



Berries Australia Response to Pacific Labour Mobility Consultation

Introduction

Berries Australia was established in November 2018 as a joint venture between the Australian Blueberry Growers' Association Inc. (ABGA), Raspberries and Blackberries Australia Inc. (RABA) and Strawberries Australia Inc. (SAI) to represent the interests of the Australian berry industry as a whole. Valued at \$1.4 billion/annum, the berry industry now represents the single largest fresh produce category in Australian supermarkets. Berries Australia represents more than 1000 individual growers nationally ranging from significant corporate holdings to small family farms. Berries are grown in every state in Australia and due to this geographic spread are produced virtually year-round.

Berries are high value and highly perishable. This means that picking and packing is time critical and done by hand. The berry industry has a high demand for a seasonal casual workforce and for some commodities this demand can be highly volatile within a season. There are not really any viable options for mechanical harvesting although some packing operations have become increasingly mechanised. Sourcing productive labour in the berry sector is a significant challenge with the sector relying on temporary and seasonal migrant workers for seasonal roles. That said, we are also a significant regional employer of Australian workers who tend to favour more long-term roles within the sector. The co-dependence of our two "workforces" must not be overlooked as it must be acknowledged that if enterprises are unable to pick their crops, then these more permanent roles will disappear.

The berry industry, particularly in Tasmania, has been an enthusiastic adopter of the SWP and many growers have invested heavily in building their capability to utilise the scheme. The Berries Australia response draws on the experience of those growers as well as other growers from around the country who have engaged with the program over the years. Many of these growers have formed strong bonds with their returning workers and are firmly committed to their welfare.

Fundamentally Berries Australia sees the scheme as an important component of an overall workforce solution for the sector. We do not consider that the scheme should be the only workforce solution but do welcome the opportunity to provide feedback on how the scheme can be improved to maximise the benefits to the sector. We understand the dual purpose of the scheme in terms of Australia's role in the Pacific and are cognisant of the need to prioritise the welfare of these workers. We also understand the benefit that flows to the workers and their home countries. At this point we would like to take the opportunity to thank the Australian government for the seasonal worker restart during Covid.

Whilst Berries Australia is a strong supporter of the program, we consider that at the most basic level there is not an agreed understanding by all parties (Australian government, growers, workers and Pacific governments) as to the attributes of a successful program. We think that a clearly articulated shared vision for the program will help identify barriers and enable the program to reach its full potential both as a workforce solution for agriculture and a mechanism to provide support for Pacific Nations. It is vital to get the balance right to ensure that the scheme can enable the demand-driven growth sought by the Australian government.

At the most basic level, Berries Australia considers that the scheme should be able to provide good workers for good growers and that these workers should be well looked after and appropriately rewarded for their efforts.



Response to Discussion Paper Questions

To avoid duplication, this paper will address the specific questions set out in the Issues Notes as these will also answer the overarching questions posed at the beginning of the document.

In summary, the top priorities for the berry industry are:

- Restructuring the program into a two streamed program administered by the Department of Foreign Affairs and Trade.
- Increased flexibility with respect to moving workers between grower AEs.
- Mechanisms to support growers with the provision of accommodation.
- Greater support for growers with respect to providing pastoral care.
- Streamlining requirements.

Issues Note 1: Supply of appropriate workers by Pacific countries and Timor-Leste

Berries Australia considers in-country vetting of workers to be vital to the success of the program but does note that many growers already actively recruit their own workers in-country from the work-ready pool. Berries Australia also considers that Country Liaison officers do have an appropriate role to play however these roles need to be clearly defined. These officers need to remain independent whilst fulfilling their roles and not progress their own interests.

Issues Note 2: Industries and locations

Berries Australia would not support a further expansion of the industries involved in the SWP program until it can be demonstrated that there is no unmet need within agriculture. That said we consider that there should be some opportunity to expand the roles that a worker can undertake within an agricultural business. For example, many berry businesses operate 'pick your own' cafes and farm shops. We think that there is potential mutual benefit in enabling the workers to rotate through other parts of the business to build their skill sets and also ensure consistency of employment.

We also contend that there needs to be increased ability for workers to move within a region between employers to ensure they can maximise their earning ability. The Tasmanian growers expressed their frustration that the labour mobility pilot was not conducted in Tasmania where there is a well-established cohesive group of growers who already operate under a single marketing company. This current model effectively means that AE labour hire companies have a distinct advantage over AE growers in terms of flexibility despite their being strong benefits to the worker having a grower AE overseeing their welfare. We contend that workers should be able to move between approved employers within a region with little or no government intervention. An option could be for a group of grower AEs to apply at the beginning of each season for the opportunity to move workers within the group. Berry production is characterised by highly variable workforce needs throughout the season so a functional mechanism to move workers between farms agreed at the beginning of the season will enable growers to plan more effectively and workers to be ensured of consistent employment. It would also enable growers to better mitigate against unforeseen weather events. The current situation whereby growers have to set themselves up as labour hire providers to enable this flexibility is patently ridiculous.

With respect to the PLS, the issue around the definition of regional has long been a challenge for the horticulture sector. Horticulture tends to operate in the peri-urban fringe. The Yarra Valley and Caboolture regions are key berry growing regions that are not considered regional and yet



experience difficulties with attracting seasonal workers. This has been exacerbated by Covid-19 with many growers experiencing worker shortages. We recommend that all horticulture businesses be eligible to employ workers under the PLS regardless of location as the postcode approach can mean adjacent farms have vastly different options in terms of who they can employ. We would also like this consideration to extend to any workers under a new agriculture visa and apply to the existing second year visa requirements for working holiday makers. If there is concern that local workers would be disadvantaged by this approach then perhaps labour market testing could be required for these locations only.

Issues Note 3: Approved Employer program participation

The berry industry acknowledges that this is not a low-cost labour option and that the benefits accrue in other ways. Most berry growers consider their participation in the program and the associated costs as an investment in their business. This investment was rewarded during Covid as the growers who had already made this investment were able to access these workers more readily. We consider that whilst the cost barrier should be regularly reviewed, the program does not need to be adjusted to suit the needs of the lowest common denominator

The general consensus from the berry growers was that the current model heavily favours labour hire providers over grower approved employers. As a sector we absolutely value the contribution of the labour hire providers as they enable a broader range of grower to access the program, but we consider that the current balance is not right. The grower AEs consider that there are many benefits to the workers from being employed directly by the growers in terms of pastoral care, personal connection and general wellbeing oversight and this is not sufficiently recognised by the program.

The recruitment cap was supported in principle however the current application process is considered onerous with government requirements seen as unclear and inconsistent. The growers supported a highly conservative approach for any new AEs but they suggested that there needs to be a much clearer pathway to increase the cap and what the requirements are to do so. This would enable growers to plan over a number of years rather than putting in for an increase and hoping for the best. For example, it was raised that most growers get a doubling of their cap in the second year – if this is government policy then it should be explicit. Growers would much prefer clear advice on how many workers they can expect with each additional year in the program rather than putting in for a cap that will never be approved.

The current model whereby applications to increase the cap need to be lodged annually and financials need to be submitted is an onerous process. It would be useful if there was some opportunity for the grower to submit a five-year plan to the department and be allocated workers accordingly if they meet certain compliance criteria each year rather than the annual 'lucky dip'. Whilst the industry acknowledges the need for companies to be able to financially support the workers the current financial reporting requirements can stifle investment.

The rules around labour market testing also need to be reviewed. The recent experience under Covid highlights that even with incentives in place, locals are reluctant to work in seasonal roles and the labour market testing is just an administrative barrier.

The process of becoming an approved employer, and the resultant uncertainties, has led some growers to rely on labour hire to ensure they have appropriate labour which increases the cost of



doing business and is potentially not in the best interest of the workers. There is also no cohesion between the number of employees allowed under the PLS and SW schemes. One grower was approved for over sixty SWP employees and only half that for the PLS workers. We hope that bringing the schemes into the same department will resolve some of these inconsistencies.

Consideration also needs to be given to large multi-site enterprises managed by the same management team to fast track increased caps at new sites and enable movement between sites. There should also be recognition that many employers have actually hosted thousands of SWP worker for whole seasons through labour hire companies and in reality have provided the pastoral care for these workers. This should be considered when caps are allocated.

Finally whilst the industry supports the need for a high bar for employers to access this program, the lack of urgency in processing applications and the inconsistent and irrelevant requirements placed on employers needs to be addressed. We request clear guidelines regarding criteria for AEs and benchmarks around processing times. This is currently a major impediment to the success of the program and will require increased resourcing within the relevant department. Once the transition to a single department has taken place we recommend additional consultation with AEs to identify how this part of the process can be streamlined. The use of existing industry accreditation programs such as Fair Farms and SEDEX should be a key component of any AE application.

Issues Note 4: Employer Sponsorship arrangements

As articulated above, the berry industry has significant concerns about the operation of the portability pilot. In addition to the fact that it was not trialled with the berry industry they raised that the pilot approach is complex and inflexible. Cost sharing and worker movement needs to be decided in advance whereas most works would prefer to have the additional flexibility to loan workers at short notice due to unforeseen weather events. Loaning workers is relatively commonplace practice and provides benefits to the workers in terms of consistency of employment. To ensure adequate protection we would consider that the sharing arrangements (eg. Transport, accommodation etc) could be pre-approved within a specific group or region but the timing and duration could be flexible within a season. As all of the employers are AEs, there are already strong worker protections in place. We would be concerned if the lack of uptake of the pilot was considered a lack of interest in improved portability and flexibility and we urge the Australian government to consider undertaking a pilot in northern Tasmania in consultation with growers.

Absconding is a significant issue that needs to be comprehensively addressed by the department. Just redeploying workers to another AE is not a disincentive and there should be investigation into why the worker absconded along with mediation with the original employer and an effort to return them to their original employer if mutually agreeable.

Issues Note 6: Travel to and from Australia

Whilst the cost of subsidising travel to and from Australia can be substantial the current setting and framework is acceptable.



Issues Note 7: Accommodation

Providing suitable accommodation represents the single largest challenge for approved employers. We understand the need for high standards of accommodation but a range of factors outside employers control makes this very difficult and costly.

Firstly many regional locations do not have suitable accommodation options so there is significant capital investment from the employer. The requirements are often above those of the general rental market and returns are below the market average so it remains a cost to employers over time. In addition, confusing and contradictory council requirements can make it almost impossible for employers to create purpose-built facilities in some regions and there are limited other options available. Accommodation brokers could be one mechanism to help resolve some of these issues.

Growers would welcome cost relief measures such as increased depreciation. There also needs to be clear guidelines around accommodation expectations as there are many stories of seemingly arbitrary and over the top obligations as well as inconsistency of expectations between contract managers.

We consider that the issues around accommodation need to be worked through in more detail once the transition to a single department has taken place.

Issues Note 9: Welfare of workers

Growers are extremely concerned for the welfare of workers, and the current lack of support that many employees, particularly labour hire employees, receive. There is support for trained in-country pastoral care workers to assist employees in understanding rights and obligations, receiving adequate support when needed, and to communicate to them Australian laws and community expectations. A commonly cited example is the Solomon Islands, whereby a liaison officer in Australia is funded to provide support to workers from the Solomon Islands in Australia.

We consider that the most effective support mechanism for welfare management beyond employer would be a network of in country resources from source countries that are able to provide AE's and workers with support. These in-country officers would be able to provide support to workers and much needed advice, information and insight to AE's. The development of an in country network of key support people that are agnostic to any organisation (other than the source country) should be considered to support program growth rather than third party organisations with alternate agendas.

Whilst Berries Australia is supportive of Approved Employers having more responsibility for worker welfare, this will require clear escalation protocols for employers to follow and appropriate support for relevant agencies at the point of any escalation. Host growers who are not AEs are calling for clear mechanisms to report concerns regarding labour hire AEs without risking access to the workforce.

There is a concern that currently there is undue focus on minor issues such as the space between beds but no real mechanism to raise major welfare concerns. For example, the welfare of female workers is a major concern in some regions as there is no separate accommodation available for



female workers which presents safety issues for these women. The current solution is to just not employ women which seems counter to the aid objectives of the program.

The planned new Worker Welfare Framework concept has merit but needs to be discussed with AEs who can identify gaps. There is also a sense that there is a lot of interest from third parties at the beginning of the process but once the season starts, the AE and the workers are on their own.

Unfortunately, some of the organisations who are supposedly supporting the workers are the ones encouraging them to abscond. These support organisations should also be vetted to ensure they are truly acting in the best interests of the workers. Growers strongly recommend that more training is giving to both the employers and the workers encompassing things like mental health first aid.

Issues Note 11: Assurance and compliance

As noted above, the berry industry supports the recognition of existing programs such as Fair Farms and SEDEX and consider that these should be part of any assurance framework.

In particular as Fair Farms is a locally designed program there is the opportunity to work with Growcom to build in any specific requirements. This may be particularly useful in maintaining ongoing confidence in the AE and should be considered in any application to increase caps. The recognition of these existing accreditation programs by the program would increase uptake and mitigate the concerns about uptake.

We would not support an additional extra audit requirement as all growers who supply to the retailers are already required to have an ethical sourcing program in place and are regularly audited.

Issues Note 12: Program administration and stakeholder engagement

The berry industry supports the current model for stakeholder engagement utilised by the SWP and would support an expansion of that model across both programs. We also wish to emphasise that for the program to reach its full potential there is a need to increase the capacity within the department to administer and support the program.

Issues Note 13: Reducing red tape

The berry industry recognises the efforts to reduce red tape and strongly supports better alignment between the two processes especially the single application process. We consider DFAT to be the natural home for both programs as they have a strong sense of the mutual benefit of the program and are committed to its success. As previously articulated the industry supports the need for a high bar for employers to access this program but the lack of urgency in processing applications and the inconsistent and irrelevant requirements placed on employers needs to be addressed. We request clear guidelines regarding criteria for AEs and benchmarks around processing times. We also strongly urge the government to use existing audit processes rather than creating yet another audit mechanism.

If you would like any additional information, please do not hesitate to contact Rachel Mackenzie on 0408796199 or at rachelmackenzie@berries.net.au