
Review of proposed PALM Scheme reforms

1. Labor's proposed reforms of the PALM program:

- (i) ***International and domestic travel costs:*** *The Australian Government will meet SWP workers' international and domestic travel costs upfront (less \$300 to be met by approved employers), with costs recovered from workers through the tax system. The Government will recover the travel costs from workers either through an increase in the withholding tax rate or a deduction from their departing Australia superannuation payment. The policy will commence in January 2023.*

This is a very positive step as it will ease the cost burden on Approved Employers. The superannuation option is the preferred mechanism for recovering outstanding costs and can act as a safety net for Government. The Tax option is considered too complicated and will add to the administrative burden of AEs. Another option to consider is for the Approved Employer to cover the flight cost but that a cost recovery mechanism is put in place in accordance with agreed criteria via the PALM Scheme. This will ensure joint responsibility for the payment and recovery of flight costs, especially if the worker returns home early or breaches their visa conditions while working in Australia. The latter is considered to be the biggest risk and exposure to Government.

- (ii) ***SWP administrative costs and regulatory requirements:*** *Reviewing SWP administrative costs and regulatory requirements with a view to reducing the red-tape burden on SWP employers.*

The administrative burden, expanded timeframes for all processes and increased costs of the PALM Scheme have become prohibitive for employers, thus restricting future expansion of the program. The AEA supports high standards within the Scheme, while also supporting improvement of processes to make administration and management of the Scheme more efficient and cost effective.

Since the reduction of red tape is a key short-term reform strategy for the new Government, it is important that clearly defined outcomes and benefits are met within agreed timelines. The implementation of a grievance operational and reporting procedure announced by PALM recently suggests that additional red tape and costs will be added. The AEA has suggested a simplified Welfare and Wellbeing agenda that captures all the information in one meeting. This information will be recorded a minimum of every two weeks with the workers which is what the current Deed & Guidelines stipulates. We suggest this agenda be tested to determine functionality and gaps for improvement.

A Red Tape Reduction Working Group has been formed and held its first meeting 30/6/2022. The purpose of this working group is to address the key blockages that reduce effectiveness of the Scheme and increase cost. This Working Group is considered to crucial in delivering on this election reform.

(iii) *Extending the duration of PALM: SWP visas from nine to 11 months and the PLS three to four years to improve flexibility.*

The intent of the proposed changes is supported, however, must consider:

- Some Pacific Island nations have expressed concern that some of these new reforms might lead to a “brain drain”, social issues and a reduction in remittances. Samoa for example, have indicated that regardless of this concession, workers must return after 9 months and three years, respectively.
- Length of stay has an effect on workers and their families. The impact of extended stays including social issues, physical and mental health challenges were witnessed during border closures.
- Consideration of the length of the SWP scheme should also consider the physical nature of work often being performed (e.g., picking fruit). A 9-month visa considers the need for workers to undertake a period of rest before returning to work. The current mandatory ruling is a three-month break and six-month break for short and long-term workers, respectively. We need to consult the Pacific and their workers on what break they deem is reasonable for the short- and long-term placements. Our preference is that the SWP period of 9 months with three months rest remain unchanged for the SWP. The PLS should have the option of three or four years.

(iv) *Stakeholder Consultation: Improving consultation with farm employers, labour hire firms, industry associations, unions and Pacific community and diaspora groups on the PALM – SWP program.*

The AEA appreciate the need for improved consultation with various stakeholders, but it is important to acknowledge that the key players are the ones that sign the Deed & Guidelines and are accountable for worker welfare under the Deed & Guidelines. Non-signatories to the Deed & Guidelines, play a key role, often in supporting worker welfare outcomes but importantly do not take formal accountability for this role. We therefore urge Government to continue to consult and listen to those that are direct signatories to the Deed rather than only those organisations that play a support role.

(v) *Promotion of the PALM Scheme: Greater promotion of the PALM – SWP program in Pacific countries in cooperation with Pacific governments.*

The AEA agree that the Pacific should be the priority from which employers should source labour. However, any expansion of the program (in particular into sectors beyond agriculture, accommodation, and healthcare) must consider each individual Pacific countries’ ability and willingness to increase participation. A review of the current data shows that some Pacific countries have a significant proportion of their working age population working in Australia, or in New Zealand, while other countries in the Pacific, and Timor-Leste, have a much lower proportion of their working age population in Australia.

Those countries with a significant proportion of their workforce employed in Australia and New Zealand (such as Samoa, Tonga, and Vanuatu) are reporting challenges with finding enough

workers in their home countries as their tourism industry recovers, and ‘brain drain’ as their most experienced workers are working overseas. The Australian Government and industry need to better develop strategies and engagement with individual Pacific countries and avoid grouping all Pacific countries together (‘the Pacific’) as the circumstances and expectations of each country are very different.

For countries with larger populations in the Pacific, and Timor-Leste, the proportion of their workforce in Australia and/or New Zealand is much lower (generally under 2 per cent). The Solomon Islands, Fiji, Timor-Leste, and Papua New Guinea all have larger total populations but relatively low utilisation of the Australia and New Zealand workforce programs. In consultation with individual Pacific countries, there is a significant opportunity to expand Australia’s PALM scheme in those countries with larger populations, more specifically PNG, Timor-Leste, and Fiji.

The continued expansion of the Pacific Australia Labour Mobility scheme needs to consider:

- The overall effect of the scheme on specific countries.
- The expectations and requirements of individual countries in terms of the structure of their economies, overall population and working age populations, and the skills and experience of their respective workforce.
- The cumulative effect of the workforce scheme on individuals, families, communities and economies.

As mentioned in item (iii) above, some Pacific Island nations have expressed concern that some of these new reforms might lead to a “brain drain” (police and health resources in particular), social/family issues and a reduction in remittances. Further expansion of the PALM scheme is considered in Item (viii) below.

(vi) Improvement of workplace standards: *Labor will also improve workplace standards for PALM – SWP visa holders by increasing workplace compliance activities and implementing the recommendations of the Migrant Worker Taskforce, including:*

- *Developing a whole of government approach to the information and education needs of vulnerable migrant workers.*
- *Amending the Fair Work Act to strengthen workplace protections for temporary migrant workers. Amendment of the Fair Work Act to strengthen workplace protections requires more clarity as this may be at odds with current practice to treat all workers equally.*
- *Improving the Fair Work Ombudsman’s ability to gather information and investigate mistreatment of migrant workers.*
- *Establishing a firewall between the Department of Home Affairs and Fair Work Ombudsman to ensure migrant workers are protected when reporting cases of abuse.*
- *Working with State and Territory Governments and local councils on accommodation issues affecting temporary migrant workers.*

The AEA supports high standards within the PALM scheme and would welcome working with the Government to understand priority recommendations from the Migrant Worker Taskforce and how these can be effectively implemented.

(vii) Expansion of the PALM Scheme: *Expanding the Pacific Australia Labour Mobility Pacific Labour Scheme (PALM – PLS) by allowing primary visa holders in the PALM – PLS to bring their partners and children to Australia. This is designed to boost participation in PALM – PLS, increasing its benefits to Pacific nations and Australian employers. The expansion would bring the PALM – PLS*

into line with Temporary Skills Shortage (TSS) visas. The same conditions applying to TSS family members would apply to PLS family members:

- *Secondary visas available for partners and dependent children.*
- *Employer sponsor must agree.*
- *Family members to meet health and character requirements and have health insurance. Domestic violence is of particular concern as this has been a heavy burden for AEs who have employed families in Australia.*
- *Secondary visa holders entitled to live, work and study in Australia (but not to receive government assistance for studying).*
- *The changes would apply to PALM – PLS workers but not to PALM – SWP workers, reflecting the longer stays of PLS workers in Australia. The policy will commence in January 2023.*

The AEA supports the intent to allow the primary visa holder to apply to bring their partner and children to Australia as a method by which participation in the PALM scheme can increase. Enabling greater inclusion in the program through this method must be carefully considered and focus on the welfare of workers and their dependents. Prioritisation of sponsorship, consideration of accommodation, healthcare, education, and employment (of partners) are all critical issues that need to be resolved effectively.

The AEA considers a pilot initiative, with Approved Employers who have expressed interest in sponsoring PALM workers permanently, as a very important part of the process. We can work with these AEs for a six-month period (commencing January 2023) and refine the processes and procedures to give all stakeholders the confidence to incorporate this change to the program and implement the reform fully.

(viii) Pacific Australia Labour Mobility: *Agriculture Stream will relocate the proposed Agriculture Visa to sit as a third visa stream under the PALM. This will create a robust and sustainable four-year visa, with portability, strong oversight mechanisms, protections, and rights for workers. These protections will be consistent with the protections under the PALM-PLS and PALM-SWP. This will complement the PALM-SWP by providing a visa allowing Pacific workers to return to Australia each harvest season for up to four years.*

Members of the AEA are committed to the PALM scheme, and support targeted expansion of the Scheme to the ASEAN countries. As identified in Item (v), there are concerns that the recent, rapid expansion of the PALM scheme has created constraints (brain drain, family separation, behavioural issues) across several Pacific countries. Given the foreign aid objectives of the Scheme, the AEA supports the expansion of the Scheme; however, this cannot be done to the detriment of Pacific partner countries.

The horticulture sector requires an additional 10,000 workers to fill key harvest roles. Careful consideration must be given to how or if at all these roles can be immediately mobilised from the Pacific alone, as ASEAN Countries' workers have also proved to be very valuable and highly sought-after, in certain roles. The AEA recommends investigating an alternative visa that partners beyond the Pacific to fill these shortages. An alternative visa must maintain high standards, ensure worker welfare, and complement the PALM scheme. It is important to consider the Ag Visa features designed by industry and Government (including portability) as well as the inclusion of recognised accreditation systems to reduce compliance duplication. The current PALM Assurance Scheme has no minimum standards which Approved Employers can be audited against. It is important to determine what additional assurance standards the PALM

Scheme requires that is not covered by existing accreditation schemes so we can determine how best they should be covered.

(ix) Pacific Migration: *Boosting Pacific permanent migration by creating a new Pacific Engagement Visa for nationals of Pacific Island countries and Timor-Leste. Up to 3,000 visas would be allocated annually by a ballot or lottery process modelled on the New Zealand Pacific Access Resident Category visa. Places would be allocated from within the overall permanent migration program. Detailed design of the scheme will be undertaken in Government based on the following features of the NZ model:*

- *Applicants to be aged between 18 and 45 years.*
- *Applicants can include their partners and dependent children up to 24 years of age.*
- *Applicants or their partners must have a job offer in Australia.*
- *English language, character, and health tests to be met.*
- *Applicants selected by ballot have eight months to obtain a full-time job offer.*
- *Country-specific quotas within an overall quota of up to 3,000 places a year.*
- *Applications will be open to Pacific nationals in their home countries or who are in Australia on a valid temporary visa. The program will commence in July 2023.*

The AEA supports this initiative and would further support enabling this pathway for workers that have returned to Australia year on year. Workers who have breached their visa conditions and or violated Australian law or workplace practices should be excluded.

2. Other PALM Priorities

(i) New Deed & Guidelines: A lot of effort has been put into the New Deed & Guidelines (version 2 released March 2022), but implementation delayed due to the tax legislation not being passed in Cabinet and the election of a new Government.

It is important that the PALM Scheme be given clear direction and leadership as this has been lacking for an extended period of time. The AEA would appreciate the Governments position on how they would like to proceed with the new Deed & Guidelines and set timelines for finalisation and implementation. It is recommended that while DEWR and other PALM arrangements are being put in place and for the tax legislation to be passed, we continue with the old SWP & PLS Deed & Guidelines until the end of 2022 and implement the new Deed & Guidelines in January 2023.

The absence of certainty in the PALM scheme makes planning as an employer challenging and reduces confidence in employing sectors of ongoing availability of workers, costs, and administration requirements.

(ii) Government and A.E/Stakeholder consultation: The AEA supports ongoing engagement, consultation and dialogue with relevant officials, departments, and program stakeholders. The AEA is seeking more formal and firm agreements with Government on key issues including:

- Framework of Standards around the quality and timeliness of services provided by the PLF to Approved Employers.
- Timelines for a government response to A.E / Stakeholder queries or complaints.
- Timelines on mechanisms for change (Guidelines, procedures, other regulations, rules, thoughts).

- A statement of united aims.

(iii) Role of PALM Agencies: The AEA supports alignment between the policy, aid, and operational components of the PALM scheme. This alignment supports employers to implement the program and enables more effective management of operational challenges.

Moving forward, a clear organisational chart of key agencies and their responsibilities within the program will assist employers to better engage with Government to deliver program outcomes. It should be noted however, that the AEA is concerned that the PALM Scheme will be operated by three (3) Federal Government Agencies (DEWR, DFAT and Home Affairs) as well as the PLF, potentially creating additional workload backlogs, time delays and disparate mandates around program outcomes. We need assurance that this will not be the case.

(iv) Accommodation & Transport: The proposed reforms also raise the issue of accommodation costs and accommodation shortages. Apparently, a working group has been formed to address these accommodation concerns. The issue has also been raised with Pacific Commission leaders. The working group is also looking at support structures, such as family tax benefits, access to Medicare, and Childcare rebates. The AEA is concerned that there appears to be no AE representation on this working group. If this is the case, we appeal that the composition of this working group be revisited prior to any policy decisions being made.

The shortage of accommodation is nothing short of a crisis with no incentive for investors to develop new accommodation facilities. AEs are constantly under pressure to reduce accommodation and transport costs. The reality is that with rising inflation, interest rates, fuel and electricity costs and an imbalance between supply and demand, accommodation and transport costs will increase. Many rural areas find it very challenging to connect to reliable services. The AEA invested a lot of effort in developing accommodation and transport templates to ensure transparency but not accepted by PALM. The reality now is that with Working Holiday Makers returning, commercial accommodation providers are giving the WHMs preference, as they are able charge a bond for damages – a charge that is driven by the market, with far less scrutiny. If this trend continues, the accommodation crisis will escalate for PALM workers, making the PALM Scheme unworkable, expensive, and unattractive to prospective and current AEs.

(v) Community of Care Model: The Approved Employers are legally responsible for the welfare and wellbeing of workers. It is recognised that the community can play an important role, but this must be in collaboration with the AE and their workers. Interference in the AEs business should not be allowed, and AEs should only deal with recognised and approved community groups to ensure trust and transparency in any community care activities. Equally important is that AEs have to offer workers minimum hours per week. Community of Care needs to acknowledge this and not interrupt potential earnings for workers by participating in community events.

(vi) Portability of workers: The movement of PALM workers, particularly those within the SWP stream, between employers is a key challenge to be resolved. Approved Employers should be given the opportunity to collaborate and move workers between employers between sites to ensure the seasonal crop demands are met. It is recommended that up to three Approved Employers be allowed to collaborate and that the process of doing so be

simplified by notifying the Government when this has occurred rather than go through a laborious approval process.

The movement of workers between employers will help maintain worker earnings, by ensuring ongoing available work - a key welfare issue that is raised by program stakeholders. The process of transferring workers from the SWP to PLS also needs to be streamlined and improved.

(vii) Worker Deductions: The AEA supports the development of a wage safety net for PALM scheme workers that ensures that per pay period, workers are not left with an insufficient income after deductions.

The inclusion of wage deductions in the PALM scheme enables workers to travel to Australia, through the upfront payment of flights, visa applications, start-up living expenses, medical expenses, secure accommodation, and transport. Approved Employers bear these costs upfront – creating risk and expense for employers. The payment of these costs demonstrates AE's commitment to the program.

A cost recovery process, safety net and ideally a uniform IT system to manage deductions across the program will aid in transparency and better support employers and workers.

(viii) Illegal Operators and breach of visa conditions: The AEA continue to support high standards within the PALM scheme.

Australian employers that are not PALM Approved Employers who coerce PALM scheme workers to breach their visa conditions and take up employment outside the program must be reported, investigated, and penalised to the full extent of the law. Acting on these illegal operators is critical to protect workers and Approved Employers and the integrity of the PALM scheme.

The legislation needs to be reviewed and tougher measures introduced to minimise these illegal activities. Border Force also needs to be provided with sufficient funding and resources to address this issue. Workers who breach their visa conditions need to be sent a clear message that they will be sent home and not return to Australia. A media campaign needs to be developed to reinforce the message with workers.

The AEA would welcome the development of a strategy that works with employers, workers, worker advocates (Unions and other relevant welfare groups), Pacific partner countries and relevant Australian agencies to address illegal operators and worker absconding. We will support any initiative to address this very urgent issue.