehicle for cultural exchange. Unfortunately, the reality has moved further and further from this goal. In some sectors, backpackers even receive training prior to departure for the work they will do in Australia. They are then able to work for a year full-time, and, if they get the second-year visa, a second year. Under the North Australia white paper reforms, backpackers in some occupations will be able to come to Australia to work for two years with the same employer. This cannot be called a cultural exchange.

Backpackers typically work in low-skill occupations. Sourcing in low-skill employment from OECD countries instead of the Pacific represents a huge missed opportunity for Australia to deliver development benefits right in its backyard. It should also be noted that the playing field between backpackers and SWP workers is not at all level. Employers do not have to submit to labour market testing and demonstrate that no Australians are available to be hired before taking on a backpacker. Nor do employers have any responsibilities to arrange accommodation for backpackers, or any pastoral care at all. Nor do they have to register with government before taking on a backpacker.

The backpacker scheme should be reformed to return to its original intent of cultural exchange. This would require, at a minimum, eliminating the second-year visa option. If this is not possible, then at least the incentive provided to backpackers to work on farms, and thus compete directly with seasonal workers, should be removed. Backpackers can work wherever they can find a job. Seasonal workers can work only in horticulture. One option, if there is not willingness to abolish the second-year visa option, would be simply to issue all backpacker visas for two years.

Recommendation 1: Eliminate the second year visa for backpackers. If that is not possible, remove the incentive to work in horticulture to obtain a second year visa by making all backpacker visas for two years.

4. Cracking down on illegal labour

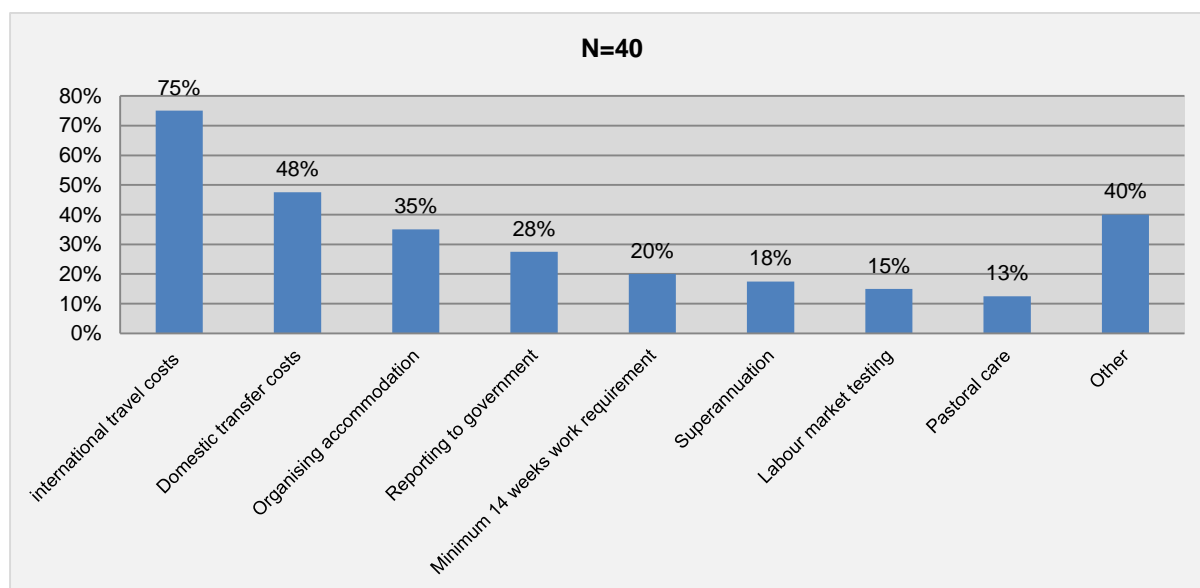
The other factor limiting the seasonal worker program is the extent of illegal labour in the horticultural sector. In our 2011 survey, only 12% of employers were prepared to say that there was no use of illegal labour in the horticultural sector. In our 2014 survey, four out of five (79 percent) growers recognized that undocumented workers were used to at least some extent in the horticulture industry. It is well-known that prior to the introduction of the NZ RSE there was a crack-down on illegal labour in the horticultural sector in that country. The same needs to happen here.

Recommendation 2: Crack down on illegal labour in horticulture in all its forms. Increasing funding for the compliance activities undertaken by both the Department of Immigration and Border Protection and the Fair Work Ombudsman would help remove the remaining illegal workers in the horticulture industry.

5. Reforms to the Seasonal Worker Program

Essentially for the scheme to grow to a substantial size, the SWP has to be made more attractive to employers. In our 2014 survey, we asked those employers who were using the SWP scheme what the key changes were that would make the SWP more attractive to growers. The results are shown in Figure 6 below.

Figure 6 Key changes that would make the SWP more attractive to growers (AEs and participating growers)



Source: Doyle and Howes (2015) – in Annex 5.

Reflecting these views, the main parameters that need to be altered are the upfront costs, along with employer contributions to international and domestic travel costs. These could be removed for returning workers and covered by a revolving fund for new workers. The reforms would help to level the playing field for Pacific seasonal workers and allow them to compete on a cost basis with backpackers and other categories of workers. (Note that a start has been made in this regard: see the next section for further detail.)

The administrative costs of the SWP scheme also need to be reduced. There are a number of ways in which this could be done: by quickening processing time for Approved Employer (AE) applications (that is, permission for employers to participate in the scheme); by streamlining government reporting requirements; by allowing AEs to pay superannuation contributions directly into the wage (the present super refund arrangements are cumbersome and inequitable); and by removing labour market testing requirements. If it was not possible to remove all labour market testing requirements then they should be removed for postcodes that qualify for the backpacker second year visa extension, or for employers that have submitted to the requirements in an earlier year. Above all, it needs to be recognized that SWP workers are competing with OECD backpackers and illegal workers, not with legal Australian farm workers.

The level of risk incurred by AEs and participating growers could also be reduced. The largest risk AEs have faced is the need to guarantee Pacific seasonal workers a minimum of 14 weeks work. Horticulture is an inherently volatile industry and growers need flexibility. The minimum 14 week work requirement has now been done away with (see next section), but what it has been replaced by is still unclear. New measures are also needed to give Pacific seasonal workers greater flexibility to shift between employers. Growers could also be given a greater role in worker selection for all participating countries, instead of having to use licensed agents or recruit through work-ready pools for certain countries.

Awareness of the SWP should be raised. More than one in three growers still remain unaware of the existence of the SWP. Whilst the current Government's marketing approach focuses predominantly on the larger regional and national horticultural bodies, their engagement could be targeted more effectively through some of the smaller crop-specific industry bodies. Targeted advertisements through rural and social media could also help reach those growers that are currently unaware of the SWP.

The reputation of the SWP needs to be improved. Our 2014 survey found that the reputation of the SWP is still poor amongst non-participating growers, but moderately positive amongst Approved Employers and participating growers, though these latter groups find the scheme's administrative requirements burdensome. Encouragingly, one in four non-participating growers express an openness to taking on seasonal workers. Measures to enhance the reputation of the SWP would include examination of the productivity gains of hiring Pacific seasonal workers: so far there has just been one study in this regard. A targeted public information campaign, led by current AEs, would also help remove misconceptions about the SWP.

Finally, there is a need to build employer support for the SWP. The SWP has suffered because of the lack of strong employer group support. There is no single body representing horticultural employers in Australia (cf. Horticulture NZ). The best body to push for reforms to the SWP is that group of employers actually using the scheme. The Government should fund and support the creation of such a body.

Recommendation 3: To reduce the **financial costs to employers**: cover new workers' costs through a revolving fund; remove the \$500 employer contribution to international airfare for returning workers; and remove employer contributions to domestic travel, and the need for employers to cover upfront costs for returning workers.

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Recommendation 7. To build **employer support** for the SWP, support and fund the creation of a SWP employer group.

6. Recent SWP and backpacker reforms

The recently released White Paper on Developing North Australia (analysed in these two blog posts: [here](#) and [here](#)) contained six SWP reforms. These are noted here for completeness, and also because some of them relate to the reforms advocated for in the previous section.

First, the SWP cap was removed. This is symbolically important, but given that the cap was not binding, it is not in itself going to lead to an expansion.

Second, simplifying slightly, all domestic travel costs now have to be borne by the employees. Though employers are still required to pay these costs upfront, they'll be entitled to reimbursement through wage deductions. In the past, employees only had to pay the first \$100 of domestic travel.

Third, the earlier minimum stay of 14 weeks was replaced by a requirement that employees stay long enough to make a net revenue gain of \$1,000. As far as we are aware, the Government does not intend to convert the financial requirement into a minimum time requirement.

The fourth reform is a promise to reduce red tape. Some steps have already been taken, and further details will be announced next year.

A fifth SWP change is the inclusion of tourism in the scheme alongside accommodation. The White Paper says that the North Australia tourism industry will be invited to submit proposals for areas of tourism work to be included in an SWP trial from 1 July 2015. This proposal is unlikely to have much impact for two reasons. First, there has been little interest to use SWP workers in accommodation. Second, backpackers are going to be much keener to work in tourism jobs now, with the recent backpacker visa changes discussed below.

Sixth and finally, the White Paper says that other Pacific island countries – Cook Islands, Micronesia, Niue, Palau and Marshall Islands – may become eligible to participate in the SWP. This makes no sense. These countries already have unrestricted labour market access, either to New Zealand, in the case of Cook Islands and Niue, or the US for the other three. They don't need the SWP. We already have the problem that the lion's share of SWP slots has been taken by Tonga, again a country with good access to other overseas labour markets. Fiji, which has just been admitted, will provide major competition, and it too already receives significant remittances. Our focus should really be on Melanesia and the isolated or orphan microstates of Kiribati, Nauru and Tuvalu (on which see

below). Presumably the expansion decision was made to win support in the context of PACER Plus. Australia is keen to conclude these negotiations, but has to concede on labour mobility in order to make ground. That is no doubt one of the reasons for this announcement, and in this context the expansion (which is explicitly stated to be conditional on the conclusion of the trade negotiations) is a small price to pay. This is especially so because very few, if any, workers from the new countries will come to Australia under the SWP, precisely because they all have other and better choices (and because none of these countries have strong agricultural sectors).

There were also reforms in the Northern Australia white paper to the backpacker visa. Now the second-year visa will be available in Northern Australia (all of the Northern Territory and WA and Queensland north of the Tropic of Capricorn) as a reward for three months work in tourism as well as on the farm. Since backpackers would, all else being equal, prefer to work in a pub or café than on a farm, this move should reduce demand for horticultural jobs from backpackers. Note that the recent [budget reform](#) which upped the tax rate on backpacker pay to 33 cents in the dollar (by removing the tax-free threshold) will make any backpacker job in Australia less attractive, and thus also help to reduce labour demand from backpackers.

Only about one quarter of SWP Approved Employers are in Northern Australia. Probably there will be more in the future as a result of these plans. But the greater hope is that what is good for those north of the Tropic of Capricorn is good for those south: after all, it is entirely unclear what gives the Tropic of Capricorn its special policy status.

Recommendation 8: Extend the recent backpacker reforms announced in the White Paper on Developing Northern Australia to cover all of Australia.

Annexes (in a separate document)

1. Howes, S and Hay, D 2012. "Australia's Pacific Seasonal Worker Pilot Scheme: why has take-up been so low?" Devpolicy Blog, April 4.
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