

**Submission regarding DEWR consultation  
re PALM scheme Deed of Agreement and Guidelines**

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**1. Requirements to address low working hours and low net pay after deductions for PALM workers**

**(a) Minimum earning guarantee**

We support a minimum earning guarantee for Pacific workers. See the attached blog published on 15 August 2022 by Evie Sharman [“It’s time for a minimum earning guarantee for Pacific workers”](#) (Annex A). It would be important to define the deductions covered by the guarantee to ensure a consistent definition was applied across all workers and employers.

**(b) Minimum 30-hours-per-week requirement**

We note that the government has already decided that PALM workers have to work an average of 30 hours a week every eight weeks. We do not support a minimum of 30 hours per week for short-term placements (or employers meeting accommodation costs when work hours are low) for several reasons.

First, this minimum is not needed if a minimum earning guarantee is introduced, since the latter would ensure that even in low-work periods workers receive a minimum after deductions.

Second, this proposed change would add to employer risk and cost, turning them away from short-term PALM workers to making greater use of backpackers. Unlike New Zealand, Australia does not carry out annual surveys of SWP and PLS employers. The last survey of SWP employers was [carried out in 2014](#) by the World Bank and the ANU. The main reason for not participating in the SWP given by employers was that they had no need of it (67%). The second most common reason was that it was too expensive (14%) and the third was that it was too risky (13%) ([Figure 4.2](#)).

A minimum of 30 hours per week will add to both cost and risk for approved employers. These concerns about costs and risks are real. A [2018 ABARES study](#) found that “non-wage labour costs are significantly higher for seasonal workers than for backpackers: \$1,620 versus \$134.”

Requiring employers to provide 30 hours a week every week does not suit the nature of horticultural work, which often has a high ‘peak’. The proposed requirement also allows for very little flexibility when things go wrong, for example if there are natural disasters or just prolonged bad weather. The reform would particularly disadvantage smaller growers with less ability to provide alternative work for their workforce in periods of bad weather, for example.

Third, evaluations of workers have shown that average remuneration of SWP workers is high. According to a [World Bank 2017 survey](#), average weekly earnings net of tax was \$702 ([Table 5.2](#)). Assuming a 15% tax rate, that makes \$807 dollars a week. At \$20/hour, that corresponds to 40 hours a week. The same evaluation shows that PALM workers earn more than four times what they would at home. The focus of the government should therefore be on the expansion of the scheme.

It is true that hours offered to casual horticultural workers have fallen as a result of the 2019 change to the Horticulture Award requiring growers to pay overtime. A 2019-2020 [survey](#) showed that average hours worked by casual workers fell as a result from 45.3 to 35.8 hours; even this comfortably exceeds the current average 30 hour per week requirement.

Fourth, the New Zealand experience has been cited as a precedent for the 30 hour/week minimum requirement. In New Zealand, since the second half of last year, a 30-hour average requirement over the season has been replaced by a 30-hour minimum weekly requirement.

However, the New Zealand precedent is irrelevant. New Zealand operates its RSE (Recognised Seasonal Employer) scheme with a cap. There is significant excess demand for RSE workers by employers. There are very few backpackers. New Zealand offers only a three-month (not a two-year) visa extension for backpackers and, unlike in Australia, seasonal workers outnumber backpackers with visa extensions not the other way round ([Table 4](#)). In such a situation, it makes sense to maximise the benefits of the program for the Pacific by increasing their average wages, which is exactly what New Zealand has done.

The Australian situation is very different. Although the short-term PALM stream has grown during COVID due a collapse in the number of backpackers in Australia, before then, seasonal workers were greatly outnumbered by second-year backpackers, and it is possible that this situation will return. The aim of the government should be to grow the scheme, to maximise the benefits for the Pacific as a whole, and to include as many households as possible. The SWP is uncapped, so the more expensive it is, the fewer employers will use it – this is not the case in New Zealand, because of the cap and related excess demand by employers.

Fifth, the only possible argument for the proposed 30-hour-minimum requirement is that it would discourage absconding. Absconding has become a major issue in the SWP so anything that reduced it would be worth considering. However, absconding is driven by many factors, principal among them Employers should be encouraged to come up with their own strategies to reduce absconding, rather than being forced to implement a top-down minimum that may or may not work.

## **2. Pay equity for longer-term PALM workers**

This issue should be resolved in line with the government's broader Same Job, Same Pay agenda and forthcoming legislation. Scheme-specific requirements should be avoided. If any requirement is introduced, it should not be above the requirements of other labour hire employees employed in the same business; to do so would be to indirectly discriminate against Pacific workers, and would limit growth.

## **3. Rewarding good performance of Approved Employers**

The idea of rewarding good performance is a sound one and one that [we have argued](#) for previously.<sup>1</sup> However, the proposal made in the invitation for submissions focuses on the wrong dimensions of performance.

Employers should not be rewarded for paying more or charging less for accommodation and transport or for providing additional benefits. That should be left to the market. Rather, just like in any “trusted trader” set up, employers should be rewarded for being compliant. If employers are admitted into the scheme, and are shown to consistently comply, they should be subject to less checking going forward. While PALM should remain uncapped, one dimension of this less checking would mean that their application for hiring the next year is processed more quickly.

#### **4. Role of labour hire companies**

Labour hire companies should certainly continue to be part of the short-term PALM stream. They already employ the majority of short-term workers. They provide critical access for small farms because they minimise the transaction costs for them, due to their expertise in managing the complex PALM regulatory and hiring arrangements.

Whether labour hire companies should be allowed to participate in the long-term PALM scheme is more debateable. Again, they are the majority hirers of workers. However, most long-term PALM workers are employed in the meat-processing sector. There PALM workers compete against workers hired under the long-established MILA (Meat Industry Labour Agreement), which gives the meat-processing industry special access to the TSS visa. Labour-hire companies cannot participate in the MILA. Given this, why should they be allowed to participate in the equivalent (long-term) PALM scheme. Consistency is important. Less reliance on labour hire companies would also reduce the “same work, same pay, same conditions” issues that inevitably arise with the use of labour-hire companies. At the same time, it would no doubt make access to PALM more difficult, especially by smaller companies.

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<sup>1</sup> See also the [submission](#) from the Pacific Islands Council of Qld Inc, the Pacific Islands Council of South Australia, the Uniting Church in Australia and the NSW Council for Pacific Communities from 30 September 2022 is useful. See their responses to point 8 and 9.

## Annex A

### It's time for a minimum earning guarantee for Pacific workers

Evie Sharman 15 August 2022

<https://devpolicy.org/its-time-for-a-minimum-earning-guarantee-for-pacific-workers-20220815/>

The Australian Workers' Union ([AWU's most recent campaign](#)) calls for Pacific Australia Labour Mobility (PALM) scheme workers to receive a minimum payment after deductions of \$250 per week. The AWU proposes that any outstanding deductions should be carried forward until workers are earning enough to cover them.

This is in the wake of several reports of [workers receiving low income](#) after deductions, with [not much left to support themselves](#) or their families at the end of low weeks. MADEC, one of the largest employers of Pacific seasonal workers, has [lifted its minimum weekly payment](#) to \$200 per week after being [implicated in the Select Committee](#) on Job Security.

The main representative body for PALM scheme employers, the association of Approved Employers in Australia (AEA), also supports a post-deduction wage safety net. In its recent [letter to the incoming government](#), the AEA highlighted that this measure would “ensure that per pay period, workers are not left with an insufficient income after deduction”. Employer support is important, as they would be the ones to pay more upfront and carry the deductions forward, as a commitment to their workers' welfare.

On the wages front, it seems relatively straightforward too. The minimum [hourly rate for casual](#) fruit and vegetable pickers is now \$26.73 per hour. Pacific seasonal workers [have a minimum average](#) of 30 hours of work per week for the duration of their contract, and on the new minimum hourly rate will earn on average \$1,363 per fortnight post-tax. A weekly guarantee of \$250 would be only 37% of a worker's expected post-tax earnings. The piece rate [has to allow](#) a pieceworker working at the average productivity of a competent pieceworker to earn at least \$30.74 per hour, so it shouldn't be an issue either.

For Pacific Labour Scheme workers on full-time contracts, their wages don't have the same level of seasonal variability, and it should be less of an issue. The minimum [hourly full-time Meat Award rate](#) of \$21.36 leaves Pacific meat workers with an average post-tax earning before deductions of \$1,089 a fortnight, closer to a 46% guarantee.

The major group of approved employers and one of the major unions representing seasonal workers are in agreement on this issue, and it should be relatively straightforward to implement. The next question is how much this mandated weekly safety net payment should be. The union says \$250. Talking to a few approved employers, you get the sense that they are thinking somewhere around the \$150-200 mark. Somewhere in the ballpark of \$200 therefore seems reasonable and uncontentious for both short-term and long-term workers in the scheme. This would provide both workers and their families with greater week-to-week certainty.

Anecdotally, many employers do provide a minimum already, but there would be a benefit to making this minimum compulsory. It would reassure workers, other employers and, importantly, the public, that workers are being treated fairly and have a safety net to protect them. This minimum amount will hopefully be more symbolic than necessary, especially now that the normal flows of seasonal labour are starting to resume. On very low weeks, or when the weather is terrible, or when

disaster strikes, having a minimum payment would serve as the uniform safety net that all employers must meet.

With the high level of media coverage this specific topic has received, and the support for this idea from both unions and employers, this could be a great addition to [Labor's policies for improving PALM](#), and seems like an easy win. With the Deed of Agreement yet to be finalised, a safety net should be included to guarantee a post-deduction minimum earning for Pacific workers.