AFPA submission: Review of Regional Migration Settings

Supporting Strong and Sustainable Regions Discussion Paper

July 2024

Australian Fresh Produce Alliance

Growing a healthier Australia

About the Australian Fresh Produce Alliance

The Australian Fresh Produce Alliance (AFPA) is made up of Australia's key fresh produce growers and suppliers. The members include:

- Costa Group
- Perfection Fresh
- Montague Farms
- Pinata Farms
- Fresh Select
- Mackays Marketing
- Driscoll's
- Australian Produce Partners
- Premier Fresh Australia
- Rugby Farming
- Fresh Produce Group.

These businesses represent:

- half the $12 billion total industry turnover of the Australian fresh produce (fruit and vegetables).
- more than a third of the total $1.5 billion fresh produce exports value
- more than 1,000 growers through commercial arrangements, and
- more than 15,000 direct employees through peak harvest, and up to 25,000 employees in the grower network.

The key issues the AFPA is focusing on include:

- packaging and the role it plays in product shelf life and reducing food waste landfill,
- labour and the need for both a permanent and temporary supply of workers,
- market access to key export markets for Australian produce,
- product integrity both within and outside of the supply chain and,
- pollination and research into alternative sources.

The AFPA's objective is to be the first-choice fresh produce group that retailers and government go to for discussion and outcomes on issues involving the growing and supply of fresh produce.

Products grown by AFPA Members include:

Apples	Blueberries	Cherries	Nectarines	Raspberries
Apricots	Broccoli	Fioretto	Onions	Salad leaf
Asparagus	Broccolini	Green Beans	Oranges	Spinach
Avocado	Brussel Sprouts	Herbs	Peaches	Strawberries
Baby Broccoli	Butternut	Lemons	Pears	Sweet Corn
Baby Corn	Pumpkin	Lettuce	Pineapples	Table grapes
Bananas	Cabbage	Mandarins	Plums	Tomatoes
Beetroot	Cauliflower	Mango	Potatoes	Water Cress
Blackberries	Celery	Mushrooms	Cucumber	Wombok

Summary

The Australian Fresh Produce Industry (AFPA) welcomes the opportunity to provide feedback to Government as part of its review of regional migration settings and the Working Holiday Maker (WHM) program.

The fresh produce industry and its ongoing supply of nutritious and safe fruit and vegetables plays a crucial role in the health and well-being of Australia's population, underpins national food security and is a major contributor to the economy, particularly in regional communities. A profitable and sustainable fresh produce industry is in Australia's national interest.

The fresh produce industry is a national industry, major farming operations can be found within 50km of the Australia's largest capital cities, as well as remote locations. Therefore, the industry's workforce needs are national and must be considered from this perspective, rather than solely regional, to deliver effective policy and migration solutions.

The fresh produce industry's workforce can effectively be split into two types of roles – seasonal (short term) work, often associated with harvest roles, and ongoing full-time work, typically associated with more skilled, technical or managerial work. These two types of workforce require different solutions from the migration system.

In addressing seasonal harvest work, it is important to acknowledge that this work is often short term and defined by workers following the 'harvest trail' (moving to where crops seasonally ripen and become available to harvest). This type of work has leant itself to industry being reliant on migrant workers, notably the Pacific Australia Labour Mobility (PALM) scheme and the WHM visa holders. While the PALM scheme is highly valued by industry, it does not provide an adequate solution to industry's peak labour requirements, which are currently filled by WHMs.

Industry is reliant on WHMs to perform harvest work due to the flexible nature of the work arrangements afforded to WHMs in combination with visa settings that promote or require a portion of this work to be undertaken regionally. The AFPA strongly support the ongoing use of specified work arrangements, along with the three year visa duration within the WHM visa to ensure that the fresh produce industry continues to be able to access WHMs to fill critical harvest roles.

Preferable to any changes to the specified work arrangements, the Government should introduce a new public 'register' for businesses to be eligible to offer specified work. A register would enable Government to both review employer information, for example labour hire company licences, as part of the sign-on process and penalise non-compliance with Australian law by suspending employers from the register, preventing them from offering WHMs specified work. The public register could also be used by WHMs to identify approved employers and access other information relating to working in Australia. This approach would enhance protections for WHMs, promote fair and ethical employment practices, maintain support for regional economies, and strengthen Australia's reputation as a responsible destination for temporary workers.

It is important to acknowledge that many WHMs work in the horticulture sector for more than the minimum 88 days required through specified work. The AFPA continues to advocate for the introduction of a Harvest Work Visa; a regulated visa pathway offering greater protections and sponsorship arrangements to workers undertaking harvest work in the agriculture sector. The introduction of a Harvest Work Visa would provide a more suitable pathway for migrant workers who want to travel to Australia and work in the horticulture or other agricultural industries (e.g. grain harvest). This type of visa is similar to visas offered by other OECD countries in acknowledging the nuances of seasonal harvest labour and the need to provide a regulated pathway to facilitate this within the migration system.

In reviewing regional migration settings more broadly, it is important that “regional” should continue to exclude major capital cities including Melbourne, Sydney and Brisbane. To support this review at a principles level, it is also important to consider short term visas (i.e. visa utilised for the purpose of engaging workers for short term seasonal work, such as the PALM Scheme) as separate from long term, permanent pathways in agriculture. These visa and work types should be treated separately in policy, program and visa approaches.

The ongoing use of employer sponsorship should also form an important part of any reforms to regional migration for longer term visas – this will ensure that migration is demand driven, supporting workforce shortages. This approach supports the visa holder, employer, and community outcomes, and pathways to permanent residency.

The AFPA remains committed to working with the Government to develop policies that ensure the sustainability of the fresh produce industry, safeguard food security, and support regional economies while protecting the rights and well-being of all workers. The AFPA would welcome the opportunity to engage further on the contents of this submission and broader review.

Recommendations:

The AFPA recommend that the Australian Government:

1. Recognise the unique characteristics of the fresh produce industry and its labour mobility requirements, and progress industry specific visa arrangements and migration solutions that will contribute to the broader economic growth and stability of regional Australia.

2. Review the visa arrangements within the PALM scheme to create a pathway that supports returning visa holders to have greater autonomy and flexibility, realigning conditions for returning workers with other visa settings within the migration system.

3. Introduce a Harvest Work Visa to fill an existing workforce gap, that is capped at 10,000 places and provides a regulated program to support short-term work and enhance workforce stability in the horticulture industry.

4. Retain the current specified work arrangements for WHM visas, which incentives travel to regional and remote areas, generating significant economic and social benefit, and addresses labour shortages in key industries.

5. Establish and maintain a public register of businesses offering specified work to WHMs to create greater employer accountability, ensure better compliance, enhance transparency, and safeguard workers

6. Undertake a concerted multi agency program to raise awareness amongst WHMs of their workplace rights, and improve compliance through the introduction of an appropriate, economy wide, National Labour Hire Licensing scheme.

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Introduction

Australia's diverse climate and geography enables more than 100 varieties of fruit and vegetable to be grown productively around the country. While the much of the production of fresh produce takes place in regional and remote areas, major commercial farming operations can be found within fewer than 50kms of Australia's largest cities.

The fresh produce industry at a business level is characterised by a large number of small businesses/employers and, as a result of seasonal work requirements, regular user of labour hire companies. At a high-level, the sector's workforce is comprised of Australian's filling the majority of ongoing, skilled, full-time work and temporary migrants filling the majority of harvest roles, which by number is the largest proportion of the workforce.

The Government's *Supporting strong and sustainable regions* paper outlines that the Government intends to build on existing work to ensure that migration is delivering for regional Australia including:

- Tripling the number of permanent places available for regional migration.
- Extending Designated Area Migration Agreements (DAMAs) to help meet regional workforce needs.
- Designating regional visa processing as the highest priority so that businesses are able to quickly meet their skills needs.
- Working with states and territories to plan migration over the longer term.
- Expanding and improving the Pacific Australia Labour Mobility (PALM) scheme.
- Facilitating Working Holiday Makers to support local economies and regional Australia's workforce needs.

In meeting these objectives, it is important to consider the industry's primary need from Australia's migration system is to fill a domestic labour gap by providing a productive and returning harvest workforce, which is a short-term workforce that is mobile and able to move with seasonal production needs. The inability for horticulture to offer large scale, ongoing, fulltime employment in regions is a significant difference between the horticulture industry and other agriculture sectors, for example meat processing or the dairy industry.

The needs of the horticulture industry further differ from the broader regional migration focus, which aims to encourage professionals like doctors, nurses, and teachers to settle permanently in regional communities. The nature of the work requirements in the horticulture industry (i.e. short term and seasonal engagement) mean that this work is typically not attractive for people who are well established or permanently settled in a community.

In aligning employer driven demand for workers within the horticulture industry with the broader migration framework and objectives for regional migration, it is important that the unique harvest needs of the produce sector are acknowledged. Migration solutions for the fresh produce industry needs to be considered at an industry level, and be tailored to the unique requirements of the industry, as opposed to any one region.

The AFPA appreciates the opportunity to provide input into regional migration settings and would welcome the opportunity to discuss any elements of this submission further detail.

The Fresh Produce Industry is national, not only "regional"

The nature of the production of fresh fruit and vegetables means that this work is typically conducted in regional areas. Table 1 overpage, provided in the Report: *Contribution of Australian Horticulture Industry* by the Centre for International Economics (CIE)[1], demonstrates that among all 25 regions of horticulture production (fruit, vegetables, nuts, turf and nursery products) nationally, ten regions account for about two thirds of the nation's horticulture growing and processing GVP, value added and employment. These regions are:

1. North West (Mildura), Victoria
2. Melbourne
3. The rest of QLD
4. Shepparton, Victoria
5. Rest of Victoria
6. Sydney
7. Wide Bay Region, QLD
8. South East (Adelaide Plains), South Australia
9. Toowoomba, Ipswich, Darling Downs – Maranoa, QLD
10. Cairns/Mareeba

Importantly, Greater Melbourne and Greater Sydney are among the top 10 horticulture regions because they have a relatively significant part of the horticulture processing sector, as well as vegetable farms and amenity horticulture businesses (nurseries, cultivated turf and cut flowers) that serve the urban population, within the vicinity. For example, Sydney produces $453 million of processed horticultural products, accounting for 43 per cent of its horticultural GVP, with another $339 million (32 per cent) from nursery, cultivated turf and cut flowers, and $257 million (24 per cent) from vegetables including about $113 million of mushrooms growing.

Definition of "regional"

The analysis of the horticulture sectors production, employment and economic contribution completed by CIE demonstrates that while much of horticulture production occurs in regional areas (i.e. areas outside Melbourne, Sydney and Brisbane), there is still significant industry work that is completed within peri-urban areas of capital cities.

In contemplating migration solutions for the fresh produce industry, this demonstrates that the industry requires a migration solution that is not entirely focussed on what would be considered traditionally regional areas, rather a solution that is tailored to the industry's needs and its businesses' labour demands.

However, when contemplating the broader regional migration approach and unique nature of the horticulture sector, it is clear that the definition of regional should continue to exclude major capital cities including Melbourne, Sydney and Brisbane.

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[1] Contribution of Australian horticulture industry, 2023 The Centre for International Economics

Table 1: Regional horticulture industry summary, 2020-21[2]

	GVP	Value added	Employment
	$m	$m	FTE
New South Wales and ACT			
Coffs Harbour - Grafton	441.4	348.8	2,262
Richmond - Tweed	371.5	238.6	1,439
Riverina	636.7	420.9	2,259
Murray	391.1	240.3	1,546
Sydney	1,057.1	465.0	3,841
Rest of NSW/ACT	687.0	424.3	2,678
NSW/ACT total	**3,584.8**	**2,137.8**	**14,026**
Victoria			
North West (Mildura)	1,689.5	1,074.5	6,932
Shepparton	1,221.9	644.1	3,769
Melbourne	1,546.7	840.7	6,531
Rest of Victoria	1,208.2	647.5	4,873
Victoria total	**5,666.3**	**3,206.8**	**22,105**
Queensland			
Cairns (Cairns/Mareeba)	862.7	515.0	3,253
Wide Bay	985.7	601.1	3,887
Moreton Bay	307.4	185.8	1,307
Brisbane	362.1	137.1	995
TIDD-M	911.1	453.4	3,655
Rest of Queensland	1,313.0	734.1	5,282
Queensland total	**4,741.8**	**2,626.5**	**18,378**
South Australia			
South Australia - South East (Adelaide Plains)	941.5	587.9	3,649
Adelaide	562.5	277.0	2,170
Rest of SA	82.2	39.2	390
SA total	**1,586.2**	**904.2**	**6,209**
Western Australia			
Perth	412.7	220.5	1,662
Bunbury	405.6	229.4	1,520
Rest of WA	343.1	187.3	1,441
WA total	**1,161.4**	**637.3**	**4,623**
Tasmania			
West and North West	346.9	203.6	1,500
Rest of Tasmania	540.2	341.0	2,154
Tasmania total	**887.1**	**544.7**	**3,654**
Northern Territory			
NT	**180.5**	**101.2**	**702**
Australia	**17,808.1**	**10,158.3**	**69,697**

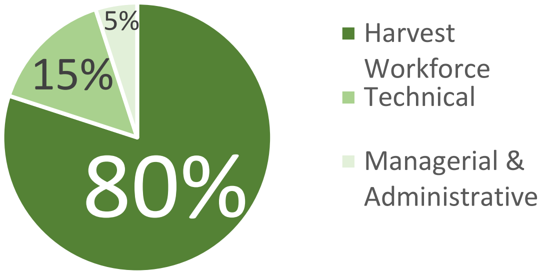
Note: data for 2020-21; TIDD-M: Toowoomba, Ipswich, Darling Downs – Maranoa, *Source:* CIE estimates

[2] Contribution of Australian horticulture industry, 2023 The Centre for International Economics

Overview - The Fresh Produce Industry's Workforce

Australia's fresh produce sector is estimated to directly support between 65,500-80,000 full-time-equivalent positions[2]. In 2021–22, ABARES survey data indicates[3] the monthly average number of workers engaged on horticulture farms was 116,900; most employees are engaged on a temporary basis to support seasonal harvests, and therefore there are typically a higher number of individuals required in the sector when compared the FTE or role. As an example of this, a Working Holiday Maker (WHM) visa holder, or 'backpacker' may only work in the industry for 88 days, however, over a six-month harvest period, a farmer may engage multiple WHM visa holders to fill one 'role' across this harvest duration.

Figure 1: Horticulture Workforce Categories and Breakdown



Unlike broadacre farming and other agriculture sectors, which have become highly mechanised, horticulture remains labour intensive, particularly when harvesting produce. Despite technological advancements in many areas of farming, most fruits and vegetables still need to be hand harvested due to the delicacy of the produce and need to quality control in the field.

Employment in horticulture can be separated into three distinct functional areas:

- **Harvest Labour** – 80% of workforce: harvesting, picking, packing, planting and maintenance (e.g. pruning) of horticultural crops
- **Technical Expertise** – 15% of workforce: skilled and semi-skilled roles including supervisors, agronomists, food technologists and food safety specialists
- **Management & Administration** - 5% of workforce: farm managers, sales and marketing, category management, human resources and finance and accounting.

The harvest workforce makes up the largest proportion of workers (80 per cent) and supports the entire fresh produce industry. The remaining roles in horticulture can be categorised as either technical (e.g. food safety, irrigation and agronomy) or managerial and administrative workforce (e.g. sales, marketing, farm management). While Australian residents typically fill the skilled (technical, managerial, and administrative) positions, workers from overseas have become a significant source of labour employed on farms to meet the seasonal (short term) harvest labour demand.

Key focus - Harvest Labour Workforce

The supply of fresh produce is entirely dependent on the industry's ability to engage a harvest workforce, which pick, pack, process and maintain horticulture crops, among other tasks. The harvest workforce is also crucial to supporting permanent jobs in the industry. Based on AFPA data, every permanent job performed by an Australian citizen or permanent resident in the industry is dependent on at least three harvest roles.

By its nature, harvest work is:

- **Seasonal** – depending on the commodity and location, harvest employment opportunities can range from weeks to months to years.
- **Regional** – fruit and vegetable production typically occurs in rural and remote areas.
- **Variable** – production is highly influenced by weather and other external factors; output may vary between seasons and therefore labour requirements.
- **Physical** – picking, packing, and maintaining crops can be physically demanding, with most work occurring outdoors

[3] Labour use in Australian agriculture: Analysis of survey results, 2021–22 - ABARES

These characteristics make harvest work unattractive to many Australians. In 2020, AFPA collated data from Australia's major produces and labour hire companies and found that of 23,000 enquiries for horticulture work received between March – June 2020, only 8% were from Australians. AFPA members make concentrated efforts to engage more Australians in their harvest workforce, including running target job campaigns in local regions and providing incentives. Despite this, it remains a significant challenge to attract Australians, to undertake temporary work in remote locations, that is both physically challenging and variable. Therefore, the fresh produce industry has come to rely heavily on a large migrant workforce, most commonly made up of PALM Scheme and WHM visa holders.

A survey in early 2020 commissioned by AFPA and AUSVEG, undertaken for Ernst and Young, found that on average, temporary visa holders (Working Holiday Makers, Seasonal Worker Program and Pacific Labour Scheme [now PALM] workers) made up to 70% of the harvest (casual) workforce.

Composition of the Harvest Workforce

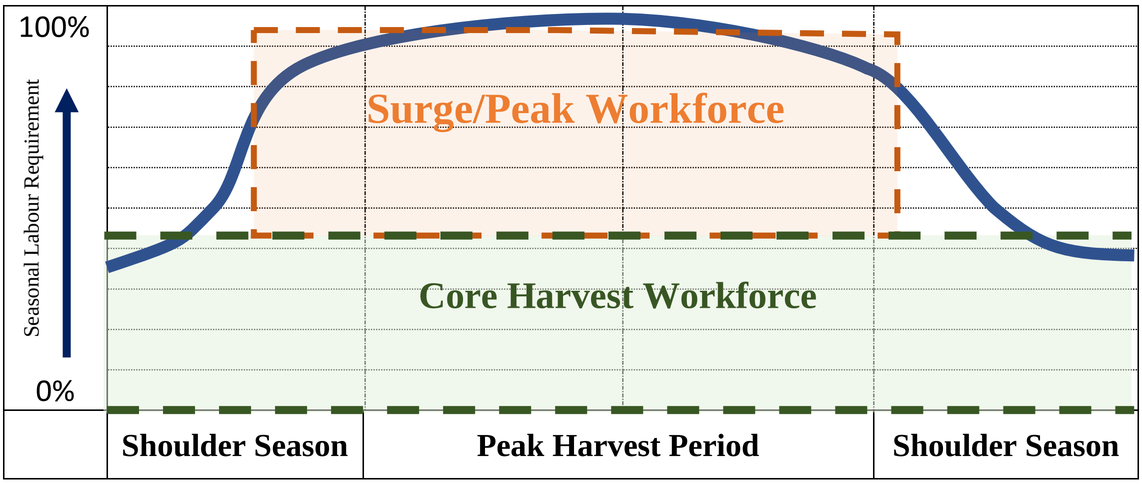
The nature of fresh produce harvest work, being remote, physical, variable and seasonal (i.e. short term), means that a considered workforce structure is required to meet business requirements.

While these work characteristics are common across all produce types, there is variability. For example, some regions and commodities experience short, intense seasons, such in Katherine (Northern Territory) where the mango harvests last around two months or in parts of NSW where cherries have a peak harvest period of as few as 6 weeks. At the other end of the spectrum, banana production occurs year-round in North Queensland, requiring a constant harvest workforce.

The harvest workforce can be considered in two parts due to the seasonality of harvest and its peaks and troughs:

1. **Core Harvest Workforce** – engaged for a longer period, e.g. 3+ months, and undertakes a variety of roles in the lead up to, during and after the harvest, i.e. pruning, as well as picking, processing and packing early and late produce, as well as during peak season.
2. **Surge/Peak Workforce** – engaged for a short period, e.g. 1-3 months, purely to support picking, processing and packing during peak season, where there is a high-volume of produce ripening/ maturing and if left unharvested would be wasted.

Figure 2. Seasonal Labour Demand and the Peak and Core Harvest Workforce



As illustrated in Figure 2 (above), the core workforce is engaged for the duration of a 'season', being the lead-up to, during and after the peak harvest period. The core workforce is typically a smaller cohort than the peak-harvest workforce and provides a stable labour base during the season. The core workforce:

- can be trained in an array of different tasks and roles (e.g. machinery operation, sorting and packing, etc.),

- preform critical work in preparation of the harvest (e.g. maintenance and setup of equipment, field preparation), and work following the harvest (e.g. pruning and planting), and
- covers the ‘shoulder’ periods, when the first and last produce ripens /matures for harvest, which can vary from year to year making labour planning difficult.

The vast majority of the core workforce is Australians, permanent residents and (where there are proven labour gaps) PALM workers. The work expectations / visa requirements of these cohorts better align to this longer-term, more stable work. For example, the PALM scheme requires approved employers to offer PALM workers with a minimum of six months employment and 120 hours of work every four weeks.

By contrast, the surge/peak workforce is composed of individuals that have shorter work expectations and are typically WHMs. The peak workforce is engaged to meet the high demand periods of the harvest, they are often trained in only one task, most commonly ‘picking’, and their employment is tied specifically to the availability of produce to harvest. As its unviable to maintain a large workforce without produce to harvest and sell, as soon as the season begins to taper off, so too does the number of peak harvest workers employed. The ideal peak-harvest worker is highly mobile (able to relocate between regions as they come into season) and able to work flexibly. For these reasons, WHMs have become the primary labour source for peak-harvest workers.

The role of migrant workers in the fresh produce industry

Migrants make a significant contribution to the Australian economy and supplement the supply of workers available to businesses and industries. In May 2022, the Grattan Institute reported that one in five workers in Australia hold either a temporary or permanent visa, underlying the importance of migration to sustaining Australia’s economy. Like many industries, the fresh produce sector has a high reliance on migrant workers to maintain its operations and service to the Australian community. Skilled, semi-skilled and unskilled migrant workers fill a vital gap in the industry’s workforce, and both permanent and temporary (circular) migration play an important role.

For the horticulture sector, there are two distinct workforce needs. These two distinct needs create different interactions with existing migration pathways:

1. **Ongoing, skilled roles** (i.e. Technical Expertise, Management & Administration)

   While Australian residents fill many of the skilled (technical, managerial, and administrative) positions in the fresh produce industry, there is a historic and growing shortfall that is met by skilled and semi-skilled migrants. Skilled migrants bring technical expertise to Australia and managerial and administration experience to Australia’s regions, where it’s difficult to attract Australian talent.

   These roles are typically full time and ongoing, and often require permanent relocation to a regional area.

   The Horticulture Industry Labour Agreement (HILA) is an existing tailored visa pathway that is effectively meeting the skilled and semi-skilled labour requirements of the sector. Region-specific migration pathways, such as the Designated Area Migration Agreement (DAMA), are not heavily utilised within the horticulture industry due to the absence of specific (and often highly industry specific roles) being incorporated into these agreements.

   By providing a structured pathway for skilled migrants to contribute to the industry's productivity, the HILA also supports sustainable business growth while maintaining high standards of employment and workplace conditions.

   The HILA, and other existing skilled visa pathways need to remain open and can be improved, specifically by streamlining the visa application and approval process. Other opportunities for leveraging international expertise also need to be considered, such as better enabling horticulture experts to come to Australia to educate and up-skill Australians in specialty fields, as well as advance our research and development capabilities.

2. Picking and Packing (i.e. Harvest Labour)

While attracting and engaging skilled workers in regional Australia and the industry is of importance to producers, more crucial is the ongoing ability to engage ‘pickers and packers’, a harvest workforce.

Establishing a productive and returning harvest workforce is one of the biggest challenges facing the industry today. The harvest workforce underpins the entire industry and is essential to the supply of fresh produce to Australian households. All of the skilled and permanent jobs depend on the cultivation, picking, processing, and packing of produce, which is undertaken by the harvest workforce.

The horticulture sector has an ongoing demand for workers to fill picking and packing roles within the industry. The ability to engage workers who can relocate as needed to meet shifting seasonal labour demands is crucial. This mobility ensures producers can manage the natural variability of growing fresh produce, harvest crops at optimal times, maintain the supply chain and support the overall productivity of the industry.

As a result of the work characteristics, industry currently relies upon WHM and PALM Scheme workers as the predominant source of labour for harvest work. The success of the PALM Scheme has been driven predominantly by the circular migration principle, which matches with the seasonal nature of horticulture work, an important consideration for any future migration solution and how to increase productivity in the sector.

While industry does utilise some existing regional visa pathways, to the extent the WHM is included in this category, it is apparent that there is a proven need and preference for industry-based migration solutions, particularly highlighted by the HILA.

There is also a need to ensure the sector’s workforce requirements are properly considered as part of any relevant migration settings, demonstrated by a recent (now reversed) change to the PALM Scheme that limited the flexibility of a worker’s hours, which jeopardised the program’s future.

Getting the broader regional migration policies right, to support Australia's rural and regional development, is vital to the fresh produce industry. However, the fresh produce industry itself requires tailored migration solutions that address its unique operational needs, which should not be seen solely through a regional lens.

Tailored migration solutions for the fresh produce industry will deliver the most benefit to regional Australia by supporting the industry’s growth and viability, and support the Government’s objectives provided in the discussion paper. It is estimated that for every dollar of horticultural value added, about additional 27.6 cents is induced in the rest of the economy, the majority in regional Australia. In 2021-22, the additional value created in the regional economy by the horticulture industry was estimated to be $10.23 billion, as well as 14,835 additional FTE roles in other industries. Getting the right migration settings, that are tailored to the horticulture industry’s needs will only spur on the industry’s growth further.

Recommendation 1: The Australian Government recognise the unique characteristics of the fresh produce industry and its labour mobility requirements, and therefore progress industry specific visa arrangements and migration solutions that will contribute to the broader economic growth and stability of regional Australia.

Existing migration pathways

Currently, the fresh produce industry relies on three main visa types to support workforce needs:

- The Pacific Australia Labour Mobility (PALM) Scheme; both short and long term streams of this visa
- The Working Holiday Marker Program; both 417 and 462 visa types
- The Horticulture Industry Labour Agreement (HILA); this is utilised for skilled workforce, not traditional harvest roles

The PALM Scheme

The PALM (Pacific Australia Labour Mobility) scheme is a regulated visa program that requires employer sponsorship. It was initially piloted in 2009 with foreign aid objectives to "*allow Pacific and Timor-Leste workers to take up jobs in Australia, develop their skills, and send income home to support their families and communities*," while simultaneously filling "*labour gaps in rural and regional Australia.*"

During the COVID-19 pandemic, the intake of workers through the PALM scheme was increased to support Australia's neighbouring Pacific countries, whose economies were devastated, and ensured that Australian farmers could continue to supply the nation with fresh produce. The Albanese Government, upon taking office, expanded the PALM scheme further, declaring it "*Australia's primary temporary migration program for low, semi, and unskilled positions*" and revoking the planned Agriculture Visa announced by the previous government.

The value of the PALM scheme to the horticulture sector cannot be understated. It enables workers to return to Australia year after year, creating opportunities for skill and training development, and delivers increased productivity to employers. As of June 2024, it was estimated that over 20,000 PALM workers were engaged in horticulture work. Results from the ABARES horticulture survey in 2020–21 showed that around half of all PALM workers on horticulture farms were returning workers, demonstrating the mutual benefit and success of the program.

However, recent changes introduced to the PALM Scheme Deed and Guidelines have made the scheme more challenging to operate and increasingly inflexible. In the eight months following these changes, the number of PALM workers engaged in horticulture work fell by an estimated 10%. For many producers, particularly small growers, the scheme became unviable due to increased administrative burdens, financial risks, and other challenges. There is also a lack of resources within the Department of Employment and Workplace Relations (DEWR) to resolve operational issues promptly, and the new IT system is ineffective, adding to the administrative costs and burdens.

In addition to operational challenges and the relatively high cost of participating in the program, the necessity to engage PALM workers for a minimum of six months limits this workforce's ability to meet all of the industry's labour requirements. As outlined earlier, the harvest workforce can be considered in two parts, the 'peak' workforce and the 'core' workforce.

The 'peak' workforce is primarily required during the brief, high-demand harvest windows for various fruits and vegetables. For example, in some locations, crops like cherries and mangoes have a harvest period of less than two months, while strawberries and grapes have harvest durations of approximately 2-3 months, and apples and citrus are harvested over 3-6 months. Since PALM workers must be employed continuously for six to nine months (in the short-term stream) or up to four years (in the long-term stream), this workforce cannot viably meet the industry's peak harvest workforce demand.

While PALM workers can be transferred between producers, the program is designed to offer stability and continuity, not mobility. While in country, PALM workers are supported and encouraged to integrate into their local communities, they are actively connected with religious groups, community sport teams, and other organisations. The Government is currently piloting family accompaniment for long-term PALM workers, including the accompaniment of minor dependents (school-aged and younger), which further demonstrates the intention of this program as being to integrate workers into a community.

Transferring PALM workers also adds administrative and logistical burdens, including accommodation, travel, and relocation costs, which can reduce the program's attractiveness for both workers and employers. If a PALM worker was moved every 2 or 3 months to align with peak-harvest work, it would disrupt their capacity to earn and increase the cost of participating in the program. Employers would also bare much of the transportation and resettling costs, as well as lose productivity.

Some labour hire companies that engage PALM workers do move workers between host employers, this is typically done within a region to avoid accommodation changes or only done once or twice during a PALM workers time in Australia to minimise the cost to both the worker and employer. Of note, labour hire companies provide a vital service to many horticulture producers, particularly smaller businesses that do not have the capacity to manage the administration and operational burden of engaging PALM workers directly.

Altering the PALM scheme to allow shorter employment periods is not recommended, as it would reduce the program's appeal and detract from its foreign aid objectives. PALM workers are ideally suited to be engaged as part of the industry's ‘core’ harvest workforce, alongside Australians, permanent residents, and longer-term visa holders. The 'core' workforce is employed for longer periods and is essential for maintaining consistent operations in the lead-up to, during, and after harvest.

Given the importance of the PALM scheme to the horticulture workforce, the AFPA remains a strong supporter of this regulated visa program and will continue to advocate for its continuity, as well as operational improvements, increased enforcement of standards and other improvements that deter unscrupulous employers and protect this cohort of workers. However, the PALM Scheme cannot be seen as the single solution to industry’s labour requirements and should not be fundamentally changed as it risks jeopardising the program.

Recommendation 2: The Australian Government review the visa arrangements within the PALM Scheme to create a pathway that supports returning visa holders to have greater autonomy and flexibility, realigning conditions for returning workers with other visa settings within the migration system.

Working Holiday Makers

WHMs contribute around $3 billion a year to the Australian economy and play a critical role in the Australian workforce, particularly in regional Australia.

Across the WHM program (the 417 and 462 visas subclasses) there were 181,216 working holiday visas in Australia as at 29 February 2024. This is well above the previous peak of 141,000 in December 2019, and significantly higher than during the COVID pandemic.

The WHM visa is unregulated, any business in the economy can employ a WHM visa holder for a certain period. However, WHMs are required to undertake specified full-time equivalent work over a minimum period of 88 calendar days (three months) for a second-year visa and 176 calendar days (six months in total) for a third-year visa in regional Australia with certain industries. In part due to this requirement, the Department of Agriculture, Forestry and Fisheries (DAFF) estimate around 25–30% of all WHMs undertake work in the horticulture sector.

Beyond the requirement of WHMs to undertake specified work to receive a visa extension, WHMs in Australia are highly mobile and flexible, making them ideal for the fresh produce industry's seasonal labour needs. Typically mobile, these workers are able to relocate quickly for short-term employment opportunities, adapting easily to various locations and work environments. This mobility is crucial for addressing the regional and seasonal demands of agriculture, where the workforce needs can change rapidly.

Their short-term commitment also aligns more closely with the peak harvest periods required by the industry. Visa conditions usually allow them to work with one employer for up to six months, matching the intense but brief labour demands of crops like cherries, mangoes, strawberries, and grapes. This temporary engagement is beneficial for producers who need to scale their workforce quickly without long-term commitments, making WHMs a practical solution for handling peak labour requirements efficiently.

Youth and physical fitness are other key traits of WHMs. Generally aged between 18 and 30, they are well-suited to the physicality of agricultural work.

Within the WHM cohort employed in the agriculture industry, it is important to acknowledge that broadly, there are two types of WHMs:

- WHMs that have short-term employment expectations, who seek only to work in the industry for 88 days to meet the requirement to extend their visa for an additional year, and;
- WHMs that have long-term employment expectations, who are engaged in the industry for their entire visa length, up to 3 years, however limited to 6 months with any one employer (a visa condition).

Depending on whether a WHM has short or long term employment expectations, WHMs can be a part of both the 'core' harvest workforce and 'peak' harvest workforce.

While the industry is heavily dependent on WHMs, it has long recognised that this is not an ideal long-term solution to workforce requirements. The industry's ongoing reliance on WHMs is undesirable because:

- the unregulated visa lacks safeguards for workers and demands no standards for employers;
- harvest workers whose primary purpose in Australia is to work have been found to be up to three-times more productive than WHMs, and;
- WHMs typically only work in the industry for an 88 day period, before continuing on their holiday in Australia, reducing productivity at a farm level and requiring significant ongoing investments in recruitment, onboarding and training at a business level.

The industry's dependence on WHMs creates also precarious situation for both producers and the supply of Australian fresh produce, as demonstrated by WHMs mass exodus from Australia during the COVID-19 pandemic. During the COVID-19 pandemic, the rapid, severe shortage of harvest labour led to many adverse outcomes, impacting the supply and cost of fruits and vegetables. Australian's will recall periods during 2020 and 2021 where certain fresh produce on supermarket shelves was missing due to severe workforce shortages created by the exodus of the WHMs.

The industry has long sought to work with Government on the development of an alternative visa pathway, to develop a productive and returning harvest workforce, however, in the absence of any alternative, the WHM visa remains vital to the industry's ability to produce and supply fruits and vegetables.

Horticulture Industry Labour Agreement

The HILA plays a crucial role in addressing specific labour shortages within Australia's horticulture sector, and focuses on roles that require specialised skills and experience not readily available among the domestic workforce. The HILA is not limited to regional Australia, or any one region, but to the industry.

The primary purpose of the HILA is to provide a pathway for skilled and semi-skilled workers to enter Australia's horticulture industry where there is a labour gap for personnel with technical experience, managerial capabilities, or specialised agricultural knowledge and training. These include positions such as farm managers, agronomists, agricultural scientists, and other technical specialists. By attracting skilled workers from overseas, the HILA supports the industry's capacity to maintain sustainable operations and meet the increasing demand for fresh produce both domestically and in international markets.

Unlike temporary visa programs such as the PALM Scheme or the WHM Program, which cater to seasonal and unskilled labour needs, the HILA focuses on long-term workforce provision and skills development. It offers pathways for permanent residency to eligible workers, providing stability and continuity in employment that is crucial for sustaining the industry's growth and competitiveness. Moreover, the agreement ensures that employers adhere to stringent labour market testing requirements to demonstrate genuine attempts to recruit locally before sponsoring workers under this scheme.

The HILA operates under a structured framework that includes clear guidelines on visa conditions, employer obligations, and worker rights. By bridging critical skill gaps and fostering a diverse and skilled workforce, the HILA contributes significantly to the resilience and sustainability of Australia's horticulture industry, ensuring its continued ability to deliver high-quality produce while supporting regional economies and communities across the country.

Not a complete and sustainable migration solution

While these visa programs play crucial roles in addressing immediate labour shortages in the fresh produce industry, they do not fully meet the industry’s requirements nor provide a complete and sustainable migration solution. By way of summary,

- The PALM Scheme provides essential seasonal workers to fill labour gaps in the core harvest workforce, but the program’s objectives, visa requirements and other design features prevent this workforce from meeting the peak-harvest labour demand.
- The WHM Program provides a mobile, flexible workforce that can meet peak-harvest demand, but it is not the primary purpose of the visa, and the industry’s reliability on this unregulated, unstable workforce has several disadvantages.
- The HILA provides a solution for sourcing skilled workers to fill labour gaps, but does not provide a pathway for harvest workers

There is a gap in the industry’s workforce for a capped, regulated visa that complements the existing visas and provides a productive and returning harvest workforce. Such a solution would boost productivity, ensure continuity in supply chains, support regional communities, and foster long-term growth in Australia's fresh produce sector.

Creating an improved visa framework for the fresh produce industry: introducing a Harvest Work Visa

There are multiple visa schemes available to the fresh produce industry, however most prominent are the WHM visa, the PALM Scheme, and the HILA / Temporary Skills visa (previously discussed in this submission). Each of these three visas are designed to serve a different purpose in the industry, and while each has their merits and value, collectively they do not meet the needs of the industry.

A visa gap exists for a regulated program to support the industry’s workforce requirement. While the WHM will likely always be utilised by industry, the industry’s ongoing high reliance on this workforce remains suboptimal given the low productivity associated with this cohort of workers, and typically need for frequent recruitment.

Figure 3 (page 19) - *Visa settings compatibility with workforce requirements*, maps relevant visa types available to the horticulture industry with the workforce requirement or need of industry. This figure demonstrates how an appropriate framework for industry would offer three visa options, targeted at specific components of the workforce across all skill levels.

The obvious gap is for a regulated visa program, with built in worker protections, that enables workers to complete short term (i.e. 12 week) work assignments with flexibility to move between employers and return year on year. To fill this gap, the industry requires a new visa to secure a productive peak-harvest workforce and better guarantee Australia’s ongoing supply of fresh produce.

The AFPA engaged migration law firm, Hammond Taylor (now ROAM Migration) to develop a fitting visa solution to fill the gap in industry's migration framework and better support workforce development and productivity. The full proposal can be viewed online. Most OECD countries operate a visa similar to the proposed Harvest Work Visa (HWV), and this should be introduced as part of any reform of Australia's regional visa arrangements.

The HWV was developed prior to the Government's announcement of its proposed Essential Skills Pathway, but in many ways aligns to its described intent and features.

The HWV is intended to be a highly mobile visa which allows workers to shift both between employers and geography, following seasonal needs and peak labour demand. The HWV should be capped at 10,000 places per annum and allow visa holders to access roles within the harvest workforce for up to 9 months at a time with the ability to return to Australia year on year. The HWV could also more appropriately capture the cohort of WHMs that travel to Australia specifically to work in the horticulture industry. In this respect, the proposed HWV program complements, rather than replaces existing visa programs, and would not dimmish the important PALM Scheme or jeopardised the Government pacific primacy.

At a high level, the proposed outline of a HWV is as follows:

- Duration: 9 months, with ability to return year on year.
- Application Cost: ~$485
- Conditions:
    - Have proof of employment from an Australian employer that is either a:
        - Farming Business; involved in primary production of food and fibre, OR
        - Labour Hire Companies that is:
            - Licensed under a federal, state or territory labour hire licensing scheme
            - Approved Employers under the Pacific Australia Labour Mobility Scheme.
    - Initial employment offer must be for a minimum of 12 weeks
    - Applicants must undergo a police and health check before the visa is granted and maintain health insurance while in Australia
    - Applicants must be able to demonstrate financial resources to return home
    - This visa can only be applied for outside of Australia
    - Continue to satisfy the criteria for the visa (i.e. ongoing employment in agricultural)
- Other considerations:
    - Visa holders must be able to move easily between employers once in country
    - Secondary applicants (e.g. family members) should not be permitted
    - Applicants need to demonstrate a level of English proficiency

Recommendation 3: That the Australian Government introduce a Harvest Work Visa to fill an existing workforce gap, that is capped at 10,000 places and provides a regulated program to supports short-term work and enhance workforce stability in the horticulture industry

Figure 3: Visa settings compatibility with workforce requirement

	Peak Harvest Workforce: this workforce is required at peak production times, and typically only for short periods (i.e. fewer than 3 months)	**Core Harvest Workforce**: this workforce typically works from shoulder season across peak season and engagement is typically more than 3 months but less than 1 year	**Year-round Harvest Workforce**: Defined as harvest work or other roles that are ongoing. Often this work is full-time and semi skilled.	**Permanent technical & professional roles:** These roles are typically full time and ongoing and require experience and qualifications to complete
Harvest Working Visa (Proposed)	The proposed visa is designed to fill the peak-harvest gap, by enabling workers to move at their own discretion between a network of trusted/approved employers that meet an appropriate level of worker-welfare standards.	While workers could be engaged in harvest roles for several months, businesses are likely to continue preferencing locals or, PALM workers given certainty of contract length	The proposed visa would be capped at 9 months, similar to the PALM scheme's short-term stream.	The proposed visa would not support "skilled" employment
PALM Scheme – Short term (6-9 months) visa	PALM workers are unable to enter employment for less than 6 months due to visa settings.	The PALM scheme's short-term visa settings enable its workers to a operate as the core harvest workforce, **however the new settings have made this more difficult.**	PALM workers are unable to enter employment for more than 9 months under the short-term visa settings.	This visa does not support "skilled" employment
PALM Scheme – Long term (1-4 years) term visa	PALM workers are unable to enter employment for less than 1 year due to visa settings.	PALM workers are unable to enter employment for less than 1 year due to visa settings.	This visa settings are ideal for long-term PALM workers to operate as a year-round harvest workforce (i.e. some vegetable crops). This is also suitable for providing upskilling pathways to PALM workers for example in Supervisory roles	This visa does not support "skilled" employment
Horticulture Industry Labour Agreement (HILA)/Temporary Skills Shortage (TSS) visa	Visa does not support "harvest" roles	Visa does not support "harvest" roles	Visa does not support "harvest" roles	Visa settings ideal to address shortage of skilled and middle management level roles.
Working Holiday Makers (WHMs)	WHMs have the option to complete "*88 days of specified work to become eligible for a second Working Holiday visa*". This arrangement remains necessary to many in the industry in the absence of a viable alternative workforce, but is not ideal.	While WHMs have the option to work for more than 3 months (88 days), most only complete the minimum required to extend their visa.	While WHMs have the option to work for more than 3 months (88 days), most only complete the minimum required to extend their visa.	Visa allows WHMs to *"do short-term work in Australia to help pay for your holiday"*, not ideal for businesses looking for long-term employees to develop

Provides appropriate solution to workforce need	**Workable, but not preferable solution to workforce need**	**Does not address workforce need**

Reform of the Working Holiday Maker program

The WHM Visa is not a regional visa, but provides significant benefits to regional Australia for several reasons. WHM visa holders contribute to the economic vitality of regional communities through their spending on travel, accommodation, and other living expenses, stimulating local businesses and economic growth; as well as the social fabric of regional Australia by fostering cultural exchange, enhancing community diversity, and bringing new perspectives and skills that enrich local communities.

WHMs play a vital role in filling labour gaps and, as described in the previous sections of this submission, and in the production and supply of fresh produce to Australian households. There is no other workforce willing and able to meet (at the scale required) the labour demands of the industry's seasonal work requirement, making the ability for producers to continue to engage WHM visa holders crucial to maintaining Australia's food security.

In March 2023, the Australian Government released the findings of a Review of the Migration System led by Dr Martin Parkinson AC PSM, which had 38 "possible reform directions", including to "*consider limiting Working Holiday Maker (WHM) visas to one year*", and stated that:

"*There is widespread evidence that temporary migrant workers are exploited … the Panel does not believe that the bulk of Australian employers act in ways that exploit the potential vulnerability of migrants. But unfortunately the evidence suggests there are sufficient unscrupulous employers to make this is a real, systemic, problem that needs to be tackled … Visa conditions can increase the risk of migrant exploitation by regulatory conditions driving power imbalances between employers and migrants. Restrictions on a visa holder's ability to change employers and dependence on an employer's continued support to access the Australian labour market and, perhaps, eventual pathways to permanent residence, limit a migrant worker's capacity to resist, report or leave exploitive situations."*

In December 2023, the Government released its response to this review, a new Migration Strategy, which referenced the findings of the Review, while also acknowledging the importance of the WHM program to the Australian economy, regions and certain industries, "*especially in horticulture",* and recommended that regional migration settings and the WHM be an area for future reform.

The Discussion Paper, to which this submission responds to, picks up on the themes and key points of the Review and Migration Strategy, being the visa's duration, worker exploitation and link to the specified work requirements for visa extensions. Notably, the Discussion Paper states, "*The Government **is not** considering limiting the Working Holiday Maker visa to one year as this would significantly damage local economies in regional Australia*".

The Discussion Paper does flag for consideration:

- *"how to make it easier for migrants to come forward and advocate for their work rights"*
- *"introducing obligation for employers if they wish to hire Working Holiday Makers"*
- *"increasing enforcement and sanctioning employers who take advantage of workers"*
- *"reforming visa requirements to reduce vulnerability. For example, changes to 88 day and 179 day specified work requirements*"

Visa duration

The AFPA welcome the Government's decision not to limit the WHM visa to one year and supports maintaining the visa at a duration of three years. Maintaining the current duration of Australia's WHM visa strikes a balance between offering a meaningful experience for visa holders, maintaining manageable population flows and achieving economic and regional benefits. It provides sufficient time for participants to work, travel, and contribute economically. Limiting the visa would likely lead to less travel by WHMs to regional areas and undertaking work in regional areas. The current duration not only aids in economic growth and regional development but also fosters cultural exchange and personal development, enhancing Australia's global connections and international relations. Adjusting the duration would have disrupted these benefits, making the program less attractive to potential applicants and negatively impacted both the economy and labour supply.

Maintain the specified work requirement alongside improved regulation of employers

The current specified work requirement for WHM visas involves completing work in designated industries and regional areas to qualify for a visa extension. There is a slight variation between the two WHM visa subclasses. For the visa subclass 417, visa holders must complete 88 days of specified work in agriculture, forestry, fishing, mining, or construction in regional Australia to extend for a second year, and an additional six months for a third year. For the visa subclass 462, visa holders must complete similar durations of work, however they can also work in tourism and hospitality, as well as the aforementioned industries, and the postcode locations vary slightly.

The specified work requirement of the WHM Visa is crucial, not necessarily because it requires visa holders to work in a particular industry, but because it incentivises them to travel to and stay in regional and remote locations. By requiring that WHMs undertake specified work in regional and remote areas to qualify for visa extensions, the program actively promotes economic activity and supports local industries facing labour shortages. This requirement not only benefits sectors like agriculture, hospitality, and tourism, which often struggle to attract sufficient local labour, but also injects vital spending into regional economies.

Should the specified work requirement be removed, to achieve the same economic and social benefit, other incentives would likely need to be introduced. One possible option is a tax-based incentive, such as offering a lower tax rate or higher tax-free earnings threshold to WHMs (or a broader cohort) that travel to and work in regional locations.

Preferable to any changes to the specified work arrangements, the Australian Government could consider adding an additional requirement to businesses that employ WHMs such as requiring these businesses to "register" with Home Affairs to be eligible to offer specified work. The supplements the current requirement for a business employing WHMs to register with the ATO – offering greater cross agency visibility of the businesses employing these workers, but also intending on also offering specified work for visa extensions.

Importantly, creating a register of employers offering specified work, should also include:

- Publication of these businesses on a publicly available register to support WHM in;
  - Finding employers (direct and labour hire) that are able to sign off on this requirement
  - Reviewing employer information, including for example checking a labour hire companies registration in relevant states.
- As a penalty for demonstrated employer non-compliance, suspension for a specified amount of time of an employer's ability to offer specified work
  - This would include the removal of the offending employer's details from the publicly available register

A concept of a WHM Specified work register is provided below.

- **Registration Process:**
  - Businesses interested in employing WHMs for specified work would be required to register with the Home Affairs. During registration, they would need to provide details about their business (business address, contact details, ABN, relevant labour hire license details – if relevant)

  - To be eligible for registration, businesses would need to confirm their agreement to compliance with compliance with Australian laws and visa requirements, and that they meet the requirements to offer specified work (i.e. work will be offered in relevant postcode).

- **Verification and Approval:**
  - Once registered, businesses would have these details published publicly
  - If required, a further verification of details could be undertaken i.e. ABN is valid and labour hire license is current.

- **Ongoing Monitoring and Oversight:**
  - Employers found by relevant regulator to be knowingly acting unethically or illegally, such as engaging in exploitation or breaching related work or visa conditions, would face penalties including suspension from the register and therefore ability to offer specified work. This would serve as a deterrent and maintain the integrity of the register.
  - WHMs could also be provided contact information for raising issues, which could be investigated by appropriate government authorities.

- **Benefits for WHMs:**
  - WHMs seeking employment could access the register online to verify potential employers before accepting a job offer. This transparency would empower WHMs to make informed decisions about their employment opportunities, reducing the risk of exploitation.
  - The register could also provide basic information about support services available to WHMs, including legal assistance, workplace rights education, and avenues for reporting misconduct.
  - The online register could work both ways, so WHMs have the option of registering with an employer as a means to demonstrate they are undertaking their specified work.

- **Public Access and Accountability:**
  - The register would be publicly accessible, allowing stakeholders such as community organisations, industry bodies, and the general public to know which businesses are approved to engage WHMs for specified work. This transparency enhances accountability and trust in the program.
  - This would also support WHM to find employers to offer specified work and verify any offers for work from an employer.

The establishment of a register of businesses offering specified work to WHMs mitigates the need to remove the specified work requirement, as it would only ensure greater compliance and enhance protections for WHMs against exploitation. It would also promote fair and ethical employment practices, support regional economies, and strengthen Australia's reputation as a responsible destination for temporary workers.

Recommendation 4: The Australian Government retains the current specified work arrangements for WHM visas, which incentives travel to regional and remote areas, generating significant economic and social benefit, and addresses labour shortages in key industries.

Recommendation 5: The Australian Government establish and maintain a public register of businesses offering specified work to WHMs to create greater employer accountability, enhance transparency, and safeguard workers.

Reducing the risk of exploitation through greater enforcement and support for WHMs

The AFPA are strong and vocal supporters of efforts to stamp-out illegal and unethical employment practices in the industry. The AFPA have long called for increased enforcement of employment standards and laws, as well as other improvements to protect workers, improve the industry's standing and create a fair commercial environment.

It is in the interest of the fresh produce industry, especially the businesses that engage WHMs, to ensure workers are treated fairly and ethically. By upholding high standards and complying with labour laws, businesses not only safeguard the well-being of their workforce but also enhance their reputation and credibility. Moreover, fair treatment of WHMs supports long-term workforce stability, ensuring continued access to labour that is vital for meeting seasonal demands and sustaining productivity in the industry.

The Discussion Paper notes that several reviews have found WHMs are susceptible to being exploited due to:

- a WHM's dependence on an employer to meet specified work requirements to be eligible for a visa extension,
- cultural and language barriers,
- general suspicion of government,
- a lack of knowledge about Australian workplace rights and obligations,
- a lack of knowledge about where to find assistance
- the remoteness of WHMs' work location, and
- the occupations and industries WHMs commonly work in (which have higher rates of exploitation in general).

Except for the first dot point listed above, which is specific to the current visa conditions, all other points noted in the Discussion Paper (as having been raised in other inquiries and reviews) can be overcome with greater investment and more resources to support WHMs in the country and enforce existing standards and laws. There is a clear need to raise awareness amongst WHMs about worker rights, the availability of services, and how to seek assistance if needed. Enhancing language accessibility, and proactive outreach to remote areas will also empower WHMs to assert their rights and navigate workplace challenges effectively.

Furthermore, improving the monitoring and enforcement of labour standards is crucial to deterring exploitative practices, as well as implementing swift penalties for non-compliance will support a fair and equitable working environment for all WHMs, and workers more generally. By investing greater enforcement and support initiatives Government would make significant progress towards better assuring the fair and ethical treatment of WHMs. A National Labour Hire Licence would also help to ensure that labour hire providers meet minimum standards of operation across Australia, further reducing the risk of worker exploitation and promoting fair employment practices.

Existing Australian Government departments and agencies, such as Home Affairs, the Fair Work Ombudsman and Border Force, are well-positioned to address the issues raised effectively with greater integration between these regulatory agencies. These agencies already possess the mandate, infrastructure, and expertise to enforce labour standards and protect workers' rights. Collaboration between these agencies can also ensure a more comprehensive and coordinated approach to monitoring and enforcing compliance, further strengthening protections for WHMs and fostering a more ethical and fair working environment in the fresh produce industry.

Recommendation 6: The Australian Government undertake a concerted multi agency program to raise awareness with WHMs about their workplace rights and improve compliance through the introduction of an appropriate, economy wide, National Labour Hire Licensing scheme.

Response to the Discussion Paper Questions

1. **How can the various temporary and permanent visas available to the regions work together to better meet skills needs? For example, Designated Area Migration Agreements (DAMAs) and regional employer sponsored visas.**
2. **Should there be a regional occupation list? How should regional occupation lists work alongside the Core Skills Occupation List? What should be considered in compiling the regional occupation list?**
3. **Could the definitions of regional be aligned across the various regional visas? How can definitions be structured to better account for the unique circumstances of regions?**

At a principles level, it is important to consider short term visas (i.e. visa utilised for the purpose of engaging workers for short term seasonal work, such as the PALM Scheme) as separate from long term, permanent pathways in agriculture. These visa and work types should be treated separately in policy, program and visa approaches.

Secondly, it is important that these long term work visas are employer sponsored – this will ensure that migration is based on jobs rather than perceived opportunities. This approach supports the visa holder, employer, and community outcomes, and 'visa progression' where people can progress to permanent residency through work visas.

The nature of the production of fresh fruit and vegetables means that this work is typically conducted in regional areas, however the industry has a national presence. The *Contribution of Australian horticulture industry* report completed by the Centre for International Economics (CIE) demonstrates that among all the 25 regions of horticulture production (fruit, vegetables, nuts, turf and nursery products) nationally, 10 regions account for about two thirds of the nation's horticulture growing and processing GVP, value added and employment. These regions are:

1. North West (Mildura), Victoria
2. Melbourne
3. The rest of QLD
4. Shepparton, Victoria
5. Rest of Victoria
6. Sydney
7. Wide Bay Region, QLD
8. South East (Adelaide Plains), South Australia
9. Toowoomba, Ipswich, Darling Downs – Maranoa, QLD
10. Cairns/Mareeba

Importantly, Greater Melbourne and Greater Sydney are among the top 10 horticulture regions because they have a relatively significant par of the horticulture processing sector, as well as vegetable farms and amenity horticulture businesses (nurseries, cultivated turf and cut flowers) that serve the urban population, within the vicinity. For example, Sydney produces $453 million of processed horticultural products, accounting for 43 per cent of its horticultural GVP, with another $339 million (32 per cent) from nursery, cultivated turf and cut flowers, and $257 million (24 per cent) from vegetables including about $113 million of mushrooms growing.

The analysis of the horticulture sectors production, employment and economic contribution completed by CIE demonstrates that while much of horticulture production occurs in regional areas within the current definition (i.e. areas outside Melbourne, Sydney and Brisbane), there is still significant work in industry that is completed within peri-urban areas of capital cities.

In contemplating migration within an industry lens, this demonstrates that the horticulture industry requires a migration solution that is not entirely focussed on what would be considered traditionally regional areas, rather needs a solution that is tailored to industry, led by employers and business and is fit for purpose for their labour demand.

In attempting to integrate the unique nature of the horticulture sector with a broader regional migration approach, it is clear that the definition of regional should exclude major capital cities including Melbourne, Sydney and Brisbane. The definition of regional should continue with defining regional as anywhere outside Sydney, Melbourne and Brisbane.

Further, the focus of regional migration on permanent settlement in a region, in the main is not suitable for the horticulture industry. While industry does settle some migrants permanently in regions, these are typically higher skilled roles, engage through the HILA, rather than region specific visas such as DAMAs.

In contemplating an occupation list, within the current (and recommended as ongoing) definition of regional, it is important that occupations are nominated and led by employers – supporting a demand driven approach. Industry should have the opportunity to nominate occupations which are critically short. A nomination process might include commitment from more than four employers in the same industry and labour market testing. Short term nominations could be limited to 18 months with a re-application process to avoid long term distortion in the market.

While DAMAs typically have an overall low level of utilisation within industry, this is due to the absence of appropriate skills being included within the DAMA; a greater intersection between a regional occupation list and a DAMA would likely promote greater use of these arrangements for skilled workers. Where DAMAs are utilised by industry, there is a greater overlap between relevant skills and employer needs.

Importantly, employer sponsorship (as opposed to other methods i.e. regional sponsorship) must be maintained. Employer sponsorship should help to manage population pressure in the region by ensuring jobs for visa holders, and by providing additional flexibility for occupation lists linked to demonstrated employer need (for limited periods of time) will minimise unintended consequences (such as where there are too many people for too few jobs).

4. **How can we reform Working Holiday Maker program visa settings to limit exploitation, while still ensuring regional Australia can access the workers it needs? For example, are there innovative strategies to incentivise Working Holiday Makers to choose regional Australia as their preferred destination, without tying the incentives to specified work visa requirements?**

The WHM Visa is not a regional visa, but provides significant benefits to regional Australia. WHMs play a vital role in the production and supply of fresh produce to Australian households. There is no other workforce is willing and able to meet (at the scale required) the labour demands of the industry's seasonal work requirement, making the ability for producers to continue to engage WHM visa holders crucial to maintaining Australia's food security.

At a principles level, the AFPA:

- Support the Government's decision to retain the three year visa length for WHM
- Support the retention of the specified work requirement associated with the WHM visa
- Propose the introduction of a Harvest Work Visa to meet the industry's workforce requirement, and to offer a formal, ongoing work pathway for workers who want to work in seasonal harvest work.
    - This addresses the informal nature of some WHM visas being used as effectively a three year work visa and enables the WHM to better return to its initial purpose of a cultural exchange visa.

The AFPA are strong and vocal supporters of efforts to stamp-out illegal and unethical employment practices in the industry. The AFPA have long called for increased enforcement of employment standards and laws, as well as other improvements to protect workers, improve the industry's standing and create a fair commercial environment.

The AFPA understands that the Migration Review suggests that there is a link between specified employment, and exploitation. In acknowledging this view, it is important to acknowledge that the WHM as a three year work visa is unsponsored, which means the visa also lacks any protections that would exist under employer sponsored arrangements.

In accepting that employer sponsored visas do offer a range of greater protection for workers – at the lowest level this would include a business holding a Temporary Activity Sponsorship (TAS) or similar registration with Home Affairs and the ability of Home Affairs to rescind that TAS and limit an employer's ability to remain a sponsor.

Building on these settings, a way to improve oversight of the WHM visa would be to create similar levels of oversight for Home Affairs through a register of employers who are approved to offer specified work to WHMs.

The specified work requirement of the WHM Visa is crucial, not necessarily because it requires visa holders to work in a particular industry, but because it incentivises them to travel to and stay in regional and remote locations. By requiring that WHMs undertake specified work in regional and remote areas to qualify for visa extensions, the program actively promotes economic activity and supports local industries facing labour shortages. This requirement not only benefits sectors like agriculture, hospitality, and tourism, which often struggle to attract sufficient local labour, but also injects vital spending into regional economies.

Should the specified work requirement be removed, to achieve the same economic and social benefit, other incentives would likely need to be introduced. One possible option is a tax-based incentive, such as offering a lower tax rate or higher tax-free earnings threshold to WHMs (or a broader cohort) that travel to and work in regional locations.

Preferable to any changes to the specified work arrangements, the Australian Government should consider adding an additional requirement to businesses that employ WHMs such as requiring these businesses to "register" with Home Affairs to be eligible to offer specified work. The supplements the current requirement for a business employing WHMs to register with the ATO – offering greater cross agency visibility of the businesses employing these workers, but also intending on also offering specified work for visa extensions.

Importantly, creating a register of employers offering specified work, should also include:

- Publication of these businesses on a publicly available register to support WHM in;
  - Finding employers (direct and labour hire) that are able to sign off on this requirement
  - Reviewing employer information, including for example checking a labour hire companies registration in relevant states.
- As a penalty for demonstrated employer non-compliance, suspension for a specified amount of time of an employer's ability to offer specified work
  - This would include the removal of the offending employer's details from the publicly available register

This concept is explored further in the AFPA's submission.

In order to continue to support the WHM visa, the AFPA recommend the Australian Government undertake a concerted multi agency program to raise awareness with WHMs about their workplace rights. This should be supplemented with the introduction of an appropriate, economy wide, National Labour Hire Licensing scheme.

5. **How can we ensure a more consistent approach to lower paid migration across various visa products, as well as reflect our commitment to maintain the primacy of our relationships with the Pacific?**

There are multiple visa schemes available to the fresh produce industry, however most prominent are the WHM visa, the PALM Scheme and the HILA / Temporary Skills visa. Each of these three visas are designed to serve a different purpose in the industry, and while each has their merits and value, collectively they do not meet the needs of the industry.

A visa gap exists for a regulated program to support the industry's workforce requirement. While the WHM will likely always be utilised by industry, the industry's ongoing high reliance on this workforce remains suboptimal given the low productivity associated with this cohort of workers, and typically need for frequent recruitment.

The obvious gap within the industry's visa framework is for a regulated visa program, with built in worker protections, that enables workers to complete short term (i.e. 12 weeks) work assignments with flexibility to move between employers and return year on year. To fill this gap, the industry requires a new visa to secure a productive peak-harvest workforce and better guarantee Australia's ongoing supply of fresh produce.

The AFPA continues to propose that the Government introduce a Harvest Work Visa (HWV) to support industry to create a productive and returning workforce and introduce a visa pathway with greater flexibility and protections for workers. While developed prior to the Government's announcement of the Essential Skills Pathway as part of the broader migration reform, the HWV is in many ways aligned to the intent of this pathway.

The HWV is intended to be a highly mobile visa which allows workers to shift both between employers and geography, following seasonal needs and peak labour demand. The HWV should be capped at 10,000 places per annum and allow visa holders to access roles within the harvest workforce for up to 9 months at a time with the ability to return to Australia year on year. The HWV could also more appropriately capture the cohort of WHMs that travel to Australia specifically to work in the horticulture industry. In this respect, the proposed HWV program complements, rather than replaces existing visa programs, and would not dimmish the important PALM Scheme or jeopardised the Government pacific primacy.

The introduction of a HWV would better align with the Essential Skills Pathway, PALM Scheme and industry's labour needs, while having the added benefit of reducing industry's reliance on the WHM visas.

6. **Noting the limitations of visa settings, what factors encourage more migrants to choose to settle in the regions and improve retention?**

The shortage of housing in regional and rural Australia continues to negatively impact the horticulture industry. The shortage causes many issues, including increasing accommodation costs and further limiting the pool of available accommodation for harvest workers, as well as weakening the sector's ability to attract long-term local workers.
In order to improve retention of longer-term workers within the regions, across the economy, a concerted effort from all levels of government and enterprise is required to provide more accommodation for worker in regional communities. This investment further requires greater investment and attention of government in supporting infrastructure (roads, hospitals, schools), and considering the workforce needs and incentives to create these workforces in particularly regional areas.

7. **Do provisional visas successfully encourage large scale retention of migrants in the regions? Is the length of a provisional visa the right length? Should both the regional employer sponsored visa and the regional nominated visa have the same provisional visa arrangements?**

8. **How can we improve planning for regional migration, especially given the return of migrants to regional Australia post-pandemic? Should there be more flexibility provided to states and territories in planning for regional migration?**

The horticulture industry has two distinct workforce needs as the relate to migration; the first is to fill roles in the harvest workforce which require workers to be highly mobile and able to regularly relocate to fill harvest work; the second is a more traditional skilled work pathway for full time ongoing work.

At a principles level, it is important to acknowledge that permanent regional settlement does not address the horticulture industry's harvest workforce needs. This is because, the nature of the work requires regular relocation to follow a seasonal work pathway – therefore provisional visas and other pathways geared towards permanent settlement in a regional community are not suitable for the horticulture industry's harvest workforce needs.

These types of visas are relevant in considering opportunities for visa holders, for example PALM workers to effectively progress through the visa system and look for work and live permanently in a region.

With respect to long term work within the industry, the most effective programs at an industry level are employer sponsored, this is important when considering the role a state or local region/council/government would have in sponsoring or nominating workers. This also creates an environment where workers may relocate to a region, and be unable to find work.

Broadly speaking, in order to maximise regional benefit, work visas should be extended from the typical 3 years to 5 years, providing greater employment ability to migrants and providing a clear pathway to permanent residency in due course.

With respect to planning, a key component of this will be ensuring that the migration program remains demand driven via employer sponsorship. This methodology will accurately enable employers to feed into planning exercises about workforce needs and ensure that migration matches demand, avoiding the consequence of migrants arriving and being unable to work.