

WITHOUT “BACKPACKERS” WE DO NOT HAVE A BUSINESS

Submission to Working Holiday Maker Visa Review



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1. Without “backpackers” we do not have a business!

This submission to the “working holiday makers visa holder review” recently announced by the Deputy Prime Minister and Minister for Agriculture & Water is made on behalf of several significant and substantial entities (refer to Table 1) operating within the horticultural industry in the South – West (Augusta – Margaret River - Busselton – Capel – Bunbury Geographe – Harvey – Dardanup) and Southern Forest’s (Manjimup – Pemberton) regions.

ASPIRATIONAL POPULATION TARGETS 2050



Source: Department of Regional Development, South – West Regional Blueprint

There is no doubt the impetus for this submission flowed from the decision by the Federal Government to include significant taxation changes (increases) for working holiday maker (back packers) visa holders in the May 2016 budget proposition, despite intense representation from the agricultural and tourism sectors throughout Australia that such a move demonstrated a serious lack of understanding by Government as to the role and value of “working holiday maker visa holders” in satisfying the integral albeit seasonal casual worker demand in both sectors.

The growth in agriculture and tourism in recent years and a likely doubling of output in the next 5 years will mean that demand for backpackers will increase by an estimated 100%. A reduction in availability of backpackers places our ability to maintain a cost effective level of sustainability in terms of international competitiveness in jeopardy.

While being extremely sceptical of the decision, especially from a government that preaches taxation of any kind is counterproductive, the parties to this submission acknowledge the subsequent decision by Government in the lead up to the July 2016 Federal election to defer implementation of any taxation changes in what ever form, until 1 January 2017, subject to a *“review and public consultation to ensure the Government’s policy settings continue to meet a growing demand for flexible labour, particularly in rural and regional Australia”* as announced by the Deputy Prime Minister and Minister for Agriculture and Water in August 2016.

It must also be said, in terms of credibility and trust, if after another review, on top of the review carried out by Senator Richard Colbeck prior to the 2016 budget, it would be unwise for the Government to legislate to introduce the intended tax amendments that formed part of the 2016 budget, effective from 1 January 2017. If the outcome was simply a deferment of a ‘more of the same approach’, it will be seen as a betrayal and nothing short of a political stunt!

A public meeting was convened by the President of the Shire of Manjimup Cr Wade De Campo, a horticulturalist/vegetable grower himself, in June 2016, attended by around 60 local and regional agricultural and/or tourist operators. Senator Dr Chris Back (Senator for Western Australia), Nola Marino (Member for Forrest and Chief Party Whip) and Rick Wilson (Member for O’Connor) made significant contributions to the debate/discussion. Participants, including all of those contributing to this submission, through a highly interactive Q&A session, came away from this forum believing it would be a brave Government to countenance the introduction of a 32.5% tax on the first and every dollar earned. There was unanimous support for the belief such a move would seriously impact the international attractiveness of working holiday visa holders to Australia to meet the burgeoning seasonal demand (refer attachments) for casual labour. This would potentially become an impediment to industry growth strategies planned by horticulturalists in particular, flowing from the opening up of trade opportunities in Japan, China and South Korea.

The current uncertainty created by the likely taxation regime going forward has already impacted the early seasonal availability of working holiday visa holders, which is alarming to say the least when we are 4-6 weeks away from the start of peak demand.

However, apart from those who vehemently opposed any changes to the current taxation regime (nil taxation to \$18,000), and there were some, others expressed a view that a lesser rate of let’s say 15% or may be a flat rate of 10%

could be considered with or without amendments to the current superannuation arrangements. A more simplistic approach for employers and employees would flow from a flat rate option on all earnings.

This submission canvasses these options both in qualitative and quantitative terms, based on information provided as part of the review.

Using the “terms of reference” as provided by the Federal Department of Agriculture and Water as a template the following comment and contribution is made on behalf of a six highly committed grass roots and hands-on horticultural entities operating in the South – West and Southern Forest regions (electorates of Forrest and O’Connor) in Western Australia.

The seasonal demand is clearly demonstrated in Table 1.

While avocado production represents the major part of the demand as demonstrated, an avocado packing and distribution centre, and two enterprises specialising in vegetable production are also included.

As per the published Terms of Reference, the working holiday maker visa review is designed around four key themes:

2. Australia’s international competitiveness for back packers

There is widespread evidence, resulting from word of mouth and via social media that if Australia significantly alters the international competitiveness of the current earnings package available to “working holiday visa holders” while working in Australia and on exit from the country (superannuation) the current and future availability of casual labour on a seasonal basis to match the exponential industry growth in the next 5 years will fall well short of demand. Currently, there are real concerns that the availability will fall well short of the market demand even in the short term (next 4-6 weeks).

While there is also plenty of evidence to demonstrate overseas workers are committed to providing a high level of productivity to optimise their earning capacity while in Australia, there is no evidence to suggest or confirm that the reason Australians do not put themselves forward for such jobs is driven by the arrangements in place for working holiday visa holders – *Australians simply do not want such jobs, despite competitive remuneration being on offer - the social services/security package is far more attractive option.*

3. Seasonal and temporary jobs and projected growth in agriculture and tourism

The growers/producers contributing to this submission have all advised that their current vision and business plans call for production growth (plantings) ranging

from 80-120% over the next 5 years, which would require a doubling of the current seasonal casual work force working in the intensive agriculture sector alone, whether they are sourced locally or from overseas. In terms of the businesses included in this review, the annual peak demand would be circa 500,000 in any one year.

Based on numbers provided, overseas visa have increased from 85,207 in 2001-02 to 226,812 in 2014-16 (+166%).

Any changes to the earning conditions relating to working holiday visa holders that would impact availability of seasonal casual should not be considered in isolation to the opportunities and benefits for Australian agriculture and tourism evolving from the recent signing of Free Trade Agreements with Japan, China and South Korea. It is an undeniable truth that we need to be labour cost competitive to achieve and maintain sustainable market competitiveness in any international market. The current dilemma facing the dairy industry is a case in point.

Table 1 illustrates the actual current usage and seasonal spread of demand covering six separate businesses. This table is also at **Attachment 1**.

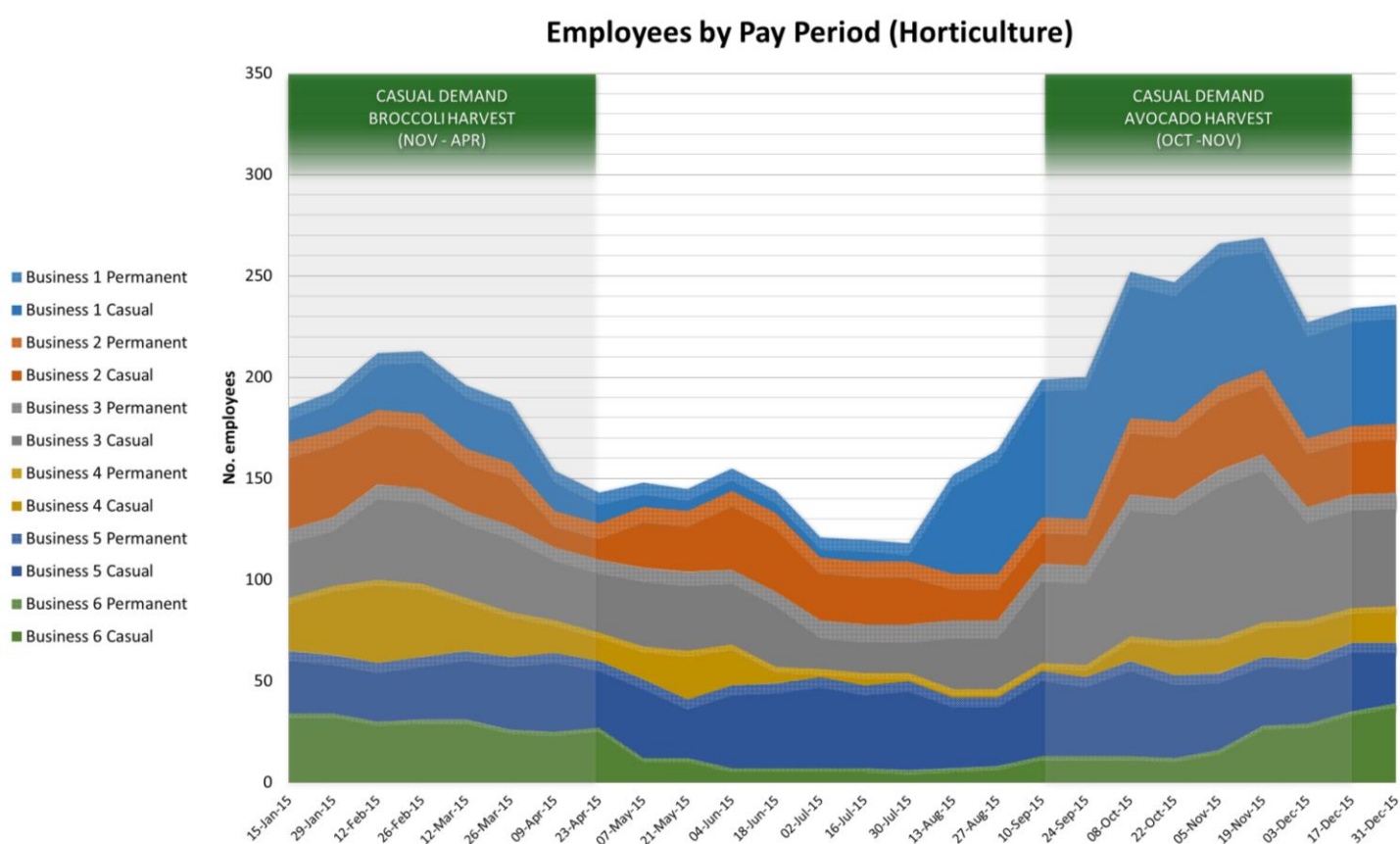


Table 1

4. Process and support for small businesses engaging seasonal and temporary visa labour

The ongoing capital investment by those driving growth in the horticultural industry in particular should not be underestimated, nor the relatively high elements of risk (crop failure) beyond the control of individual operators. As expected the cost of labour, driven by availability and the hourly rate with or without productivity based remuneration packages will remain a major contributor to sustainable ROI outcomes regardless of produce destination in local/domestic, national and global markets.

All the respondents have stated that they have moved beyond using more Australian labour and they are not prepared to re-visit an already failed model in terms of labour. They would consider exiting the business and industry rather than reverting to past labour hire models for productivity and their own lifestyle outcome. The current model based on reliability has clearly enhanced the quality of owner lifestyle and health.

Notwithstanding the above, in terms of labour availability and required skill sets, if one took a generic, all things being equal approach to the demand for casual labour; employers would naturally prefer to engage locally domiciled residents – they are genuinely interested in supporting strong local communities.

It should be noted that fortunately, the South –West and Southern Forest regions of Western Australia are more attractive from a lifestyle and tourism perspective, as compared to other “broad acre” based inland regions where large scale mechanisation lessens the demand for casual/seasonal workers. In other words, when visa holders are not working they are closer to centres of attraction along the WA coastline.

The reality is that the demand for a casual labourer with a high work ethic and productivity mindset and attendance reliability is not a natural mindset and discipline readily available from within the Australian workforce, keeping in mind most of the jobs in intensive agriculture have an element of mundanity which Australians are not naturally attracted to over more than a few hours, may be days.

The South – West Regional Blueprint (WA Department of Regional Development) identifies the planned business and industry growth required to build regional prosperity a planned population outcome of 500,000 persons by 2050, an increase of 200,000 on current numbers. With mining coming off the boil, agriculture and tourism form a significant part of the regions growth strategies out to 2050. [South West Regional Blueprint](#)

The Southern Forests region centred on Manjimup is currently the highest value horticultural region in the State through a combination of quality wine, avocado

and truffle production and a broad range of other fruit and vegetables. The availability of a willing and flexibility work force will be paramount to the broader South –West achieving its potential in terms of contributing to the prosperity vision for the region.

Therefore, given the experience of the past few years there should be no impediment to employers, small medium and large to engage the right employee to perform the required task whatever that might be. The evidence is clear that working holiday visa holders have met the qualitative and quantitative demand in the past. Therefore any strategy to lessen the attraction of Australia as a working holiday visa destination is fraught with danger.

It is suggested the working cap of six months with any one employer is overly restrictive and is an impost on employers in terms of administration costs and the need to employ and train more visa holders over a season or on a yearly basis. The removal of the time cap would be well embraced by employers and employees.

As is the case with GST, PAYG and SGC administration costs, any streamlining of the paper work relating to the engagement of visa holders would also be well received by employers and employees.

Australians in receipt of “the dole” have capped earning thresholds which makes it difficult to engage them as seasonal casuals as they are reluctant to work in excess of the earning threshold. It is understood this is a particular problem in the wool (shearing/shed handing industry) where employers cannot rely on the employees remaining in employment once they have reached the threshold. The use of short term NZ sourced working visa holders appears to satisfy the shearing and shed handing demand.

It is also suggested that itinerant workers available through aid programmes, especially out of the South Pacific have also fallen short in terms of commitment. Respondents do not believe they should detract from achieving consistently high productivity outcomes to appease the Australian Government in terms of their foreign aid programmes.

5. Protecting vulnerable workers

During the review process anecdotal evidence was presented that would confirm, in common with any process where there are rules, regulations and statutory reporting requirements, especially where the Government is involved, it attracts unethical and creative entrepreneurs who pride themselves through a lack of transparency to work outside the established guidelines in terms of meeting approved minimum rates of pay, working hours and offsetting sub-standard living conditions at an inflated cost to workers as part of the negotiated package.

This can include an element of cash which naturally may become an even greater temptation if part of the wages component of the deal is taxed at rate of 32.5%.

The contributors to this submission believe those flaunting the rules and fair decency should be run out of town and have been known to advise the relevant Government authorities of time, places and events, so they might play their part in ridding the industry of those who do not see the damage they are causing.

It is also reported that Registered Training Organisation (RTO's) who are engaged in offering TAFE courses that embrace elements of learning and on-site training at considerable cost to overseas students are acting as labour hire companies and hiring out labour at industry rates, while paying the students rates of 33.3% less than the charge to the respective employers. Once again this fails the *"is it right, is it wrong test?"*

All the issues referred to immediately above must be deemed as compliance matters and it would be foolhardy for the Government to abrogate their responsibilities in this area and *"throw the baby out with the bath water,"* although once a new regime of taxation comes into play (if it does) the opportunities for the devious and unscrupulous operators to manoeuvre a way forward to their personal advantage may be increased.

Due to the language barriers that exist, the Government should provide, if it does not already do so, a multi lingual hot line to deal with such untoward treatment of respective visa holders.

6. Taxation amendment options

Option	Total Earnings By Visa Holder	Super Paid by Employer as Super	Future Tax Receipts To Govt*	Additional Govt Income	Total Govt Receipts	Reduction of Disposable Income in Australia
1	\$3.016b	\$301.6m	Nil	Nil	Nil	Nil
2	\$3.016b	\$301.6m	Nil	\$301.6m	\$301.6m	Nil
3	\$3.016b	\$301.6m	\$452m	Nil	\$452m	-\$452m
4	\$3.016b	\$301,6m	\$452m	\$301.6m	\$753.6m	-452m
5	\$3.320b	Nil	\$500m	Nil	\$500m	+\$256m
6	\$3.320b	Nil	\$332m	Nil	\$332m	-\$120m

The average earnings used in the above calculations is based on \$13.3k as provided with review documents (**Attachment 2**) and does not include any taxation currently paid by employers on behalf of employees under normal PAYG arrangements.

Furthermore, it is known that most of the contributors to this submission are remunerating workers well above the minimum published rate of \$22.13 per hour as at 1 July 2016.

In terms of options 5 and 6 the total earnings number is derived by adding a 10 % premium in lieu of superannuation hence the difference between earnings by back packer in options to 4. In (5) the net impact on disposal income of visa holders while in Australia is based on the fact that while 15% tax on the grossed up amount paid to visa holders while in Australia delivers a dividend to the Treasury of an additional \$50m the net disposal income, given the conversion of superannuation into PAYG income delivers an extra \$256m becoming available for purchase of GST or non GST goods and service within local communities and throughout Australia.

The reconciled numbers used in 1-5 above are based on the numbers provided as part of the review package information and does not consider a 32.5% taxation rate as proposed in the 2016 budget proposition, nor does it identify any tax currently paid to the Government by visa holders, who earn more than \$18,000 in terms of the first bracket of tax free income.

For example in 2014-15 some 226,812 such visa were granted to work in Australia, with total income/earnings of \$3,016b (average \$13,300.00). This is well below the average paid by respondents to this submission.

As per the numbers included in the table above, the following PAYG taxation and related superannuation options have been considered:

1. No change in terms of rate and tax free threshold (\$18K), superannuation as is, collected on departure from Australia.

Benefits – While accepting the Government coffers will not be immediately bolstered, the overriding benefit would be that Australia would be able to maintain an internationally competitive package in terms of attracting casual workers to Australia rather than Canada and New Zealand, now and into the future, to take on tasks apparently not attractive to Australians.

2. No change in terms of rate and tax free threshold, superannuation retained by Government, effectively a 9-10% benefit to government.

Benefits – effectively same as (1) in terms PAYG conditions, delivering Government a dividend of \$323m assuming all current superannuation entitlements are collected on leaving Australia. If superannuation is available in other counties the loss of superannuation would en an issue.

3. Tax earnings at 15% to threshold of \$18k, with collection of superannuation as is, on departure from Australia.

Benefits – While the government would reap a tax benefit of \$452m such would be removed from the available disposable income of visa holders and in turn be removed from local and regional communities and potentially reduce GST collections by up to \$45.0m.

4. Tax earnings at 15% to threshold of \$18k, with superannuation being retained by Government.

Benefit – Same as (3) above with the Government increasing their take by potentially a further \$302m on top of the \$452m referred to in (3) assuming all existing superannuation is claimed back from visa holders on departure. It is known that this is not the case.

5. Gross up weekly earnings to include superannuation and tax at 15% from first dollar to threshold of \$18k.

Benefit – The benefit to local communities would be significant (+\$256m) and the Government would be \$48m better off compared to (3) above although the concept, regardless of the attraction to spend more money locally while in Australia, might not sit well with the Australian workforce given superannuation entitlements can't cashed in on a PAYG basis. The downside of this option is that unscrupulous and unethical employers could take advantage of the grossing-up model when negotiating a competitive hourly rate of pa. If such behaviour became widespread the benefits of this model would be dissipated relatively quickly. However, while this option has considerable benefit to the Australian economy, it potentially, if the overall earnings (PAYG and Superannuation) package is deemed less attractive to those comparing the competitive offering of countries like Canada and New Zealand, will impact the supply of working visa labour.

6. Average earnings grossed up by superannuation, same as 5. and all earnings taxed at a flat rate of 10%.

Benefit – Easy to understand by employer and employee and easier to administer.

It should be noted that if the Government intentions of 32.5% in the dollar, including the first dollar the tax collection as referred to in option (3) above were introduced the inflow to the Treasury coffers could be as high as \$980m which would be stripped from visa holders and removed from local communities with a GST impact of up to -\$98m, assuming all purchases made by visa holders while in Australia were inclusive of GST. It should be noted that given fresh food does not attract GST this number could be overstated by let's say 50%.

It is important to note that from an employer cost point of view, all the options referred to in 1-6 above, other than variable administration and compliance costs, remain constant.

The average earnings used in the above calculations is based on \$13.3k as provided with review documents. For example in 2014-15 some 226,812 such visa were granted, with total income/earnings of \$3,016b (average \$13,300.00).

While it has not been quantified or reported, it is known that most of the contributors to this submission are remunerating workers above the minimum published rate of \$22.13 per hour as at 1 July 2016, so the rate of pay used probably understates the tax already collected collectively from working visa holiday makers.

In terms of option 5 the total earnings number is derived by adding a 10 % premium in lieu of superannuation hence the difference between earnings by back packer in options 4 and 5. The net impact on disposal income of visa holders while in Australia is based on the fact that while 15% tax on the gross up amount paid to visa holders while in Australia delivers a dividend to the Treasury of an additional \$50m the net disposal income, given the conversion of superannuation into PAYG income delivers an extra \$256m becoming available for purchase of GST or non GST goods and service within local communities and throughout Australia.

The reconciled numbers used in 1-6 does not consider a 32.5% taxation rate as proposed in the 2016 budget proposition, and assumes that all workers only earn a salary/wages amount below the mandatory \$18,000 in terms of the first bracket of tax free income.

7. Backpacker accommodation.

There is no doubt the quantum of and the increased advent of working holiday visa holders from 85,207 in 2014-15 to 226,812 in 2014-15 (+166%) has given birth to a network of commercially operated 'backpacker' hostel and accommodation offerings, absolutely paramount to the provision of seasonal workers (working holiday visa holders). The value of this substantial and nation-wide industry and other multiplier benefits to rural and regional communities, many of which are barely surviving, can't be ignored when evaluating the benefit of casual overseas labour compared to mostly unwilling Australian workers, many surviving on Australian social serve/security offerings.

One such establishment in the Shire of Donnybrook – Balingup a municipality 30 kilometres from the City of Bunbury, with a total population of 5,700 residents of all age demographics was interviewed as part of the review process included in this submission.

In the town centre of Donnybrook – Balingup two of the three facilities remain open with the largest, the subject of this review, has a capacity of 110 beds and an average occupancy rate of 68% on an annualised basis with bookings to capacity during season peaks (4-6 months of the year).

The proprietors of the Brooke-lodge backpackers have provided the following information in terms of their *modus operandi* and their role in supplying casual/seasonal labour, primarily to horticultural industry within their designated local government area (LGA):

Year	Number of individual backpackers
2015-16	394
2014-2015	309
2013-2014	390
Three year average	364

The vast majority of residents are long term based on achieving at least the required number of 88 days' work to satisfy visa requirements in terms of rolling over into the next seasonal year.

Current enquiries and bookings are some 10% below this time last year which is a concern given one of the three hostels in town has not re-opened this year and the peak seasonal demand is only weeks away with the commencement of avocado picking already started. In addition there is a relatively large, high demand, avocado packing house operating within the Donnybrook town boundary.

All residents pay a weekly rate of \$165.00 plus GST which excludes all meals. Cooking and recreational facilities are provided as part of the weekly fees. It is estimated that back packers probably spend a minimum of \$15.00 a day on food, with Asians being more frugal than their European counterparts with the consumption of alcohol being significantly higher by the latter.

Producers, almost all horticulturalists, provide the hostel with their labour requirements on a needs basis for which there are no hiring or employment agency fees applicable.

Naturally, like all casual labour, particularly where outside work is required, job demand fluctuates depending on weather conditions and in the past few weeks many of their residents have only picked up 1-2 days' work each week.

Working holiday workers are made up of a 50/50 split in terms of Asians and Europeans utilising the facility. Very few Australians use the facility and non-working holiday visa holder do not stay at such places.

As identified in other LGAs throughout the South – West and Southern Forest regions, such workers are high users (pay their own way) of local services such as gymnasiums, tourist attractions and food restaurants throughout the region.

Most workers talk of Canada and New Zealand as the next best destination for work and believe any reduction in net income will impact the attractiveness of back packers to come to Australia, keeping in mind the cost of living in Australia is higher than many other overseas destinations.

Many of the backpackers leave with a better command of the English language than when they arrive.

Backpacker hostels support the view that some unscrupulous labour hire companies and indeed some employers exploit the good nature and work ethic of back packers by trading off substandard living conditions (less cost) as a means to directly attracting backpackers originally sourced from back packer hostels. It is believed this practice is not widespread but remains a concern for the majority of employers who do the right thing especially contributors to this submission.

8. Subsequent deliberations

While respondents are aware of representations made to the Treasurer and the Prime Minister prior to the Federal election that probably influenced the deferral of the intentions announced in the 2016 budget, given the importance of the primary issue to the future of intensive agricultural industries in particular, respondents are extremely disappointed with the lack of resolve (public engagement and debate) by the State and Federal governments and local politicians to ensure the review focuses on the key drivers of seasonal labour availability, rather than a Treasury tax grab initiative. The exception being that at the request of Wade De Campo, the Member for Forrest did arrange for three of the respondents to engage in an interactive teleconference with Deloitte Australia, the government appointed review consultants.

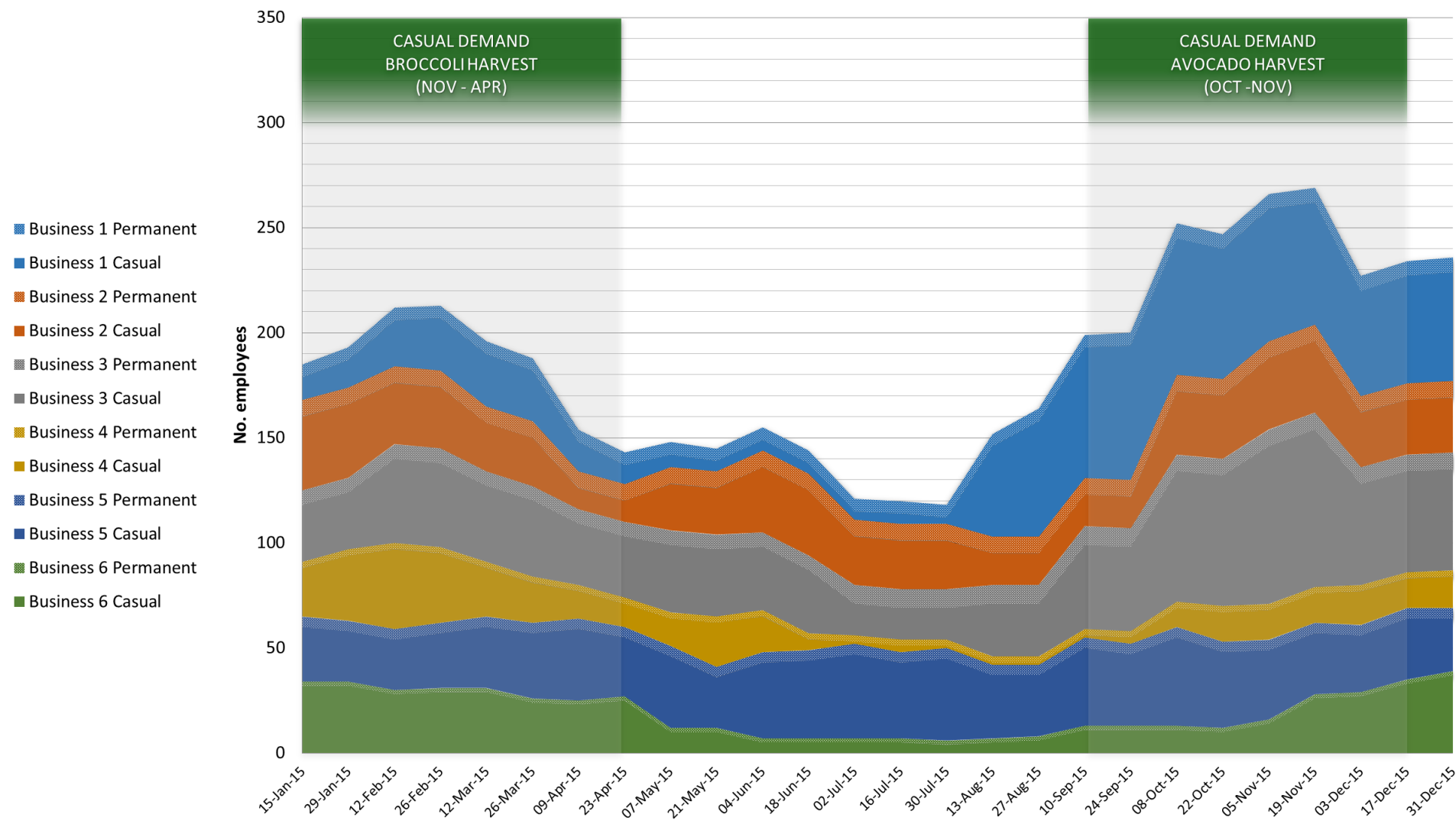
9. Contributors and acknowledgements

The principal contributors to this submission prepared by Brian Piesse (Braeside Consulting Group) are Brad Ipsen (Twinlake Holdings); David Blakers (Capel Farms); Ian and Neil Delroy (Jasper Farms); Russell Delroy (Delroy Orchards Pemberton & Donnybrook Packing Company); Stewart Ipsen (West Pemberton Avocados) and Lynne Clark (Brook-lodge Backpackers in Donnybrook): Qualitative input by Peter Hearman, a horticulturist from Donnybrook and Simon Taylor (South West Development Commission) is also acknowledged.

Cr Wade De Campo, President of the Manjimup Shire Council is to be commended for his ongoing stewardship relating to the important role played by “back packers” throughout the region by convening the public meeting which took place in Manjimup in June 2016 to allow local and regional producers/growers and tourist operators to meet with Nola Marino MP (Forrest), Rick Wilson MP (O’Connor) and Senator Dr Chris Back (Western Australia).

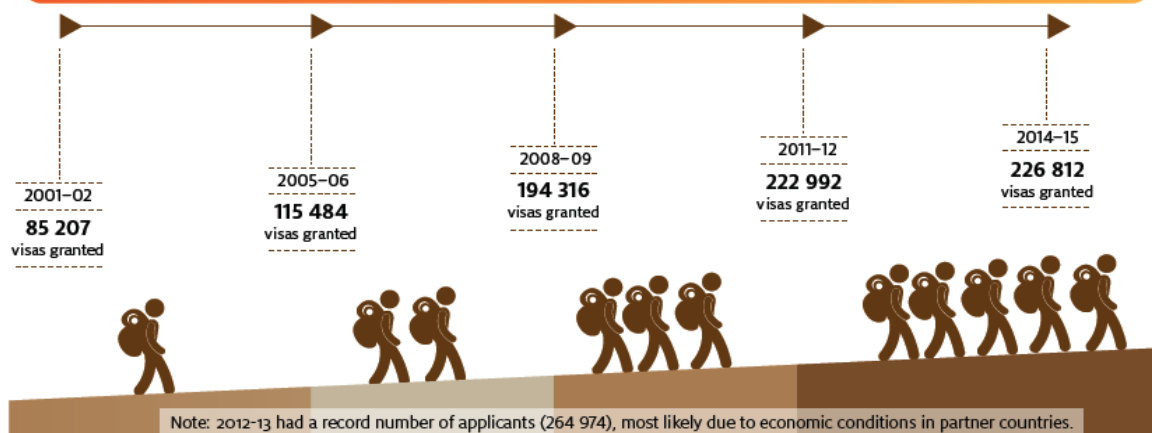
The presence of Hon Kelly O'Dwyer (former Minister for Small Business) in the region prior to the Federal election provided an opportunity for further dialogue relating to the issue is also acknowledged with thanks to the office of Nola Marino.

Employees by Pay Period (Horticulture)



Working holiday maker visa review

Australia's working holiday maker programme



Key facts and figures

\$13 300



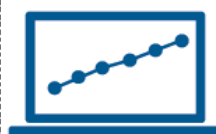
average backpacker earnings
(Tourism Research Australia, 2016)

\$22.13



minimum casual rate per hour since 1 July 2016

12%



projected growth in accommodation and food services to 2020

8.4% and 5.8%



projected growth in vegetable and fruit picking jobs to 2020

6%



Australia's unemployment rate, March 2016

Timeline



Source: Department of Agriculture and Water Resources