

# Social Assessment and Social Management Plan

## Enhancing Labor Mobility from Papua New Guinea Project (P174594)

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For the

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DRAFT

18<sup>th</sup> October 2021

**Document Control**

Version	Date	Description
Rev0	11 June	Working Draft for GoPNG review
Rev1	14 <sup>th</sup> July	1 <sup>st</sup> Draft for World Bank review
Rev2	25 <sup>th</sup> July	2 <sup>nd</sup> Draft for GoPNG and WB review
Rev3	18 <sup>th</sup> October	3 <sup>rd</sup> Draft for GoPNG and WB review

## Acronyms

AE	Approved Employer (Australia)
A&NZ	Australia and New Zealand
ATR	Agreement to Recruit (New Zealand)
DESE	Department of Education, Skills and Employment (Australia)
DFAT	Department of Foreign Affairs and Trade (Australia)
DLIR	Department of Labour and Industrial Relations
DOT	Department of Treasury (PNG)
DSIP	District Service Improvement Programme (PNG)
ERA	Employment Relations Authority (New Zealand)
ESCOP	Environmental and Social Code of Practice
ESF	Environmental and Social Framework
ESS	Environmental and Social Standards
FGD	Focus Group Discussion
FWO	Fair Work Ombudsman (Australia)
GBV	Gender-based violence
GESI	Gender Equity and Social Inclusion
GoA	Government of Australia
GoNZ	Government of New Zealand
GoPNG	Government of PNG
GRM	Grievance Redress Mechanism
ILO	International Labour Organization
INZ	Immigration New Zealand
LMP	Labour Management Procedures
LMU	Labour Mobility Unit, PNG
LSU	Labour Sending Unit (Most Pacific Island countries)
MBIE	Ministry of Business, Innovation and Employment (New Zealand)
MFI	Micro-finance Institution
NPS	National Public Service (PNG)
NZ	New Zealand
OHS	Occupational Health and Safety
PDO	Project Development Objective
PLF	Pacific Labour Facility
PLS	Pacific Labour Scheme (Australia)
PMU	Project Management Unit
PNG	Papua New Guinea
POM	Port Moresby
PSIP	Provincial Service Improvement Programme (PNG)
RRH	Regional Recruitment Hub (PNG)
RSES	Recognised Seasonal Employer Scheme (New Zealand)
SA	Social Assessment
SASMP	Social Assessment and Social Management Plan
SEA/SH	Sexual Exploitation and Abuse and Sexual Harassment
SEP	Stakeholder Engagement Plan
SMMP	Social Management and Monitoring Plan
SWP	Seasonal Worker Programme (Australia)
TA	Technical Assistance

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## 0 Executive Summary

### 0.1 Introduction

#### 0.1.1 Context

As other Pacific Island countries, Papua New Guinea (PNG) has access to three main labour mobility schemes in Australia and New Zealand (NZ), together with other Pacific island countries. These include New Zealand's Recognised Seasonal Employer Scheme (RSES) and Australia's Seasonal Worker Programme (SWP) and Pacific Labour Scheme (PLS). Despite having access to the seasonal schemes for nearly a decade, PNG seasonal/migrant worker participation has been extremely low.

In 2019, the Government of PNG (GoPNG) embarked on a series of institutional and policy reforms to increase the number of temporary and seasonal overseas workers (hereafter PNG's Labour Mobility Programme). Responsibility for labour mobility was moved from the Department of Labour and Industrial Relations (DLIR) to the Department of Treasury (DOT), which established the Papua New Guinea Labour Mobility Unit (LMU). The LMU has established policies and frameworks to optimize the labour sending process. A decentralised regional recruitment model has been adopted whereby regional administrations lead the selection and recruitment process from their respective areas in close cooperation with the LMU.

The GoPNG's Draft National Labour Mobility Policy 2021 outlines a vision of "providing opportunities for decent, temporary work overseas for at least 8,000 youth and citizens, both women and men, per year by 2025 to grow PNG's economy both through remittances and through skills and knowledge transfer to build sustainable industry at home".

#### 0.1.2 Project Description

The GoPNG has requested World Bank financing for the Enhancing Labor Mobility from PNG Project (hereafter 'the Project') to support current efforts to expand PNG's participation in international labour mobility schemes. The Project Development Objective is to strengthen government systems in Papua New Guinea that support workers and their households to benefit from overseas employment opportunities, with a focus on women and disadvantaged groups.

The primary **Project beneficiaries** are current and prospective seasonal/migrant workers and their families from across PNG. The Project will not place PNG seasonal/migrant workers overseas. Rather, the Project will support the design and operation of the PNG labour mobility initiatives across the labour mobility cycle including worker selection, recruitment and mobilisation; support whilst undertaking overseas employment; and return/reintegration. All project activities will be implemented in PNG through the LMU.

The Project will be implemented by the Department of Treasury (DOT) in PNG, through its Labour Mobility Unit (LMU) which is responsible for coordinating PNG's Labour Mobility Program.

The Project will consist of four (4) components:

- **Component 1. Strengthen systems and worker readiness to enhance benefits from overseas employment opportunities** including technical assistance and resources to: i) improve systems that support efficient selection, recruitment and mobilization; ii) provide worker readiness training for aspiring migrants; iii) facilitate linkages between Australian and New Zealand employers and the LMU/RRHs; iv) provide enhanced support for workers overseas.
- **Component 2. Enhance equity in access to labour mobility opportunities for PNG seasonal/migrant workers** including i) technical assistance to expand participation among disadvantaged groups through outreach and preparatory assistance; ii) support for financial literacy and inclusion; iii) technical assistance on loan product design (phase 1); and iv) financing for loans to cover documentation costs

- **Component 3: Boosting household impacts from labour mobility programs** including activities to assist returning workers reintegrate including income-generating opportunities, social reintegration, as well as welfare services.
- **Component 4. Project management and results monitoring** including the establishment of a Project Management Unit (PMU) within the LMU to support implementation. This unit would house relevant advisors recruited under the project, with advisors working closely with LMU staff and regional recruitment hubs in order to build capacity and fully develop the labour sending systems envisaged by the GoPNG. This activity would also support regular project monitoring and evaluation, which would employ quantitative and qualitative methods.

### 0.1.3 Social Assessment and Social Management Plan

This Social Assessment/Social Management Plan (SA/SMP) has been prepared by the LMU to examine the social risks and potential impacts associated with the Project; and present a plan with measures for eliminating, reducing, managing and monitoring these impacts during the implementation of the Project.

The SA/SMP includes a benchmarking analysis of the World Bank's Environmental and Social Standard 2 - Labour and Working Conditions, against Australian and New Zealand (A&NZ) labour laws as well as programme governance arrangements and the functioning of the PLS, SWP and RSES. This work has been used to inform the assessment of risks and potential adverse impacts for PNG seasonal/migrant workers while participating in the A&NZ programs. As the Project has no direct relationship with these programs or A&NZ governments, the SA/SMP present measures within the Project's control, to be implemented in PNG, to further mitigate these risks.

The social assessment was conducted alongside the project design process and is being used to inform project design and mitigation measures. The SA/SMP has included consultations with key government agencies and NGOs in PNG, and Australia and New Zealand, and prospective workers in PNG. It has also included a review of key secondary resources including PNG Labour Mobility Programme and A&NZ programme documents; as well as other relevant documents including programme reviews, academic publications, media reports, studies by trade unions and other organisations.

## 0.2 Legal Requirements

The Project will be implemented in accordance with the World Bank's Environmental and Social Framework (ESF) and relevant PNG laws.

### 0.2.1 World Bank Environmental and Social Framework

The World Bank Environmental and Social Framework (ESF) outlines 10 Environmental and Social Standards (ESS) for the management of environmental and social risk. The ESSs' that are relevant to the Project include: ESS1 Assessment and Management of Environmental and Social Risks and Impacts; ESS2 Labour and Working Conditions; ESS4 Community Health and Safety; ESS7 Indigenous Peoples; ESS9 Financial Intermediaries; and ESS10 Stakeholder Engagement and Information Disclosure.

ESS2 - Labour and Working Conditions applies to *Project workers* – i.e. those workers employed to implement project-financed activities. While ESS2 is not directly relevant to the *Project beneficiaries* of this operation, who are not considered project workers, it has been used for the purpose of this assessment as the basis for assessing the risks program beneficiaries may face as A&NZ program participants.

### 0.2.2 GoPNG Legal Framework

The *Constitution of the Independent State of Papua New Guinea 1975*, guarantees equality of citizens; freedom of movement; freedom of employment; freedom of assembly and association; and freedom from inhuman treatment and forced labour.



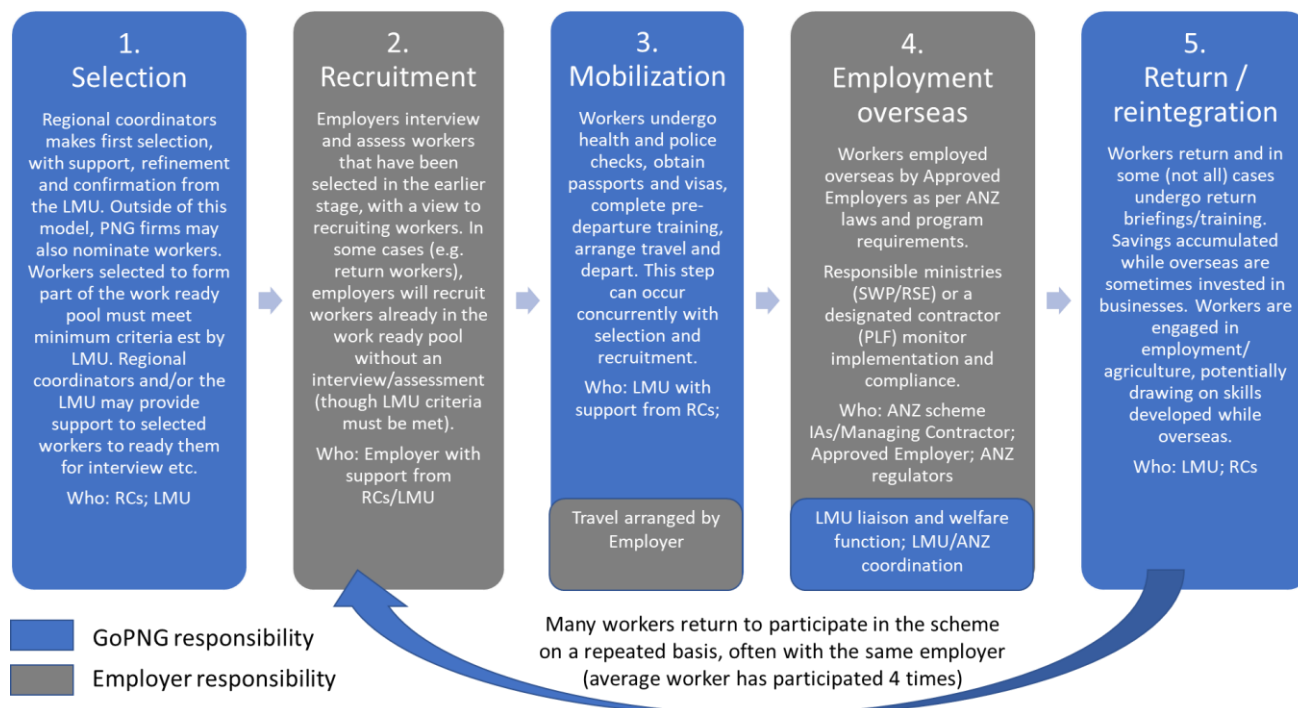
The GoPNG is in the process of establishing laws and a policy to guide labour mobility arrangements in PNG. A *Bill for an Act entitled Office of Labour Mobility Act 2020* has been drafted, however, is yet to be put before parliament. The proposed Act will be developed to establish the Office of Labour Mobility and to secure, coordinate and increase opportunities for Papua New Guinean citizens to live and work overseas through temporary labour mobility programmes, and for related purposes to strengthen Papua New Guinea's economic growth and social development.

### 0.3 Review of PNG and A&NZ Labour Mobility Programmes

#### 0.3.1 PNG Labour Mobility Programme

The LMU has been tasked with leading PNG's arrangements for managing the participation of PNG seasonal/migrant workers in overseas labour mobility programmes. PNG operates a regional recruitment model whereby regional administrations, through Regional Recruitment Hubs (RRHs), are primarily responsible for the preliminary selection of workers from their respective areas. The LMU works in close cooperation with regional administrations throughout the labour mobility cycle, confirming selection of workers to work-ready pools from which employers select workers for interview. The LMU manages overall worker mobilisation with support from RRHs. This process is shown in figure 1.

#### Stylized model of steps involved in labor mobility programs



The LMU has established policies and frameworks for guiding the expansion of labour mobility from PNG. The Draft National Labour Mobility Policy 2021 outlines specific goals to: i) identify and facilitate decent work opportunities; ii) develop a cohort of work-ready citizens; iii) promote the equal participation; iv) ensure economic and development benefits of labour mobility are maximized; v) involve all stakeholders in good governance of labour mobility and the protection of workers overseas; vi) adopt a whole-of-government approach to the management of labour mobility; and vii) work across government to ensure experience overseas contributes to the development of domestic industry. The LMU Operations Policy 2020 outlines four overarching principles including: *Equity (and inclusion)*; *Transparency*; *Worker's rights and care*; and *Privacy and data management*.

### 0.3.2 Host Country Laws, Programmatic Frameworks and ESS2 Benchmarking

Temporary migrant/seasonal workers are offered the same protections as citizens under Australian and New Zealand laws. The three A&NZ programs outline additional measures to ensure that specific risks faced by temporary migrant/seasonal workers are avoided, mitigated and/or managed effectively. These laws and programmatic arrangements have been benchmarked against the requirements of ESS2 (refer to Section 4.3, Table 4.2). No significant disparities have been identified. An assessment of risks, programme implementation challenges and measures taken to address these is provided in Section 6.

#### 0.3.2.1 AUSTRALIA

##### Legal & Regulatory Framework

Australia has a comprehensive legal and regulatory framework governing employment, workplace health and safety and workplace discrimination. Key employment laws include *The Fair Work Act 2009*, *Fair Work Regulations 2009* and the *National Employment Standards (NES)*. The Fair Work Commission (FWC) and the Fair Work Ombudsman (FWO) are responsible for their implementation. The *Work Health and Safety Act 2011* sets out requirements and standards for workplace health and safety (WHS). States and Territories are responsible for regulating and enforcing WHS laws. Safe Work Australia is responsible for improving workplace health and safety and compensation arrangements across Australia. The *Workplace Gender Equality Act 2012* outlines requirements for improving equality for both women and men in the workplace. The Workplace Gender Equality Agency leads the implementation of this Act. The *Sex Discrimination Act 1984* promotes equality between women and men and protects people from unfair treatment. The *Disability Discrimination Act 1992* makes it unlawful to discriminate against a person because of their disability. The Australian Human Rights Commission implements these Acts.

##### Pacific Labour Scheme and Seasonal Worker Programme

The Seasonal Worker Programme was formalized in 2012 and followed a pilot scheme, which commenced in 2008. A MOU between the GoPNG and GoA giving PNG seasonal/migrant workers access to this programme was signed in 2011. Workers can be employed in Australia for up to nine months per year in the agriculture, accommodation and tourism sectors. The SWP is managed by the Department of Education, Skills and Employment (DESE) although other government agencies are also involved in its administration. The key policy document for the SWP is the Seasonal Worker Programme Implementation Arrangements.

The Pacific Labour Scheme was launched in July 2018 following a pilot involving workers from Kiribati, Tuvalu and Nauru which commenced in 2015. A MOU between the GoPNG and the Government of Australia (GoA) giving PNG seasonal/migrant workers access to this scheme was signed in 2019. Under the PLS, workers can take up low- and semi-skilled jobs in rural and regional Australia for a minimum of 12 months and up to three years. The scheme is open to all sectors and industries but initially focuses on the accommodation, food services industry, health care and social assistance industry, and non-seasonal agriculture, forestry and fishing. The PLS is managed by the Department of Foreign Affairs and Trade (DFAT) through the Pacific Labour Facility (PLF), which in turn is operated by the consulting firm Palladium. Implementing and governance arrangements for the scheme are outlined in the PLS Policy Handbook. The Pacific Labour Facility is responsible for authorizing employers under the PLS and monitoring the welfare of PLS (and SWP) workers.

Both the PLS and SWP implement an approved employer approach. Requirements for Approved Employers are outlined in the Approved Employer Guidelines and Deed of Agreement for each programme. Terms and conditions for workers are outlined in the 'Approved Offer of Employment' for each programme.

Both the PLS and SWP implement compliance and assurance frameworks. Compliance monitoring includes self-auditing/reporting, notice to report and site visits. Non-compliance systems include education; breach notice; corrective action; suspension; and termination of deeds. Both the PLS and SWP have incident reporting procedures including classification, notification, investigation, and corrective action. Formal grievance

mechanisms are provided through the PLF Worker Welfare Team and Fair Work Ombudsman. The DFAT/PLF and DSES coordinate with relevant regulators when significant issues arise.

In September 2021 the Australian Government launched the Pacific Australia Labour Mobility ([PALM](#)) scheme which is a streamlined approach to the implementation of PLS and SWP. As PALM is implemented, it is expected to better align systems and processes for PLS and SWP.

### **0.3.2.2 NEW ZEALAND**

#### **Legal Framework**

New Zealand also has a comprehensive regulatory framework governing employment, workplace health and safety and workplace discrimination. The *Employment Relations Act 2000* governs the relationships between employees, employers and unions. Other key legislation includes the *Minimum Wage Act 1983*, *Wages Protection Act 1983*, *Equal Pay Act 1973*, *Holidays Act 2003*, and *Parental Leave and Employment Protection Act 1987*. New Zealand's Labour Inspectorate works to ensure minimum employment standards are complied with. The Employment Relations Authority (ERA), an independent body, helps to resolve employment relationship problems. The Employment Court has jurisdiction to hear and determine challenges against ERA determinations, questions of interpretation of law, and injunctions in respect of strikes and lockouts. The *Health and Safety at Work Act 2015* provides that everyone in the workplace is responsible for health and safety. WorkSafe is New Zealand's government agency responsible for implementing the Act. New Zealand's Bill of Rights grants everyone the right to freedom of association. The *Human Rights Act 1993* prohibits discrimination in employment based on various grounds, such as sex, race or age. The Human Rights Commission helps to resolve complaints of unlawful discrimination, and the Human Rights Review Tribunal hears claims relating to breaches of the *Human Rights Act 1993* brought by employees against their employer.

#### **Recognised Seasonal Employer Scheme**

The RSES was launched in 2007 to fill seasonal labour shortages in New Zealand's horticulture and viticulture industries. The GoPNG and the Government of New Zealand (GoNZ) signed an Inter-agency Understanding in 2013 allowing PNG seasonal/migrant workers access to this scheme. The RSES allows most seasonal workers to stay in New Zealand for up to seven months in any 11 months. The current annual cap is 14,400 workers. The scheme is operated by the Ministry of Business, Innovation and Employment (MBIE). The RSES's arrangements are outlined in Immigration New Zealand's (INZ) Operational Manual: WH1 Recognised Seasonal Employer (RSE) Instructions (INZ, 2020).

Like the PLS and SWP, the RSES implements an approved employer model. This process is outlined in INZ's Guide to Becoming a Recognised Seasonal Employer and Application Form. INZ is responsible for authorising New Zealand employers to recruit workers under the RSES by providing them with an Agreement to Recruit (ATR). The NZ Labour Inspectorate works to ensure minimum employment standards are complied with including those of workers under the RSES. NZ Labour Inspectorate's Assurance Framework is used for RSES and includes education, audits/investigations and enforcement. The NZ Labour Inspectorate's and Worksafe NZ incident reporting framework is utilised. MBIE has Relationship Managers that work to support workers and employers and also operates a general and migrant worker grievance mechanism.

## **0.4 Social Assessment Findings**

### **0.4.1 Expected Project Benefits**

The Project is expected to contribute to improved governance of PNG's Labour Mobility Programme and the GoPNG's vision to expand labour mobility overseas and capture benefits for PNG seasonal/migrant workers and their families and communities; and the PNG economy at large.

The Project, through its support in strengthening PNG's labour mobility programme, is expected to contribute to:

- A significant scale-up of PNG seasonal/migrant worker participation in overseas labour mobility programmes, particularly amongst prospective workers in rural and regional areas, and for youth and women.
- Increased remittances from migrant workers, lower costs for remittance transfers, and the promotion of more productive use of remittance income by remittance-receiving households.
- Increased skills in the domestic labour force through direct worker readiness training and indirectly through skills gained whilst on assignment

The success of the GoPNG's scale-up of its labour mobility programme, and the ability of the GoPNG to meet its vision and objectives will rely on the ability of the LMU and RRHs to identify, assess and manage social risks and potential adverse impacts associated with the programme. The Project is expected to make a significant contribution in this area, through the provision of technical assistance and financing activities that strengthen the design and operation of PNG's Labour Mobility Programme.

## **0.4.2 Risks and Potential Adverse Impacts in PNG**

### **0.4.2.1 INEQUITABLE ACCESS AND POTENTIAL CONFLICT**

#### **Equity in selection and mobilisation of workers**

There is a risk of real or perceived inequitable access to labour mobility opportunities. Key issues include: i) inequity between and within regions; ii) inequity within communities (disadvantaged groups); and iii) wantokism<sup>1</sup>, conflict of interest and corruption relating to the promotion of access to overseas work opportunities. The LMU is committed to the principles of equity, transparency and workers' rights and care within PNG processes. A&NZ employers make the final decision on which workers are recruited.

The Project will provide TA to the LMU to address real or perceived inequity by supporting the development of additional RRHs across PNG; assisting the development and implementation of open and transparent geographic selection processes and supporting community outreach activities within regions, to support inclusion of disadvantaged areas and groups (see below).

#### **Equitable Access to Project Activities**

The Project will finance several activities, such as pilot programmes in the areas of upskilling, community outreach and reintegration; training programmes in financial literacy and the pre-departure loan facility. Depending on the activity, target beneficiaries will include prospective, selected and recruited workers and their families or broader communities. The risk of real or perceived inequitable access to these activities will be managed through activity design. The Project's Stakeholder Engagement Plan (SEP) will also serve as a risk mitigation tool, by ensuring that target beneficiaries are consulted and provided with relevant information, have the means to provide feedback; and have access to the project's Grievance Redress Mechanism (GRM) where concerns or grievances can be raised and addressed.

#### **Conflict and community unrest**

Perceived or real inequitable access has the potential to lead to or exacerbate existing conflict within or between communities, and amongst selected workers and their families. This risk is likely to increase with the scale-up of the PNG Labour Mobility Programme. The LMU is seeking to mitigate the risk of conflict through development and implementation of consistent policies, processes and systems. The LMU Operational Policy

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<sup>1</sup> In Tok Pisin, wantok means "One Talk" referring to the language of the tribe or clan to which a person belongs. The Wantok System which is based on social kinship, welfare and a reciprocal relationship of favours between kin and community members ("wantoks") has developed from PNG's traditional tribal-based society.

requires the LMU to ensure transparency in selection and recruitment processes and to publicly report on the implementation of the PNG Labour Mobility Programme.

The Project will support the operationalisation of this policy through enhancement of LMU's existing social accountability mechanisms and development and implementation of these mechanisms at the district/provincial level. The Project will also seek to support more direct identification and management of the risk of conflict associated with the programme.

#### **0.4.2.2 IMPACTS ON WORKERS, THEIR FAMILY AND COMMUNITIES AND ESTABLISHMENT OF COMMUNICATION HUBS**

The long absence of migrant workers has the potential to negatively impact the cohesion of the family unit including adverse impacts on marital relationships, children development, and care for elderly family members. Reverse culture shock issues may also arise when workers return to families where former roles have changed to adjust to this absence. Long absences can also impact the wider community including loss of able-bodied young men and women for community work, though high levels of unemployment in many sending communities may minimise such impacts. Another key issue is the potential for unrealistic or misaligned expectations that workers, families and communities have about the benefits of overseas employment. There are reports of unreasonable demands by extended family members on the immediate family of workers even while they are overseas.

The GoPNG intends to address these potential impacts through ensuring that economic and development benefits of labour mobility are maximized for workers as well as their family and communities, and by ensuring that community expectations are managed through extensive consultations by RRHs and through pre-departure training which includes both workers and sending households.

The Project will provide TA to the LMU to address the impacts on families of workers including improved pre-departure training that include families to better prepare both workers and their families for the absence of workers. Adverse impacts will be mitigated by improving communication – including establishment of communication hubs; and strengthening of worker (and family) welfare liaison functions through the LMU and RRHs. Environmental and social risks may arise from the establishment of 'communication hubs' to provide prospective workers with computer and internet access pre-departure. These hubs will be established in existing buildings and involve refurbishment only. Key potential impacts include community and worker health and safety impacts, COVID-19 transmission waste and hazardous materials management. Impacts are expected to be low in magnitude and easily mitigated via standard accepted mitigation measures and with the implementation of a project Environmental and Social Code of Practice (ESCOP).

Under Component 3, aimed at boosting household impacts from labour mobility programs, several activities will support the sending of remittances and financial literacy to improve the expenditure of remittances generated through participation. This is expected to offset negative impacts associated with labour mobility as a result of a family member's absence. The Project will also finance reintegration support services to ensure workers and sending households maximise the benefit from their participation in labour mobility schemes.

#### **0.4.2.3 MIGRATION COSTS AND EQUITABLE ACCESS TO FINANCE**

Prospective migrant workers from PNG are required to meet mobilization costs (ranging from – 3,370 to 3,880 Kina)<sup>2</sup> prior to leaving the country and participating in the PLS, SWP or RSES. Some workers are provided grants to cover these costs through Provincial Service Improvement Programme (PSIP) or District Service Improvement Programme (DSIP) funds. Others are required to self-finance and typically do not have access to formal finance mechanisms, and instead borrow from extended family networks, typically at high financial and non-financial cost.

The Project will establish a loan facility to cover pre-departure costs and address current inequities in access to finance. These loans will be administered through local financial intermediaries and will be available to all

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<sup>2</sup> Equivalent to USD 570 to 1,995 according to the exchange rate on 25 July 2021.

prospective workers and their families. They will be entirely voluntary; cover pre-departure costs as well as migration costs; be provided at the lower end of the commercial range for interest rates; and have additional features aimed at easing the financial burden on participating workers and maximizing repayment rates, such as grace periods and interest rate rebates. No collateral would be required for such loans, although an employment contract would be a criterion for loan approval. Measures will be put in place to protect workers from unwilful default. In addition to complying with PNG's finance laws, FIs will be required to administer loans in accordance with WB ESS9 – Financial Intermediaries including the development and implementation of an environmental and social management system to manage risks during implementation.

#### **0.4.2.4 DISADVANTAGED AND VULNERABLE GROUPS**

Disadvantaged and vulnerable groups include women migrant workers, female partners of migrant workers, women-headed households in communities where recruitment occurs, individuals with low levels of education including school dropouts and illiterate people in communities where recruitment occurs, remote communities, economic migrants living outside their traditional communities, unemployed youth, and people with disabilities in communities where recruitment occurs.

The GoPNG is responsible for worker selection and formation of a work-ready pool; however the recruitment of workers is ultimately undertaken by employers who require workers who are both ready and able to perform the required tasks, and live and work effectively in the A&NZ working environments. The less ready and able a worker is, the more vulnerable they are to labour and welfare risks and potential impacts in Australia and New Zealand (refer below).

A key challenge for the GoPNG is to strike a balance between inclusion and meeting worker readiness requirements. The Draft PNG Labour Mobility Policy places a focus on workers from rural communities. Youth and women also feature prominently in the policy. The LMU, through the Operation Policy, has committed to equity in selection, recruitment and mobilisation of workers; and is seeking to address barriers including access to labour mobility services (which are typically limited to areas near provincial/district centres); literacy and English proficiency constraints; and cultural norms impacting women's involvement (see below). The LMU has also committed, to the extent possible, to include people with disabilities in employment opportunities. At the same time, the LMU is developing rigorous selection processes/criteria to ensure worker-readiness and employability.

The Project will provide TA to expand participation from disadvantaged groups through improved outreach and targeted preparatory assistance. General support for training of prospective migrant workers will also explicitly address needs of disadvantaged and vulnerable groups through soft skills and worker readiness. The Project's support to reduce pre-departure costs by bringing necessary pre-departure processing services and/or training to workers and to make available pre-departure loans will reduce up-front migration costs thereby reducing barriers for participation in the schemes. Project support for strengthened LMU and RRH liaison functions, stakeholder engagement activities and grievance redress mechanisms will also ensure the needs to disadvantaged and vulnerable groups are met.

#### **0.4.2.5 GENDER DIMENSIONS AND GENDER-BASED VIOLENCE**

##### **Gender equality**

Women experience numerous barriers to participating in overseas labour mobility opportunities, including cultural norms; disproportionately lower wage employment experience, education and literacy levels, and access to finance and financial literacy levels; gender-sensitive concerns, and pervasive gender biases in both employer preferences and sending country screening and selection processes. The GoPNG is taking steps towards addressing gender inequality in labour mobility. Under the Draft National Labour Mobility Policy, the LMU is committed to increasing the participation of women in overseas employment to 35% of all workers by 2025 as well as increasing spouse/family involvement throughout the labour mobility cycle.

The Project will provide TA to improve gender equity of the PNG Labour Mobility Programme including supporting female representation in leadership roles in the LMU and RRHs; strengthened community outreach and preparatory assistance to improve women's access to and/or involvement as spouses in overseas labour mobility opportunities; providing accessible financing options for covering pre-departure costs; and supporting gender-inclusive financial literacy training.

### **Gender-based violence (GBV)**

Violence against women, girls and boys is a common occurrence in PNG, with 63% of ever-married women aged 15-49 having experienced some form of intimate-partner violence in their lifetime (NSO and ICF 2019). There is no data available on the prevalence and nature of gender-based violence among Papua New Guinean households where a household member is participating in a labour mobility scheme. Across the Pacific there is anecdotal evidence of instances of violence against women while their partners are abroad, or by their partners upon their return from migrant work. However research to-date has established no causal link between GBV and the labour mobility programs.

The PNG Labour Mobility Program (as distinct from the Project) does not currently address the risk of GBV. The Project will provide TA to better understand and mitigate GBV risks and potential impacts for women whilst their partners are overseas. The Project will also support development of GBV awareness raising modules for workers and their families and communities in outreach and worker readiness and pre-departure; strengthening the LMU and RRHs worker and family welfare and liaison functions – including identifying local GBV referral and support services; support to strengthen reintegration including social integration programs for workers and their families; and GBV incident monitoring and research to better understand the potential impacts of labour mobility programs. GBV risks associated with the implementation of the Project, and specifically the risk of sexual exploitation and sexual abuse from Project Workers is included in the Project's Labour Management Procedures for Project Workers.

#### **0.4.2.6 COVID-19 TRANSMISSION**

There is a risk of COVID-19 transmission during services supported by the Project and the PNG Labour Mobility Programme. This risk affects migrant workers and their families and communities as well as Project workers. The LMU and the RRHs have introduced measures to prevent or minimize exposure as per GoPNG requirements (refer to the National Control Centre for COVID-19).

The Project has developed a COVID-19 Safety Protocol following PNG national guidelines, and good international industry practice including WHO and World Bank guidelines. The Protocol outlines principles and approaches to mitigate the risk of COVID-19 during the conduct of face-to-face consultation and engagement activities during project implementation.

#### **0.4.3 Risks and Potential Adverse Impacts: Host Countries**

Despite comprehensive regulatory frameworks in Australia and New Zealand, there have been well-documented issues of migrant worker exploitation in both countries. These issues, examined through several government enquiries and reviews, exist across all sectors. However, they have been found to be most pronounced in the horticultural sector, particularly amongst foreign workers employed outside of the SWP and RSES such as amongst essential skills workers, working holiday makers, international students/post study workers and undocumented migrant workers.

Pacific workers coming to Australia and New Zealand under the SWP and RSES are subject to additional protections and governance, compliance and assurance arrangements (refer to Section 0.3). The next sections examine the labour, working condition and welfare risks to temporary migrants and seasonal workers employed under the PLS, SWP and RSES; effectiveness of A&NZ regulations and programmatic risk mitigation measures in A&NZ; and additional measures that the GoPNG, with the support of the Project, can implement to further mitigate and manage these risks for PNG seasonal/migrant workers

#### **0.4.3.1 COMPLIANCE AND ASSURANCE**

The SWP, PLS and RSES all operate using an approved employer (AE) process. The AE process acts as a programme level compliance and assurance mechanism - with each scheme retaining the discretion to terminate agreements with individual employers. The approval process and reporting and monitoring of AEs under each scheme coupled with statutory and programmatic grievance mechanisms for workers to raise issues, minimizes the likelihood of employers being granted access who have a track record of breaching workers' contracts. When AEs (in Australia) or RSEs (in NZ) fail to comply with A&NZ regulations or additional programmatic requirements, they risk being removed from the AE/RSE list and no longer able to employ seasonal workers in subsequent seasons.

The compliance and assurance frameworks for the PLS and SWP have been strengthened in recent years with more resources being provided to enable site-based monitoring. Pacific Labour Mobility Officers will be based in states and territories to undertake additional welfare, monitoring, and compliance checks. In July 2020, the New Zealand Government announced a \$NZ50 million investment over four years to reduce the risk of temporary migrant worker exploitation in New Zealand, remove barriers to reporting exploitation, improve response systems for helping migrant workers, establish a new visa to support migrants to leave exploitative work situations and set up a free-phone number to receive and handle complaints.

#### **0.4.3.2 TERMS AND CONDITIONS OF EMPLOYMENT**

##### **Employment choice, Restrictions on Movement and Power Imbalances**

The SWP, PLS and RSES have been designed and are required to operate in accordance with Australian and NZ laws and international obligations concerning forced labour, modern slavery and human trafficking. Entry into the SWP & PLS and RSES is only open to workers above 21 and 18 respectively and is voluntary. Employees are free to accept or reject employment offers for each programme. Each programme has put in place mechanisms to ensure that workers are properly informed about the nature and conditions of these respective programmes. These are largely implemented by sending country governments in coordination with the respective programmes.

The SWP, PLS and RSES all allow workers to terminate their employment at any time, however because workers and their visas are typically linked to a specific employer and restrict movement to different employers, this has generally meant that workers then have to return home. This increases the risk of worker exploitation due to fears that actions against their employers will lead to the cancellation of their visa or in the case of SWP and RSE workers, impact their ability to return in future seasons. All three programmes have sought to address this issue by ensuring that in cases where employers have acted illegally or contrary to workplace legislation, relocation of workers to new employers will be facilitated. In addition, due to the COVID-19 situation, restrictions on worker movement between employers has been eased since mid-2020, and it is possible these changes will be maintained long-term. In terms of international mobilization costs, according to the LMU, employers bare the risk of these costs not being repaid by employees who leave or are terminated from their employment.

The Project will support the LMU to strengthen informed choice in recruitment and mobilisation arrangements and during worker readiness and pre-departure training activities; and provide enhanced support to workers through the LMU liaison function – ensuring that workers are better informed, supported and empowered to engage with employers and respective A&NZ agencies.

##### **Pay and Deductions**

SWP and PLS workers receive the same pay as Australian workers as outlined in industry-specific awards or registered employment agreements. Likewise, RSE workers are entitled to the same minimum rights as permanent employees under NZ law. The regularity of pay under the three schemes is stipulated in the employment agreements and is usually set weekly or fortnightly. Few concerns regarding the regularity of pay have been reported. The risk of underpayment including lack of worker understanding/complexity of piece



rate payments, overtime and holiday pay are key issues which A&NZ regulators and A&NZ programme compliance teams actively monitor. During consultations, the Australian FWO reported that the majority of payment related complaints received and investigated regarding AEs involved technical issues such as workers not receiving their pay slips. Similarly, the NZ Labour Inspectorate reported that few payment issues arise with RSEs; and those that do typically involve issues with implementing complex requirements of the NZ Holiday Act.

Employers under the three schemes make several deductions from workers' pay including for migration-related expenses which are covered by employers upfront. Under the SWP and RSES arrangements, employers are permitted to take 'reasonable instalments' as per written agreement. There have been reports of unlawful and/or excessive deductions under both programs – particularly for transport to and from work and for accommodation. According to the NZ Labour Inspectorate, the RSE Policy does not provide clear guidelines as to what constitute acceptable wage deductions other than stipulating that deductions have to be reasonable and necessary. Efforts are underway to tighten guidelines and increase employer compliance under the schemes in Australia and New Zealand. Despite pay deductions being covered under the pre-departure training for departing workers (including for PNG), some SWP, RSE and PLS workers fail to fully comprehend the pay deduction that they can reasonably expect.

The Project will further mitigate the risks concerning payment and deductions by providing TA to strengthen worker readiness and pre-departure training as well as communication and information dissemination tools to increase awareness and understanding about the rights and obligations of employers and employees concerning pay and deductions, the information and tools available through respective A&NZ programs and the agencies and the processes in place to resolve pay related issues.

### **Working hours and leave**

Working hours and leave entitlements of seasonal/temporary workers are regulated by national legislation. The main issues of concern regarding working hours are excessive working hours especially during harvest time and some employers failing to pay overtime.

PLS workers are employed on fixed-term contracts and have paid leave entitlements. SWP workers are defined as casual workers and are not entitled to paid leave and instead receive casual loading in their pay. Most RSE workers (on contracts up to 7 months) receive few or none of NZ's entitlements for leave which kick in after 6 months of continuous employment.

The Project will assist the LMU in educating workers about their entitlements so that they are fully aware of these. Workers on casual contracts without leave entitlement will be encouraged to set aside some of their earnings should the need arise to take days off.

### **Unionization**

SWP, PLS and RSE workers have the right to join a union. All programmes actively involve unions in programme implementation. Despite this union membership amongst these workers is low. Reported issues include reluctance of workers to pay union membership as well as discouragement/pressure from some employers for workers not to join.

The Project will support the LMU to raise greater awareness of the potential benefits of union membership through developing specific training modules on union membership for the pre-departure training; and to facilitate information exchanges with relevant unions. This will enable prospective workers to make informed decisions about whether or not to join a union.

### **Medical Cover**

Like other migrant workers, SWP, PLS and RSE workers do not have access to Australian or NZ free public health programs and are required to take out adequate personal health insurance. Under the SWP and RSES, employers are responsible for organising and ensuring workers have this cover. While SWP and RSE workers

are provided with information about insurance requirements, they typically have limited information about options (i.e. terms and coverage) before employers facilitate the purchase of their private health insurance. Similarly, there is only limited information for PLS workers to navigate the complexities of choosing the most appropriate cover.

The Project will support workers' access information on different private health insurance policies in order to be better informed and take informed decisions about the cover that might be most appropriate for them. The Project will also support an annual review of available insurance policies – drawing on policy info and experiences of workers; and provide this information to workers.

### **Superannuation**

Australia has a compulsory superannuation scheme under which 9.5% of gross earnings are paid by employers directly into a superannuation fund. This constitutes a mandatory savings scheme with potential positive impacts for workers and their families. The main issue around superannuation concerns the difficult process of SWP and PLS workers claiming their superannuation savings after leaving Australia. Temporary migrants including RSE workers are not eligible to enrol in KiwiSaver, NZ's superannuation scheme, and RSEs are not required to pay superannuation co-contributions for their workers under the RSEs.

The Project will support the LMU to assist SWP and PLS workers with claiming their superannuation savings after returning to PNG.

### **0.4.3.3 OCCUPATIONAL HEALTH AND SAFETY**

Occupational, health and safety risks exist in all workplaces and across all sectors. Australian and New Zealand Occupational Health and Safety legal and regulatory frameworks are strong, and seasonal and temporary migrants are protected under these laws. Workers in all industries receive relevant on the job training and PPE, as required by law in A&NZ.

OHS risks for temporary migrant and seasonal workers may be increased by cultural, language, lack of experience, and lack of understanding of A&NZ OHS standards. Workers may also be reluctant to report injuries due to a desire to maximise their income during their placement (MacDermott and Opeskin 2010).

To address these risks, the Project will support the LMU and RRHs to raise awareness and build the capacity of PNG seasonal/migrant workers in OHS through pre-departure and worker readiness training. The Project will engage an OHS specialist, to provide technical advice and support on OHS aspects during project implementation. Identify opportunities for strengthening OHS culture of PNG seasonal/migrant workers through engagement with leading PNG businesses and industries; develop and implement OHS learning modules for pre-departure and worker readiness to ensure PNG seasonal/migrant workers have sufficient knowledge of OHS and English skills to understand all health and safety instructions.

There is also an opportunity for strengthened collaboration with A&NZ agencies and approved employers to strengthen host country measures including on-arrival training, OHS learning material in Tok Pisin and Hiri Motu, and communicating key messages about OHS risks; and support the LMU through its liaison function, to provide support on OHS matters to PNG seasonal/migrant workers whilst on assignment, and monitor the quality of workplace inductions on occupational health and safety issues.

### **0.4.3.4 WELFARE AND LIVING CONDITIONS**

#### **Welfare and pastoral care**

PLS, SWP and RSE workers frequently face challenges in their daily lives outside the workplace. Many first-time participants experience culture shock when exposed to the lifestyle and culture in Australia/New Zealand and different behavioural expectations both at and outside of work. Many find the management of their finances and remittances challenging. Being overwhelmed with an entirely new situation is one of the factors

that has led to instances of antisocial behaviour including abuse of alcohol and alcohol-related incidents such as drunk driving and assaults.

All three A&NZ programmes have put in place stringent requirements and arrangements for worker welfare and pastoral care. Employers under these programs are required to provide/or assist workers with a range of welfare and wellbeing support services.

#### *A&NZ Welfare Resources*

Welfare resourcing arrangements differ for each program. SWP AEs must also appoint a “Welfare and Wellbeing Support Person” either from their organisation or from a Welfare and Wellbeing Provider within 300 kilometres of the worksite. In 2021 SWP arrangements have been further strengthened through an initiative to engage local community organisations to provide additional welfare services. This is in addition to the 19 Pacific Labour Mobility Officers who will be based in all States and Territories and will undertake additional welfare, monitoring, compliance and accommodation checks (refer above). Under the PLS, AEs are required to work with the PLS managing contractor and its Worker Welfare Team to obtain the necessary competencies in working with Pacific Islanders and to monitor the welfare of their workers. In NZ, the RSES has independent RSE Relationship Managers which work with both employees and employers to ensure that welfare requirements are met and any issues are quickly resolved.

#### *Sending Country Liaison Function*

In addition to the mechanisms provided by Australia and New Zealand, some sending country governments have appointed liaison officers based in Australia and New Zealand. Papua New Guinea has not appointed liaison officers in Australia and New Zealand and is instead recruiting a welfare officer to be based within the LMU who will be responsible for supporting workers while overseas.

It is envisaged that the welfare officer will be in contact and meet with workers in PNG before and after their assignment, and whilst they are in Australia and New Zealand. As the programme expands, provinces and districts may assign additional welfare officers that can help resolve issues focused on the welfare of workers and their families without having a mediating role between employers and workers.

The Project will support the LMU (and RRHs) to strengthen their liaison functions. This is a core component of project design and will include the provision of TA to support the development of a liaison strategy and action plan; the development of LMU (and RHH) liaison staff; development of communication and information dissemination tools; strengthening of grievance and incident management arrangements, and development and implementation of activities that support liaison functions across the labour mobility cycle (i.e. from worker readiness to worker reintegration).

#### **Worker Accommodation**

Worker accommodation is a key issue for workers under the three programs. Issues include poor and/or unsuitable facilities, overcharging and overcrowding. The three schemes closely regulate the accommodation and welfare requirements. Employers under the SWP and RSES must provide suitable accommodation to seasonal workers at a reasonable cost and comply with all relevant laws. There are detailed requirements as to the condition of the accommodation and the features that have to be included (such as hot water supply, adequate kitchen and dining facilities, adequate heating, etc). Under the PLS, where workers can stay for longer periods, accommodation is organized by the AEs or with assistance from PLF’s Worker Welfare Team. RSES’s compliance and assurance arrangements include site-based inspections of all accommodation on RSE application and every 2 years thereafter. PLS and SWP monitoring has relied more heavily on self-reporting and desk-based monitoring to-date, however these frameworks have been recently strengthened.

The Project will ensure workers are fully informed and have realistic expectations regarding their accommodation (including its cost and implication for salary deductions). Project support for the LMU’s liaison function, including grievance redress arrangements, will also better support workers who encounter issues relating to accommodation.

### **Communications and maintaining links with home**

Communicating and maintaining links with families and communities is a significant challenge for PNG seasonal/migrant workers. The costs of phone calls to PNG remains prohibitively high. While workers in Australia and New Zealand generally have good mobile phone and wifi reception at their accommodation places, some of their families in PNG have no internet access, especially if the families live in remote areas of the country.

The Project will support the LMU to address communication challenges by supporting awareness and capacity on the use of web-based communication tools and the establishment of communication hubs in RRHs to facilitate cost-effective communication between workers and their families.

### **0.4.3.5 GENDER DIMENSIONS AND GENDER-BASED VIOLENCE**

#### **Gender dimensions – Women workers in A&NZ**

There is limited data/research on the barriers female seasonal/migrant workers face whilst on assignment in Australia and New Zealand. Anecdotal evidence suggests that once in Australia or New Zealand female workers can experience a number of challenges including the lack of suitable/safe accommodation and facilities; women's health and safety issues (i.e. pregnancy, sexual exploitation and abuse or sexual harassment); poor access to appropriate health services in remote areas; and family pressures from home.

The Project will support the LMU to collect data and conduct research into the barriers for female workers from PNG participating in labour mobility programs in Australia and NZ; and provide targeted worker readiness and pre-departure training for female workers.

#### **Gender-based violence in A&NZ**

Anecdotal evidence points to incidents of gender-based violence and sexual exploitation and abuse and sexual harassment (SEA/SH) suffered by migrant workers in the recipient countries, both at the workplace as well as at the place of accommodation. Little is known about how widespread and severe such incidents are.

Sexual harassment is unlawful in Australia under the Sex Discrimination Act, and in New Zealand under the Human Rights Act (1993) and the Employment Relations Act (2000). The SWP and RSES implementation documents do not specifically address the issues of gender-based violence and sexual harassment other than to highlight A&NZ laws and expectations on the topics. The PLS implements DFAT's Preventing Sexual Exploitation Abuse and Sexual Harassment policy and has a specific SEA/SH grievance mechanism and incident reporting tools which have been adopted by the PLS.

The Project will support the LMU to include training modules on GBV and SEA/SH into pre-departure briefings including information on A&NZ redress mechanisms and support services; and to establish channels through which workers can communicate personal emergencies and GBV related complaints to the LMU. The project will also finance training and support to develop the capacity of the LMU to receive and respond to these specific cases.

### **0.4.3.6 COORDINATION ON GRIEVANCE REDRESS, INCIDENT MANAGEMENT**

The bilateral agreements between the Government of PNG (GoPNG) and Government of Australia (GoA) and Government of New Zealand (GoNZ) broadly outline the accountabilities and implementing arrangements for respective agencies in PNG, Australia and NZ. Roles and responsibilities for the timely response to grievances and incidents are held with the host country governments in coordination with sender country governments. These bilateral agreements are high level documents. All outline articles for cooperation on the management of risks and information sharing. Further detail on coordination and information sharing with respect to incidents (and grievances) is provided below.

### **Grievance redress mechanisms**

PLS, SWP and RSE workers have access to a number of grievance mechanisms in Australia and New Zealand. However not all workers utilize these mechanisms due to hesitancy to report issues which may impact their employment/visa status; or what they perceive as cumbersome and complicated processes. In response to these issues, the A&NZ programmes have strengthened grievance mechanisms and welfare and compliance resources in recent years (refer above).

The LMU encourages workers to use these mechanisms and provides information on these mechanisms and how to access them during pre-departure training. As discussed above, the LMU is also committed to establishing and maintaining relationships with employers and workers as an additional measure for ensuring that concerns and issues arising during placements can be effectively managed (LMU Operations Policy 2020).

The Project will provide TA to strengthen the LMU and RRHs liaison functions including supporting PNG seasonal/migrant workers to raise and resolve complaints using A&NZ grievance mechanisms. The liaison function, and specifically communication and information dissemination tools, is expected to assist PNG seasonal/migrant workers in ensuring their concerns are addressed by AEs and relevant authorities promptly and effectively. A&NZ programs have established mechanisms for coordinating with sender country governments on complaints (as well as incidents) – refer below, and the LMU will utilise and strengthen these existing arrangements. The project will support the LMU to develop capacity to ensure facilitation of A&NZ grievances is done discreetly, in a culturally appropriate manner, and sensitive and responsive to the needs of the worker. Pre-departure training supported by the project will include strengthened modules, activities and materials on grievances, A&NZ grievance redress mechanisms, and LMU (and RHH) liaison support. The project will support the LMU to develop grievance tracking and reporting tools. These tools will enable the LMU to monitor the status/resolution of grievances, report, and evaluate the functioning of the liaison/grievance function, and identify key issues/trends which can be further addressed by the LMU during in-country preparation and mobilisation activities.

### **Incident Management**

The PLS and SWP both have incident management processes which outline AE responsibilities for reporting and managing critical and non-critical incidents. PLS has recently released a 'First Response Escalation Process' which provides further detail on the management of low risk (level 1), medium risk (level 2) and high risk (level 3) complaints/issues and incidents. This includes the requirement to notify Labor Sending Units and HOMs for all high risk (level 3) matters. Any engagement between the LSUs such as the LMU and Australian Agencies for both PLS and SWP is coordinated by the PLF and DFAT. The RSES utilises the Labour Inspectorate and Worksafe NZ's incident reporting frameworks. . MBIE has four RSES Relationship Managers that work to support workers and employers. RSE employers are required to contact the relevant RSE Relationship Manager as soon as possible to report any incident involving their seasonal workers. There are also two Relationship Managers within the Toso Vaka O Manu programme who have recently extended their role beyond liaison with sender country governments, to building relationships within New Zealand including with liaison officers, high commission staff, employers and workers.

The Project, through its support for strengthened LMU liaison functions will establish processes and systems to support referral and response, and track and report on critical and non-critical incidents involving PNG seasonal/migrant workers that occur whilst they are on assignment in Australia and NZ. Information on these incidents will be shared with the World Bank through regular project reporting. The LMU will provide individual incident information to the World Bank for critical incidents outside of regular progress reporting, and in a timely manner.

The Project technical assistance will also support the LMU to strengthen coordination on critical/high risk grievance and incident response with the PNG Department of Foreign Affairs and High Commissions in Australia and NZ.

## 0.5 Social Management Plan

The LMU has developed an SMP outlining key measures to ensure that Project related risks and potential adverse impacts for migrant workers, and their families and communities are avoided, mitigated and managed during Project implementation. This includes measures within the project's control to further mitigate risks to PNG seasonal/migrant workers in Australia and New Zealand.

### 0.5.1 Social Risk Mitigation Measures

Key social risk mitigation measures have been integrated into Project design and include:

- **Equitable access to labour mobility opportunities:** Support for equitable worker selection policies and procedures; improved community outreach; targeted support for women and other vulnerable and disadvantaged groups; and provision of loans to finance pre-departure costs.
- **Informed and prepared migrant/seasonal workers:** Strengthening worker readiness and pre-departure training; and support financial literacy training to ensure that PNG seasonal/migrant workers (and their families) are better informed and prepared to benefit from and manage labour, working condition and welfare risks associated with overseas work.
- **Involved and prepared families and communities:** Strengthening engagement and involvement of worker's families and communities in labour mobility decision making, financial decision making and preparatory/reintegration activities; and support for improved communication facilities which between overseas workers and their families.
- **Supporting migrant/seasonal workers (and their families):** Strengthen the LMU (and RHHs) worker liaison and A&NZ agency coordination functions to better support workers and their families whilst workers are overseas including use/development of communication, information sharing and worker welfare monitoring tools (i.e. WhatsApp and/or tailored app; online survey tool) and enhanced capacity, processes and systems for supporting workers to use and navigate A&NZ grievance mechanisms and for LMU coordination with PNG High Commissions and A&NZ agencies.
- **Reintegration and development:** Strengthen support and assistance for returning workers and their families including identification and/or supporting employment, business development and social reintegration support services (i.e. psychological and emotional well-being, family counselling and GBV services).

The following risk mitigation instruments and tools will also be implemented:

- **Social and conflict analysis tool** to inform risk management planning in programme design, stakeholder engagement and grievance management
- **COVID-19 Response Protocol** to manage the risk of COVID-19 transmission between project workers and project beneficiaries.
- **Stakeholder Engagement Plan** and **Grievance Redress Mechanism** to ensure effective public consultation, information dissemination, enhanced social accountability and project related grievance management.
- **Labor Management Procedure** and **Worker Grievance Redress Mechanism** to manage labour and working condition risks for Project workers and related grievances.
- **Environmental and Social Code of Practice** to manage risks associated with small scale construction activities.

### 0.5.2 Social Monitoring and Reporting

LMU will monitor and report on the implementation of project TA and activities; the implementation of the ESCP, SMP, SEP and LMP; as well as any grievances or incidents relating to project implementation in PNG. LMU will also utilise its strengthened worker liaison and A&NZ agency coordination functions to monitor and report on the status of PNG seasonal/migrant workers on assignment in A&NZ, as well as any labour, working condition or welfare related issues, grievances and/or incidents.

### 0.5.3 Implementing Arrangements

A project management unit (PMU) will be established and housed within the LMU to support implementation. The **LMU Director** will provide oversight and support coordination of Project implementation across PNG government departments, with Provincial Authorities and with A&NZ governments and labour mobility programs. An LMU **Welfare and Liaison Officer** is expected to be recruited by December 2021. This position will be responsible for worker liaison/labour and welfare functions being supported by the Project.

A Project Management Unit (PMU) will be established within the LMU (and regional administrations where required) to support project implementation. The PMU will be headed by a Project Manager and include at a minimum a Financial Management Specialist, Procurement Specialist, M&E Specialist, Social Risk and Welfare Specialist and Admin Officer.

The PMU will include technical advisers to support E&S risk management and the implementation of the SA/SMP and associated instruments. A **Social Risk, and Welfare Specialist** will function as a core member of the PMU and will support the PMU Project Manager to ensure that social risks are managed in accordance with the Project's legal and other requirements. A **Gender and GBV Specialist** (part time) will support the PMU Project Manager to ensure that gender and GBV risks are managed. Other specialists will include a Labour and Working Conditions Specialist and OHS Specialist who will be engaged through project TA.

### 0.5.4 Training and Capacity Building

The Project will finance a fully staffed PMU to provide technical assistance to the LMU. The PMU will conduct an institutional capacity assessment and develop a capacity development program consisting of formal and on-the-job training and professional development activities.

### 0.5.5 Social Management Budget

Key social risk mitigation measures have been integrated into the main project design and included in relevant component implementation budgets.

The budget for the implementation of other risk mitigation tools and instruments, and ongoing monitoring and reporting is included in the overall costs of Social Risk and Welfare Specialist (\$250,000) and part-time Gender and GBV Specialist (US\$125,000).

Other technical specialists such as an Occupational Health and Safety Specialist and Labour and Working Conditions Specialist will be supplied through project supported technical assistance activities.

# 1 Introduction

## 1.1 Background: Labour Mobility for PNG seasonal/migrant workers

Papua New Guinea (PNG) has special access to three main labour mobility schemes in Australia and New Zealand, together with other Pacific island countries (and Timor Leste). These include New Zealand's Recognised Seasonal Employer Scheme (RSES) and Australia's Seasonal Worker Programme (SWP) and Pacific Labour Scheme (PLS).

Despite having access to these programs for several years, PNG seasonal/migrant worker participation has been extremely low to date. In the five seasons between 2015/16 and 2019/20 a total of only 516 PNG seasonal/migrant workers participated in the SWP (averaging 103 per year), representing less than 1.5% of the total number of SWP workers sourced from the Pacific (and Timor Leste) over the same period. Similarly, a total of 619 PNG seasonal/migrant workers participated in the RSE in the five seasons between 2015 and 2020 (averaging 124 per year), also representing less than 1.5% of the total number of RSES workers over the same period. The PLS was only launched in 2018 and no PNG seasonal/migrant workers participated in the first year of operation when a total of 203 workers participated from the Pacific. In March 2020, when Australia closed its international borders due to the COVID-19 pandemic, 55 workers from PNG were in the country under the PLS.

In 2019, the Government of PNG (GoPNG) embarked on a series of institutional and policy reforms to increase the number of temporary and seasonal overseas workers overseas (hereafter PNG's Labour Mobility Programme).

Responsibility for labour mobility was moved from the Department of Labour and Industrial Relations (DLIR) to the Department of Treasury (DOT) which established the Papua New Guinea Labour Mobility Unit (LMU). The LMU has established policies and frameworks for labour mobility to deliver an efficient service with the overall aim being an increase in the number of workers from PNG moving to Australia and New Zealand under the three existing programmes to reach 8,000 per year by 2025.

In 2019 PNG introduced a regional recruitment model, focused particularly on recruitment for agriculture and food processing industries. The Regional Recruitment Initiative (RRI) began as a pilot programme with five regions (Enga Province, Madang District, Kavieng District, Goilala District and Obura-Wonenara District). It has since been extended to include 12 regions to take opportunities out to workers in rural districts and provinces.

## 1.2 The Project: Enhancing Labor Mobility from PNG

The GoPNG has requested World Bank financing for the *Enhancing Labor Mobility from PNG Project* (hereafter 'the Project') to support current efforts to expand PNG's participation in outward labour mobility. The Project will be implemented by the Department of Treasury (DOT) in PNG, through its Labour Mobility Unit (LMU) which is responsible for coordinating PNG's Labour Mobility Program.

The Project Development Objective is to strengthen government systems in Papua New Guinea that support workers and their households to benefit from overseas employment opportunities, with a focus on women and disadvantaged groups.

The primary **Project beneficiaries** are current and prospective seasonal/migrant workers and their families from across PNG. The Project will not place PNG seasonal/migrant workers overseas. Rather, the Project will support the design and operation of the PNG labour mobility initiatives across the labour mobility cycle including worker selection, recruitment and mobilisation; support whilst undertaking overseas employment; and return/reintegration. All project activities will be implemented in PNG through the LMU.



### 1.3 Social and Environmental Considerations

The Project, through its support in strengthening PNG's Labour Mobility Programme, is expected to provide significant benefits to workers and their families and communities, including increased employment opportunities, skills development, and income and economic development opportunities. Participation in the Project and PNG's Labour Mobility Programme is voluntary and selected workers and their families will be fully informed on the risks and impacts as well as how these risks will be managed.

Nevertheless, some social risks are associated with the Project and the broader labour mobility initiative in both PNG and the receiving countries. In PNG, these include: i) real or perceived inequities regarding access to project-supported services and overseas work opportunities and the associated potential for social conflict; ii) potential negative impacts on families and communities relating to the absence of seasonal workers, iii) the potential for gender-based violence, which is already prevalent in PNG, to be exacerbated; iv) COVID-19 transmission associated with the conduct of project activities in target communities. In Australia and New Zealand, social risks include: i) the possibility for poor working conditions and worker exploitation; ii) occupational health and safety issues; iii) the possibility for poor living conditions and other welfare issues; and iv) gender-based violence.

Assessing and addressing these risks through Programme design and operation is fundamental to ensuring the long-term success of labour mobility in PNG. The Project is expected to make a significant contribution to the management of these risks through the provision of technical assistance and financing activities that strengthen the design and operation of PNG's Labour Mobility Programme.

While labour and welfare risks in host countries are being managed under the existing Australian and New Zealand labour mobility programmes, with all work undertaken as part of these programs governed by Australian/New Zealand labour legislation, the Project is also expected to assist the GoPNG in better understanding and further addressing these risks through the strengthening of sending country processes and initiatives.

### 1.4 Objectives and Scope of the Social Assessment

The Project will be implemented in accordance with the World Bank's Environmental and Social Framework (ESF) and relevant PNG laws.

This Social Assessment has been prepared by the LMU to examine the social risks and potential impacts associated with the Project and its support for PNG's Labour Mobility Programme; and present a plan with measures for eliminating, reducing, managing and monitoring these impacts during the implementation of the Project.

As per the requirements of the Bank's Environmental and Social Policy for Investment Project Financing the scope of the assessment covers the risks and potential impacts of the Project including i) technical assistance to strengthen policies, procedures and systems of the existing PNG labour mobility Programme as relevant and appropriate, as well as ii) activities such as pilot programs, training programs and loan facilities. The scope of the assessment also covers an analysis of the risks and potential impacts for PNG seasonal/migrant workers whilst they are participating in the PLS, SWP and RSES including the consideration of the A&NZ regulatory environments and additional risk mitigation measures that have been put in place by these programs.

Specific objectives of the Social Assessment and Social Management Plan are to:

1. Identify and assess (with reference also to enforcement) the legal and other requirements for the project including World Bank ESSs and domestic laws in PNG and host countries (Australia and New Zealand);
2. Identify and assess the project related social risks and potential impacts of the operation in Papua New Guinea and the target host countries of Australia and New Zealand with a focus on temporary migrant /seasonal workers, their families and communities, and vulnerable and disadvantaged groups;

3. Develop measures to reduce and manage identified social risks through both project design and project implementation and a practical plan for implementing;
4. Facilitate effective, inclusive and culturally appropriate engagement with all relevant stakeholders to inform project design and outline a plan for continuing engagement activities during project preparation and implementation in a COVID-19 safe way;
5. Develop (i) a robust Grievance Redress Mechanism to manage project-related complaints and grievances in PNG, Australia and New Zealand (drawing on existing processes where possible and appropriate) and (ii) specific protocols for responding to issues relating to Sexual Exploitation and Abuse / Sexual Harassment;
6. Actively support and enhance skills within LMU.

## 1.5 Methodology and Limitations

The Social Assessment is based on a review of secondary sources and stakeholder consultations.

Key policy and Programme documents for the PNG labour mobility Programme and the A&NZ programs were reviewed. Other documents including Programme reviews, academic publications, media reports, studies by trade unions and other organisations were also used during the conduct of the assessment (refer to the Reference Section).

Stakeholder consultations on the Social Assessment were conducted as per the requirements of ESS10 and ESS7. Meetings were conducted with national government agencies, representatives from regional administrations in PNG; and PLS, SWP and RSES implementing agencies/contractors, regulators in Australia and NZ. More detail on these consultations is provided in Section 8.1.1. A list of stakeholders consulted is provided in Annex 1. Due to COVID-19 restrictions, it was not possible to conduct consultations with sending communities. Instead, a range of information dissemination strategies was employed. Focus group discussions were also conducted with approximately 20 outgoing SWP workers to inform the assessment (see Section 8.1.1).

The social assessment was conducted alongside the project design process and was used to inform project design and mitigation measures.

The social assessment includes an analysis of ESS2 as a benchmark against A&NZ law as well as a review of the governance arrangements and functioning of the PLS, SWP and RSES. This work has been used to inform the assessment of risks and potential adverse impacts for PNG seasonal/migrant workers while participating in these host country programs. As the Project has no direct relationship with these programs or A&NZ governments, the SA focuses on presenting measures to further mitigate these risks that are within the project's control – i.e. ensuring workers are informed of the risks, their rights, and are provided with additional support by the GoPNG to raise and seek timely resolution of relevant issues.

## 1.6 Report Structure and Annexes

The SA is structured into eight main Sections and four Annexes. Following this introductory Section, the report is structured as follows:

**Section 2: Project Description and Design Details:** This Section provides an overview of the current labour mobility arrangements and opportunities for PNG seasonal/migrant workers and a description of the components and activities that will be financed by the Project to support further development of PNG's labour mobility Programme.

**Section 3: Relevant Legal and Policy Frameworks:** This Section provides an overview of the World Bank's Environmental and Social Framework (ESF) and PNG legal requirements for the Project, as well as Australian and New Zealand laws relevant to the assessment of labour and working condition risks in these countries

**Section 4: Review of PNG and A&NZ Labour Mobility Programmes:** This Section discusses the Labour Mobility Arrangements in PNG including the role of the Labour Mobility Unit within the Department of Treasury (LMU) and the recently established regional recruitment model, as well as the implementation arrangements of New Zealand's Recognised Seasonal Employer (RSE) Scheme and Australia's Seasonal Worker Programme (SWP) and Pacific Labour Scheme (PLS). This is followed by a benchmarking analysis of ESS2 against Australian and NZ Legislation and Labour Mobility Schemes.

**Section 5: Potential Social Impacts and Management Measures:** This Section summarises the potential social and economic benefits of PNG's participation in labour mobility schemes. This is followed by a discussion of the risks and potential adverse impacts associated with increased labour mobility. Measures to manage and mitigate these risks are outlined.

**Section 6: Social Management and Monitoring Plan:** includes agreed E&S risk and design controls, mitigation and management measures; a monitoring and reporting framework; and institutional arrangements for implementation.

**Section 7: Public Consultation and Information Disclosure:** This Section provides an overview of stakeholder engagement, consultation and disclosure throughout the project cycle, based on the Project's Stakeholder Engagement Plan.

**References and Annexes:** The reference section outlines the documents reviewed during the conduct of this assessment. The annexes include a list of stakeholders consulted; environmental and social due diligence of the proposed loan facility; an environmental and social code of practice (ESCOP); social management plan table; and background paper on the socio-economic characteristics in the Project area.

This report should be read in conjunction with other instruments developed to identify and manage project-related E&S risks including:

- **Stakeholder Engagement Plan (SEP)** – The SEP defines a programme for stakeholder engagement around the Project, including public information disclosure and consultation, throughout the entire project cycle.
- **Labour Management Procedures (LMP)** – The LMP defines the Project workforce and sets out how Project workers will be managed under the requirements under PNG law and ESS2.
- **Environmental and Social Commitment Plan** – The ESCP is a legally binding document which sets out the material measures and actions required for the project to meet the ESSs.

## 2 Project description and design details

### 2.1 Project description

#### *Project Development Objective (PDO)*

The proposed PDO is to strengthen government systems in Papua New Guinea that support workers and their households to benefit from overseas employment opportunities, with a focus on women and disadvantaged groups

### 2.2 Project Beneficiaries

The primary Project beneficiaries are current and prospective seasonal/migrant workers from across PNG and their families. The project beneficiaries will fall into the following three groups:

- Outreach and training (worker readiness and financial literacy) support: Low or semi-skilled workers seeking employment and their families, with special outreach and support to those living in remote rural areas and females. This will cover regions where RRHs are established and will expand further to other regions as respective RRHs are established. 10,000 beneficiaries are expected.
- Support to improve access to formal employment opportunities: Low or semi-skilled prospective migrant workers who signed RSE, SWP or PLS job contracts, including those who do not have access to formal financial services, and their families. 5,000 beneficiaries are expected.
- Reintegration support: Migrant workers returning to PNG after completing labor contracts under RSE, SWP, or PLS. Low or semi-skilled young female returnees. 2,500 beneficiaries are expected.

### 2.3 Project Implementation Arrangements

The Project will be implemented by the Department of Treasury through the LMU which is the independent national entity tasked with administering labour mobility from PNG. The LMU reports to a High-Level Ministerial Steering Committee on labour mobility which is comprised of MPs and chaired by the Deputy Prime Minister. The LMU is yet to be fully staffed. The Department of Personnel Management has approved 13 positions for the LMU. The LMU will closely collaborate with RRHs and the regional and district administrations from where recruitment occurs.

### 2.4 Geographical Scope of the Project

The Project will support the design and operation of the PNG labour mobility initiatives across PNG. Project activities will be implemented in Port Moresby and regional areas from where recruitment for the three schemes occurs. Currently, this is taking place in 12 regions, with the number increasing further. Support under the project will be directed towards the LMU as a national level institution, and towards regional recruitment hubs as sub-national institutions. These national and sub-national institutions will conduct project activities targeting migrant workers, their families and communities.

### 2.5 Project Components

The Project is structured around four (4) components as outlined below. The relationship between these components and the project development objectives is outlined in Figure 2-1.

#### **Component 1. Strengthen systems and worker readiness to enhance benefits from overseas employment opportunities**

This component will strengthen GoPNG's systems and processes that support the efficient selection, recruitment and mobilization of workers. Support under the component will take the form of technical assistance and resources for the LMU, some of which will be used to support regional recruitment hubs, and the provision of training to prospective workers. Component 1 has the following sub-components:

- Sub-component 1.1. Technical assistance and resources to strengthen systems that support efficient selection, recruitment and mobilization. The sub-component will assist the LMU to improve administrative systems that support selection, recruitment and mobilization of workers, including through support for RRHs. The sub-component will support placement of advisors in the LMU who will build capacity of LMU and RRH staff, assist in the building of efficient and effective administrative systems in both the LMU and RRHs, while also providing resources for such activities. In addition, this sub-component will support the LMU to establish a communications center in districts/ provinces where aspiring workers have limited access to information about labor mobility opportunities, as well as about cost and benefit of labor mobility
- Sub-component 1.2. Worker readiness training for aspiring migrants. This sub-component will finance the development and delivery of worker readiness training for aspiring migrants. Skills and capacity training that can be offered to aspiring migrants will be identified and training will be tailored to employer-needs and will be focused on ensuring workers have basic skills necessary for employment, with a focus on soft skills, including English language skills, necessary for success in the workplace. Training would have a gender-specific focus (e.g., including topics around gender-based harassment prevention and identification).
- Sub-component 1.3. Technical assistance to facilitate linkages between Australian and New Zealand employers and the LMU/ RRHs. This project will support the development of the LMU's outreach function and build links with employers and industry. Regular virtual forums/workshops would be supported in which Australian/New Zealand employers engage with the LMU and regional hubs to build relationships and solve issues
- Sub-component 1.4. Technical assistance to enhance support to workers overseas. This sub-component will support the LMU to develop its worker liaison and support functions and to work with RRHs to extend support activities to migrant families in PNG.

## **Component 2. Enhance equity in access to labour mobility opportunities for PNG seasonal/migrant workers**

The Project would enhance equity in access to labour mobility opportunities for PNG seasonal/migrant workers through outreach activities and enhanced preparatory activities, as well as support for financial inclusion. Component 2 has the following sub-components:

- Sub-component 2.1. Expand participation among disadvantaged groups through outreach and preparatory assistance. To increase inclusiveness of international labor mobility, this sub-component will support the development of effective and efficient means to reach and support job seekers from rural and remote areas, in particular females and other disadvantaged groups
- Sub-component 2.2. Support for financial literacy and inclusion. This sub-component will offer tailored financial literacy training to labor migrants and their households to: (i) support household financial management and decision-making, assisting project beneficiaries to manage income, loans, and to plan and budget expenditure and savings (with other financial aspects of labor mobility also covered); (ii) improve financial inclusion and engagement in the households' financial decision-making by female household members; and (iii) educate workers and their households about remittance service providers and their different services
- Sub-component 2.3 Technical assistance on loan product design. The design will take into account sub-component needs including cashflow estimates and portfolio reporting templates, a loan communications strategy, and other operational aspects
- Sub-component 2.4. Financing for loans to cover documentation costs. Following the TA in sub-component 2.3 and as the number of participating workers increases, the project will support the development of a loan facility under which prospective workers have an option to voluntarily borrow to cover the cost to prepare required documentation (including domestic travel) before departure.

**Component 3: Boosting household impacts from employment overseas**

This component aims to boost the development impact of labor mobility for labor-sending households and their communities by supporting the reintegration of returned workers. Support under the component will take the form of technical assistance and resources necessary to design and facilitate the delivery of support services.

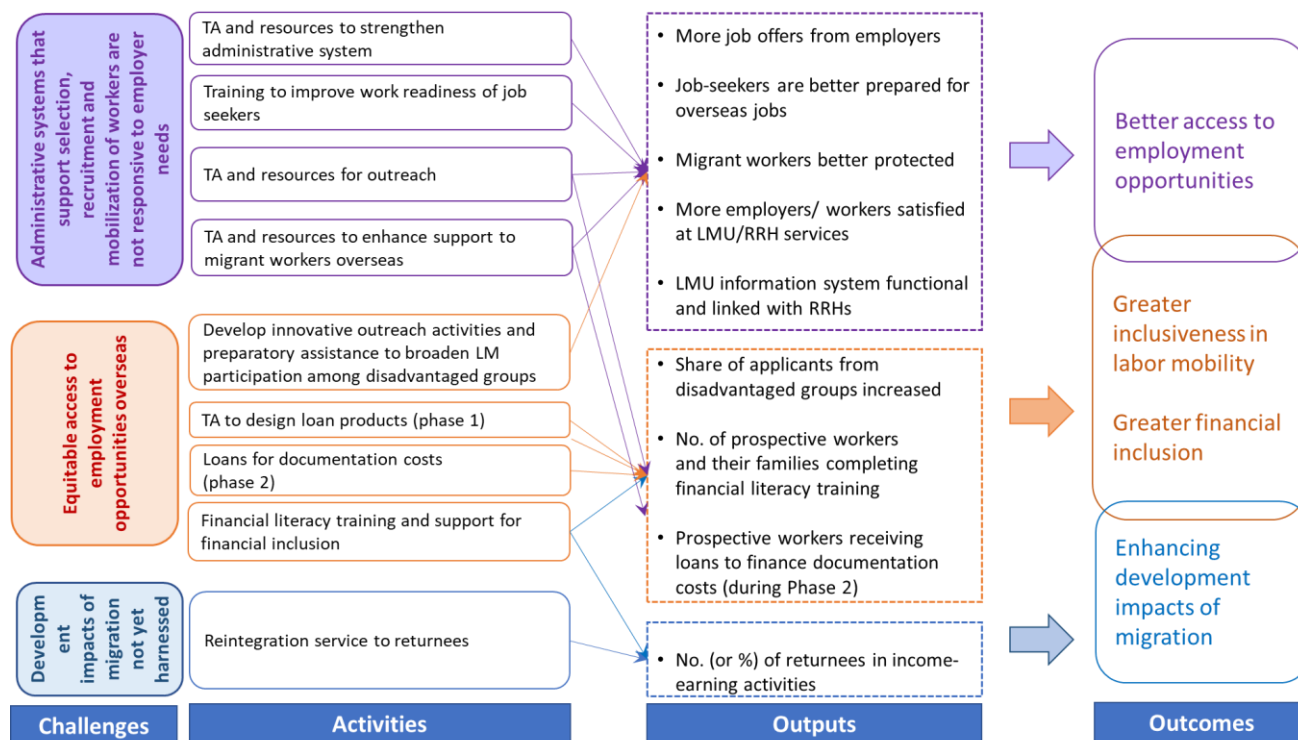
This component would support the design and development of reintegration support services aimed at ensuring smooth, successful integration of returned migrants in PNG, thereby enhancing the benefits of migration for individuals, migrant families and their communities. Diagnostic TA activities would be first undertaken to identify appropriate reintegration support services, as there is currently no reintegration support provided in PNG. The project would support the development of a whole-of-government reintegration strategy, outlining both LMU support as well as other referral services available to returnees (such as active labor market policies (ALMPs) offered by the Department of Labour and Industrial Relations).

Successful reintegration support will inevitably vary for workers and across districts of PNG, highlighting the importance of involving local stakeholders such as RRHs and domestic employers. It is envisaged that the LMU, in developing reintegration strategies, would play a brokering role linking sending households and returning workers to employment/income generating opportunities and to a range of services. The project would support a TA function to develop that brokering role, with consultants brought on board requiring deep industry/sector knowledge and networks. The project would also support the design and delivery of key trainings for sending household members and returning workers. This would likely include leadership training, given that returned workers are commonly held in high esteem in their communities, as well as financial management and business training which builds on financial literacy training offered in 2.1 and which could include guidance on developing a sound business plan that takes into account demand, access to markets, outlooks, and risks associated with shocks such as COVID-19 (with potential referral services to complementary facilities such as microfinance, noting that many workers will have savings and already have a financial history having borrowed funds with support from the project). The LMU would maintain a database of returned workers and support that is provided.

**Component 4. Project management and results monitoring**

This component will finance the administrative, implementation and management costs of the project. A project management unit (PMU) would be established and housed within the LMU to support implementation. It will support incremental operating costs of the PMU, including consultants for technical and administrative roles in the PMU. This unit would house relevant advisors recruited under the project, with advisors working closely with LMU staff and regional recruitment hubs in order to build capacity and fully develop the labor sending systems envisaged by the Government of PNG. This component would support regular project monitoring and evaluation which would employ quantitative and qualitative methods. The PMU would be resourced as a minimum with a Project Manager, Financial Management Specialist, Procurement Specialist, Social Risk and Welfare Specialist, and M&E Specialist..

Figure 2-1 Project Results Chain



### 3 Legal and Policy Frameworks

The Project will be implemented in accordance with the World Bank's Environmental and Social Framework (ESF) and PNG Law. The key legal and policy requirements and institutional arrangements are summarised below. Laws and institutional arrangements relevant to the assessment of risks in Australia and New Zealand are also presented.

#### 3.1 Legal and Other Requirements

##### 3.1.1 World Bank Environmental and Social Framework

The [World Bank Environmental and Social Framework \(ESF\)](#) sets out the World Bank's commitment to sustainable development, through a Bank Policy and a set of Environmental and Social Standards that are designed to support Borrowers' projects, to end extreme poverty and promote shared prosperity. The ESF outlines 10 Environmental and Social Standards (ESS) for the management of environmental and social risk.

The World Bank's E&S due diligence identified the following risks associated with the Project and the broader mobility initiative. The ESSs that are relevant to the Project include:

- ESS1 Assessment and Management of Environmental and Social Risks and Impacts
- ESS2 Labour and Working Conditions
- ESS4 Community Health and Safety
- ESS7 Indigenous Peoples
- ESS9 Financial Intermediaries
- ESS10 Stakeholder Engagement and Information Disclosure

ESS2 - Labour and Working Conditions apply to **Project workers** – i.e. those workers employed to implement project financed activities. While ESS2 is not directly relevant to the **Project beneficiaries** of this operation, who would not be considered project workers, it is being used for the purpose of this assessment as the basis for assessing the risks program beneficiaries may face as program participants.

ESS2 recognizes the importance of employment creation and income generation in the pursuit of poverty reduction and inclusive economic growth. ESS2 objectives are to: i) promote safety and health at work; promote fair treatment, non-discrimination and equal opportunity of project workers; ii) protect project workers, including vulnerable workers such as women, persons with disabilities, children (of working age, in accordance with ESS2) and migrant workers, contracted workers, community workers and primary supply workers, as appropriate; iii) prevent the use of all forms of forced labour and child labour; iv) support the principles of freedom of association and collective bargaining of project workers in a manner consistent with national law; v) provide project workers with accessible means to raise workplace concerns.

##### 3.1.2 Papua New Guinean Legal and Policy Framework

###### 3.1.2.1 LABOUR AND WORKING CONDITIONS

Key legislation relating to labour and working conditions for workers in PNG and for **Project Workers** include:

- The **Constitution of the Independent State of Papua New Guinea** was adopted in 1975 and contains several relevant articles. It guarantees equality of citizens, freedom of assembly and association, and freedom from inhuman treatment and forced labour.
- The **Employment Act of 1978** is Papua New Guinea's main piece of labour legislation which regulates terms and conditions of employment. The **Employment Regulation of 1980**, amended in



2006, operationalises the Employment Act. The employment of non-citizens is regulated by both the Employment Act and the **Employment of Non-citizens Act 2007**.

- The **Industrial Relations Act 1962** regulates freedom of association, collective bargaining and industrial relations. Other employment issues are governed by about a dozen other Acts. Papua New Guinea's labour legislation is a largely outdated labour law framework and is not well aligned with many of the ILO Conventions ratified by Papua New Guinea. A review of the Employment Act and the Industrial Relations Act 1962 has been underway for several years. In 2014, the Employment Relations Bill, which is an amalgam of the two Acts, was read in Parliament. It has not yet become law.

The Department of Labour and Industrial Relations (DLIR) is responsible for the administration of labour policy and associated activities, including industrial relations, labour inspection and employment services.

The Labour Management Procedures (LMPs) developed for this Project set out how **Project workers** will be managed under the requirements of PNG law and ESS2 to ensure proper working conditions and management of worker relationships, occupational health and safety, and to prevent sexual exploitation and abuse and sexual harassment, and outlining relevant training plans.

### 3.1.2.2 GENDER-BASED VIOLENCE

No law in PNG addresses all aspects of gender-based violence, and domestic violence in particular. In 2002, PNG introduced the [Criminal Code \(Sexual Offences and Crimes Against Children\) Act](#) (which falls under the Criminal Code). The Act, which amended several sections of the Criminal Code, covers rape (including marital rape), sexual assault and child sexual exploitation. The offences are graded according to the seriousness of the harm and incorporate how women are sexually violated. Tougher sentences were introduced, the marital immunity that had previously protected husbands from a charge of rape was removed, and the requirement for corroboration was removed.

Enacting the Sexual Offences and Crimes Against Children Act signifies an important step toward protecting the basic rights of women in PNG. However, there remain shortcomings in the implementation of the Act (Amnesty International, 2009), as well as a lack of other laws addressing other specific forms of GBV including domestic violence and sexual harassment. There is no specific legislation criminalising domestic violence and therefore domestic violence cases currently fall under the [Criminal Code](#) under which victims of domestic violence rarely get justice.

In addition to national legislation, PNG ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)<sup>3</sup> in 1995 which is often described as an international bill of rights for women, defining what constitutes discrimination against women and setting up an agenda for national action to end such discrimination. By accepting the Convention, States commit themselves to undertake a series of measures to end discrimination against women in all forms. Countries that have ratified or acceded to the Convention are legally bound to put its provisions into practice.

The PNG Government has adopted several national policies and strategies with particular relevance to increasing combatting GBV and increasing women's participation in the economy.

The [National Public Service Gender Equity and Social Inclusion \(GESI\) Policy](#) was officially launched in January 2013. The National Public Service (NPS) is the largest employer in PNG and the Policy's development was triggered by increasing awareness of the unequal representation of women in its workforce as well as the prevalence and impact of domestic violence throughout the NPS workforce. The Policy provides a framework for the promotion and implementation of gender equity and social inclusion principles across all National Government Departments, Provincial, District and Local Level Government Administrations and other agencies. The Policy is designed to be mainstreamed into governance systems and structures throughout the public service and is now officially recognised through the Public Services (Management) Act 2014. The

<sup>3</sup> <https://www.ohchr.org/documents/professionalinterest/cedaw.pdf>

Policy's implementation involved a range of initiatives including training and awareness workshops, provincial pilot programs, implementation, the establishment of GESI focal points in government agencies and the emergence of a Women in Leadership group. Given the size of PNG's NPS and the logistical and technical challenges of reaching all areas implementation has been slow.

The [National Strategy to Prevent and Respond to Gender Based Violence, 2016-2025](#) was launched in March 2017. The Strategy was developed to harmonise a national approach strengthening coordination, implementation and monitoring of GBV programs in various government agencies at the national and sub-national level. The lead Government department responsible for coordinating the Strategy is the Department for Community Development and Religion<sup>4</sup>. The Strategy's four key objectives are: (1) to ensure that by 2025 the Government of PNG has a functioning GBV communication and reporting structure supporting the achievement of zero tolerance towards GBV; (2) to standardise and institutionalise data collection, and facilitate ongoing in-depth research to support evidence-based planning, budgeting and programming to end gender-based violence; (3) to ensure quality, continuity and sustainability of coordinated responses, referrals and service delivery for survivors of gender-based violence; (4) to scale-up, decentralise, and standardise inclusive, quality initiatives and messaging for prevention of gender-based violence at all levels and in all sectors of society. A lack of funding has to date stalled the implementation of the Strategy.

## 3.2 Other Relevant Legal and Policy Frameworks

### 3.2.1 Australian Legal and Policy Framework

#### 3.2.1.1 LABOUR AND WORKING CONDITIONS

Australia has ratified seven of the eight fundamental ILO conventions. Australia is yet to ratify the ILO C138 Minimum Age Convention 1973. Australia has reported to the ILO since 1976 that it is not in a position to ratify C138 because its longstanding treaty-making policy is that treaty instruments cannot be ratified unless full compliance has been achieved in all jurisdictions which is not the case yet (ACCI, 2013).

The [Fair Work Act 2009](#) and the Fair Work Regulations 2009 are the main pieces of legislation governing the relationship between employers and workers in Australia. They provide a safety net of minimum entitlements, enable flexible working arrangements and fairness at work and prevent discrimination against employees. The Act provides for terms and conditions of employment and sets out the rights and responsibilities of employees, employers and employee organisations concerning that employment. Among others, it provides protections of certain workplace rights, the right to engage in industrial activities, the right to be free from unlawful discrimination, and the right to be free from undue influence or pressure in negotiating individual arrangements.

The [National Employment Standards](#) (NES) are 10 minimum terms and conditions of employment (set out in [Part 2-2 of the Fair Work Act 2009](#)) that apply to [national workplace relations system](#) employees<sup>5</sup>. They are minimum standards that cannot be overridden by the terms of enterprise agreements or awards. An award, employment contract, enterprise agreement or other [registered agreement](#) cannot provide for conditions that are less than the national minimum wage or the NES, and they cannot exclude the NES. The 10 minimum entitlements of the NES are: [maximum weekly hours](#); [requests for flexible working arrangements](#); [parental leave and related entitlements](#); [annual leave](#); [personal/carer's leave](#), [compassionate leave](#) and [unpaid family and domestic violence leave](#); [community service leave](#); [long service leave](#); [public holidays](#); [notice of termination](#) and [redundancy pay](#); and [Fair Work Information Statement](#).

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<sup>4</sup> <https://www.dfcd.gov.pg/>

<sup>5</sup> The national workplace relations system is a collection of legislation that applies to most employees and employers in Australia. It includes the Fair Work Act 2009, the National Employment Standards, registered agreements and awards.

All employees in the [national workplace relations system](#) are covered by the NES regardless of the award, registered agreement or employment contract that applies. However, casual employees, which workers under the SWP are classified as, only get NES entitlements relating to unpaid carer's leave; unpaid compassionate leave; [unpaid family and domestic violence leave](#); community service leave; and the Fair Work Information Statement.

Two federal regulatory agencies oversee the correct adherence to the Fair Work Act (and the NES) in workplaces around Australia: The Fair Work Commission and the Fair Work Ombudsman.

The role of the [Fair Work Ombudsman](#) (FWO) is to promote harmonious, productive and cooperative workplace relations. The responsibilities of the FWO are set by the Fair Work Act 2009 and include: providing education, assistance, advice and guidance to employers, employees, out-workers, out-worker entities and organisations; promoting and monitoring compliance with workplace laws; inquiring into and investigating breaches of the Fair Work Act; and taking appropriate enforcement action. Regulating the horticultural industry in FWO in which many seasonal workers are employed presents some challenges to the FWO, given Australia's size, the remoteness of some businesses and a lack of inspectors to cover all relevant businesses. The [Fair Work Commission](#) (FWC) is Australia's national workplace relations tribunal. It was established by the Fair Work Act 2009 and is responsible for administering the provisions of the Fair Work Act. The Commission's powers and functions include: dealing with unfair dismissal claims; dealing with anti-bullying claims; dealing with general protections and unlawful termination claims; setting the national minimum wage and minimum wages in modern awards; making, reviewing and varying modern awards; assisting the bargaining process for enterprise agreements; approving, varying and terminating enterprise agreements; making orders to stop or suspend industrial action; dealing with disputes brought to the Commission under the dispute resolution procedures of modern awards and enterprise agreements; determining applications for right of entry permits; and promoting cooperative and productive workplace relations and preventing disputes.

The Work Health and Safety Act 2011 sets out requirements and standards for building healthy and safe workplaces. It outlines what businesses must do to protect the health, safety and welfare of workers and other people in a place of work. Workers also have work health and safety obligations to themselves and others at work. While the Commonwealth jurisdiction covers workers for the Commonwealth Government (e.g. the public service and the Australian Defence Force), each state has its own WHS laws and a regulator to enforce them.

[Safe Work Australia](#) was established in 2008 as an Australian government statutory body to develop the WHS policy. Safe Work Australia does not regulate and enforce WHS laws which is the responsibility of the states and territories. Safe Work Australia works in partnership with governments, employers and employees to drive national policy development on WHS and workers' compensation matters including developing and evaluating national policy and strategies, developing and evaluating a model WHS legislative framework, undertaking research, and collecting, analysing and reporting data.

Under the model WHS legislative framework, Safe Work Australia developed the Model Work Health and Safety Act (Model WHS ACT) and Model Work Health and Safety Regulations (Model WHS Regulations). The Model WHS Act aims to provide a nationally consistent framework to protect the health, safety and welfare of workers and workplaces. The Model WHS Regulations provide specificity around duties under the Model WHS Act and prescribes procedural and administrative requirements to support the act.

The Model WHS Act and Model WHS Regulations have been adopted in the Australian Capital Territory, New South Wales, the Northern Territory, Queensland, South Australia, Western Australia and Tasmania (7 of the 8 Australian States and territories), and at the Commonwealth level. In some cases minor variations have been made to the model Act and regulations as relevant to existing state regulations or to adopt recommendations made in Safe Work Australia's 2019 review of Model WHS laws. Victoria has not yet adopted the Model WHS laws and utilises the Occupational Health and Safety Act 2004 which seeks to secure the health, safety and welfare of employees and other persons at work.

The [Workplace Gender Equality Act 2012](#) replaced the Equal Opportunity for Women in the Workplace Act 1999. It aims to improve and promote equality for both women and men in the workplace. The main objectives of the Act are to: promote and improve gender equality (including equal remuneration between women and men) in employment and the workplace; support employers to remove barriers to the full and equal participation of women in the workforce; promote, amongst employers, the elimination of discrimination based on gender concerning employment matters (including concerning family and caring responsibilities); foster workplace consultation between employers and employees on issues concerning gender equality in employment and the workplace; and improve the productivity and competitiveness of Australian business through the advancement of gender equality in employment and the workplace. The [Workplace Gender Equality Agency](#) is an Australian Government statutory agency created by the Workplace Gender Equality Act 2012 and charged with promoting and improving gender equality in Australian workplaces.

The [Sex Discrimination Act 1984](#) promotes equality between women and men and protects people from unfair treatment based on their sex, sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy and breastfeeding. It also protects workers with family responsibilities and makes sexual harassment and gender-based violence at work and elsewhere against the law. The [Disability Discrimination Act 1992](#) makes it unlawful to discriminate against a person, in many areas of public life, including employment, education, getting or using services, renting or buying a house or unit, and accessing public places, because of their disability.

The Australian [Human Rights Commission](#) is responsible for promoting the objectives of the Sex Discrimination Act and the Disability Discrimination Act.

### 3.2.2 New Zealand Legal and Policy Framework

#### 3.2.2.1 LABOUR AND WORKING CONDITIONS

New Zealand has ratified six of the eight fundamental ILO conventions. New Zealand is yet to ratify ILO C087 – Freedom of Association and Protection of the Right to Organise Convention; and ILO C138 - Minimum Age Convention 1973. Regarding C.87, New Zealand is not in a position to ratify the convention because the Government retains administrative power to deregister unions and because the right to strike is constrained in New Zealand in that general strikes and secondary strikes are prohibited. Regarding C.138, New Zealand has not ratified the convention because of a cultural perception that it is normal, healthy and non-exploitative for teenagers to engage in part-time employment (Reilly & Barrett, 2019).

[The Employment Relations Act 2000 is New Zealand's main piece of legislation providing](#) the legal backdrop for all relationships between employees, employers and unions. It promotes the concepts of good faith and fair process, and mediation as the first step when resolving employment relationship problems. The Employment Relations Act 2000 established the [Employment Relations Authority](#) which is an independent body that helps to resolve employment relationship problems. It governs the personal grievance process, promotes and regulates collective bargaining, and protects an employee's choice about whether to be a member of a union and promotes the effective enforcement of employment standards. The [Employment Court](#) was established by the Employment Contracts Act 1991 and continues under the Employment Relations Act 2000 with jurisdiction to hear and determine challenges against Employment Relations Authority determinations, questions of interpretation of law, review and injunctions in respect of strikes and lockouts.

There are several other important pieces of legislation dealing with labour and employment issues.

The [Minimum Wage Act 1983](#) provides for a minimum wage, which is reviewed annually by the government on the basis for the 40-hour working week. The [Wages Protection Act 1983](#) provides that deductions from wages can only be made in limited circumstances, prohibits employment premiums (where an employee pays an employer in exchange for employment), and prevents employers from controlling how employees

spend wages. The [Equal Pay Act 1972](#) prohibits discrimination in the pay rate of employees, based on the sex of the employee and gives the Employment Court the power to state principles for putting equal pay into place. [The Holidays Act 2003](#) provides minimum rights to annual leave, sick leave and bereavement leave, and deals with payment for, and days in lieu of, public holidays. The [Parental Leave and Employment Protection Act 1987](#) provides for rights to paid and unpaid parental leave and provides job protection for those on parental leave.

New Zealand's [Labour Inspectorate](#) works to ensure minimum employment standards are complied with so that all employees receive their minimum employment rights including in regards to pay and holiday entitlements. The Labour Inspectorate ensures compliance with employment standards by identifying and investigating breaches and taking enforcement action. The Inspectorate provides early resolution assistance for some complaints about breaches of employment standards. It also works with industry and sector leaders and other key parties to strengthen the systems that underpin employment standards compliance. The role of Labour Inspectors is primarily to monitor and enforce compliance with employment standards such as the requirements relating to the minimum wage, holiday pay, leave entitlements, wage deductions, and record-keeping as stipulated in the Acts summarised above. Inspectors investigate complaints and also use targeted investigations and audit programmes to find breaches, and they can take various forms of enforcement action when breaches of employment standards are detected including taking a case to the Employment Relations Authority or the Employment Court.

The [Health and Safety at Work Act 2015](#) provides that everyone in the workplace is responsible for health and safety. [WorkSafe](#) is New Zealand's government agency that is the work health and safety regulator with three key roles including building regulator confidence, preventing harm and providing leadership in the area of health and safety.

New Zealand's Bill of Rights grants everyone the right to freedom of association. The Human Rights Act 1993 prohibits discrimination in employment based on various grounds, such as sex, race or age. The [Human Rights Commission](#) can help to resolve complaints of unlawful discrimination, and the Human Rights Review Tribunal can hear claims relating to breaches of the Human Rights Act 1993 brought by employees against their employer.



## 4 Review of PNG and A&NZ Labour Mobility Programs

### 4.1 Papua New Guinea Labour Mobility Arrangements

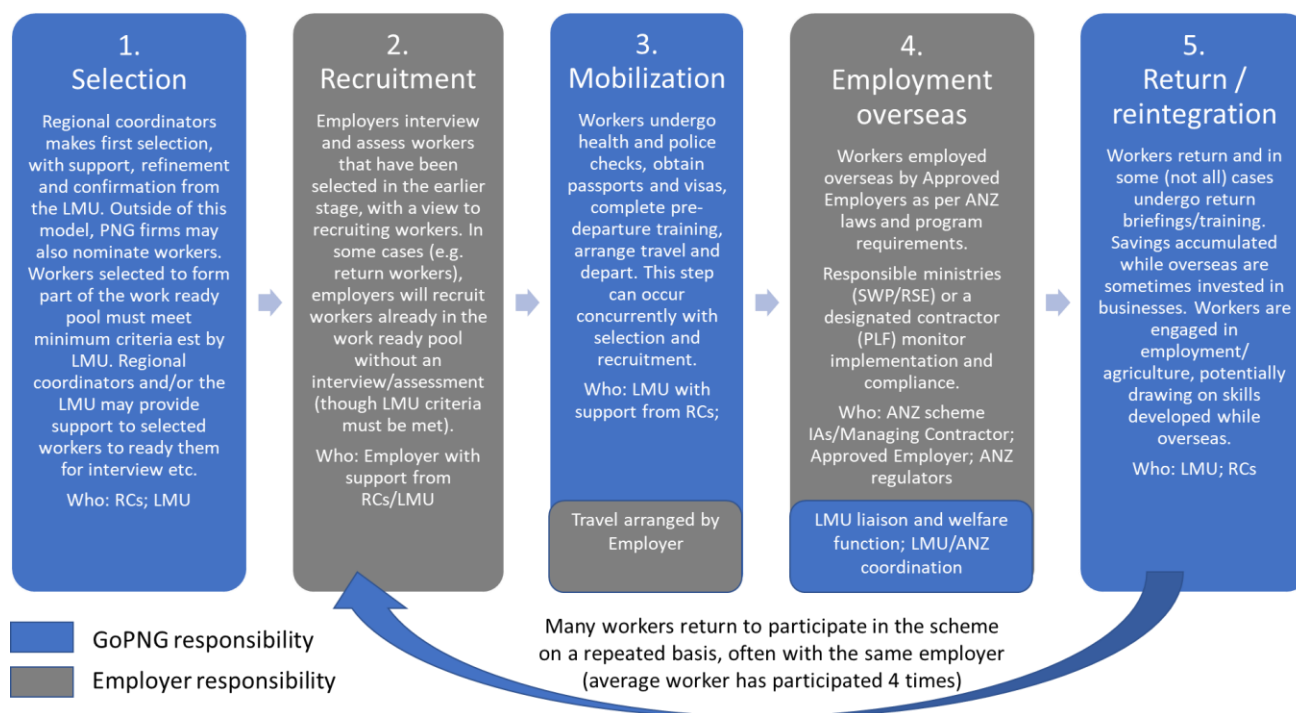
The Papua New Guinea Labour Mobility Unit (LMU) was established as an independent unit based in the Department of Treasury and led by a Ministerial Steering Committee chaired by the Minister for Treasury and reporting to parliament annually. Legislation has been drafted to establish the LMU as an “Office” independent from the DOT. The LMU has been tasked with leading PNG’s arrangements for managing the participation of PNG seasonal/migrant workers in overseas labour mobility programs.

The Approved LMU Structure (February 2020) consists of one (1) Director, three (3) Assistant Directors and nine (9) officers. The LMU is currently staffed by a provision Head/Adviser. Recruitment of two Assistant Directors was completed by September 2021. Three (3) officer level positions are also being recruited. A Welfare and Liaison Officer is expected to be recruited by December 2021. The LMU is tasked with assisting in the recruitment, mobilisation, pastoral care and reintegration of workers (refer to Figure 4-1) participating in overseas labour mobility opportunities, with a particular focus on semi- and low-skilled workers.

PNG operates a regional recruitment model whereby regional administrations, through Regional Recruitment Hubs (RRHs), are primarily responsible for overseas labour mobility of workers from their respective areas. The LMU works in close cooperation with regional administrations throughout the labour mobility cycle.

The three labour mobility programmes in Australia and New Zealand operate models whereby employers ultimately make decisions about worker recruitment. LMU and RRHs lead worker selection and mobilisation. Work-ready pools need to be responsive to employers’ needs. LMU and RRHs need to ensure that workers have the right sector-specific skills; the ability to live and work effectively overseas; and can function well as a group, which often means recruiting groups from the same area or village (a common practice for workers from other countries that participate in the labour mobility schemes).

**Figure 4-1 The Labour Mobility Cycle of migrant workers from PNG**



The LMU has established policies and frameworks for guiding the expansion of labour mobility from PNG.

The Draft National Labour Mobility Policy (GoPNG 2021) sets out the GoPNG's vision of providing opportunities for decent, temporary work overseas for at least 8,000 youth and citizens, both women and men, per year by 2025 to grow PNG's economy both through remittances and through skills and knowledge transfer to build sustainable industry at home. Specific goals of the draft policy are to: i) Identify and facilitate decent work opportunities in key labour markets where PNG seasonal/migrant workers are protected by credible labour laws and regulations; ii) Develop a cohort of work-ready citizens able to perform at the highest standard as ambassadors for PNG abroad; iii) Promote the equal participation of women and men in work opportunities; iv) Ensure economic and development benefits of labour mobility are maximized for workers, their family and their community; v) Involve all stakeholders, including departments, agencies, private sector, social sector and international partners, in good governance of labour mobility and the protection of workers overseas; vi) Adopt a whole-of-government approach to the management of labour mobility and ensure cooperation, collaboration and information sharing between departments; and vii) Work across government to ensure experience overseas contributes to the development of domestic industry in Papua New Guinea, with a particular focus on the agriculture industry and the replacement of foreign workers with national workers.

The LMU Operations Policy 2020 provides the operational framework under which staff and partners of the LMU will operate to achieve the GoPNG's vision and objectives for overseas labour mobility. It outlines a decentralised approach where labour sending is the primary responsibility of regional administrations in close cooperation with the LMU and the roles and responsibilities for worker selection and mobilisation, pastoral care, reintegration, and monitoring and evaluation and avoiding conflict of interest.

The Operations Policy outlines four overarching principles including:

- *Equity (and inclusion)* – ensuring equity in selection, recruitment and mobilisation of workers, the participation of women and seeking opportunities (to the extent possible) for people living with disabilities and men and women living in remote and regional areas;
- *Transparency* – in the selection and recruitment processes including regular public reporting and information disclosure;
- *Worker's rights and care* – including worker's freedom to choose whether they take employment opportunities and the right to refuse without penalty any offer made to them, and cooperating with partner agencies to ensure care and enforcement of worker rights as well as safety while overseas;
- *Privacy and data management* – including ensuring worker documentation is stored privately and securely, and that data is only provided to 3<sup>rd</sup> parties of relevance (i.e. host governments) and at an aggregated level.

## 4.2 A&NZ Labour Mobility Programs

Papua New Guinea has special access to three labour mobility schemes in Australia and New Zealand, together with other Pacific island countries (and Timor Leste in the case of Australia). These include New Zealand's Recognised Seasonal Employer Scheme (RSES) and Australia's Seasonal Worker Programme (SWP) and Pacific Labour Scheme (PLS).

An outline of these programs is provided below. Table 4-1 provides an overview of the main elements of the three schemes.

### 4.2.1 Pacific Australia Labour Mobility Scheme

The Pacific Australia Labour Mobility ([PALM](#)) scheme is the Australian Government's new, streamlined approach to its existing Pacific labour mobility initiatives which include the PLS and SWP. PALM was announced in September 2021 and as it is implemented, is expected to better align systems and processes for PLS and SWP.

#### 4.2.1.1 SEASONAL WORKER PROGRAMME

The Seasonal Worker Programme (SWP) commenced in 2012, following the successful pilot from 2008 of a similar scheme, the Pacific Seasonal Worker Pilot Scheme (PSWPS). The SWP is managed by the Department of Education, Skills and Employment (DESE) although other government agencies are also involved in its administration.

SWP initially allowed workers from eight PICs and Timor-Leste to work in the Australian horticulture industry for up to six months. In 2015, the scheme was opened to all PICs, and the annual cap, which was initially 12,000, was removed, allowing employers to determine the number of workers to be recruited (World Bank, 2017b). Since November 2018, the maximum duration of employment in Australia is nine months per year; while previously only workers from Kiribati, Nauru, and Tuvalu could be employed for up to nine months. The SWP has subsequently been expanded to the broader agriculture industry as well as the accommodation and tourism sector (in selected locations).

In the 2019-20 season, 116 workers from PNG participated in the SWP out of a total of 9,824 participants from all countries, equivalent to 1.2 per cent. In March 2020, when Australia closed its international borders due to the COVID-19 pandemic, 85 workers from PNG were in the country under the SWP, the number declining to 80 by January 2021. Australia has reopened its borders for seasonal workers from selected Pacific Island countries since August 2020 but recruitment from PNG has not restarted due to PNG being considered a high-risk sending country due to community transmission of COVID-19.

The key policy document for the SWP is the [Seasonal Worker Programme Implementation Arrangements](#) (Australian Government, 2018) which outlines key implementation and operation arrangements for the Programme. This document is uniform across all bilateral agreements for the SWP and is comprised of the following sections: Supervision and resourcing of labour sending and labour receiving arrangements; Recruitment; Programme eligibility requirements; Visa eligibility requirements; Visa application requirements and processing arrangements; Employment arrangements; Briefings; Monitoring and compliance; and Capacity Building for Participating Countries.

Employers seeking to participate in the SWP are subject to vetting to meet eligibility requirements and enter into a Deed of Agreement with DESE (DESE, 2020b), which requires that seasonal workers receive the same pay and employment conditions that Australian workers would receive for the same work. This means that seasonal workers must be employed under a Fair Work Instrument in accordance with the Fair Work Act 2009 and Australia's workplace laws.

The SWP has approved Offer of Employment templates which ensure that agreements between AEs and overseas workers are consistent with the requirements of the programs and Australian law.

DESE has a network of Pacific Labour Mobility (PLM) officers and Contract Managers who oversee contract and welfare management under the SWP Deed and Guidelines including reviewing recruitments and accommodation arrangements for workers. Officers are located in metropolitan and regional offices around the country and Canberra.

#### 4.2.1.2 PACIFIC LABOUR SCHEME

In July 2018, the Australian Government launched the Pacific Labour Scheme (PLS), following the successful pilot from 2015 of a similar scheme restricted to workers from Kiribati, Tuvalu and Nauru, the Northern Australia Worker Pilot Program (NAWPP). The PLS is managed by the Department of Foreign Affairs and Trade (DFAT) through the Pacific Labour Facility (PLF), which in turn is operated by the consulting firm Palladium.

The PLS is uncapped and open to citizens of nine PICs (Fiji, Kiribati, Nauru, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu) and Timor-Leste (DFAT, 2019a). Under the PLS, workers can take up low- and semi-skilled jobs in rural and regional Australia for a minimum of 12 months and up to three years. The scheme is open to all sectors and industries but initially focuses on the accommodation,



food services industry, health care and social assistance industry, and non-seasonal agriculture, forestry and fishing.

By 30 June 2019 at the end of its first year of operation, 203 workers had been recruited under the PLS. None of these workers were from PNG (Howes and Lawton, 2019). In March 2020, when Australia closed its international borders due to the Corona pandemic, 55 workers from PNG were in the country under the PLS, the number declining to 49 by January 2021. Recruitment from PNG under the PLS has been faster than in the other schemes as it coincided with the commencement of the regional recruitment model (see below) and a good reputation for PNG seasonal/migrant workers was developed quickly. As a result, workers were in strong demand when borders closed in March 2020 due to COVID.

The key policy document for the PLS is the [Policy Handbook – Pacific Labour Scheme](#) (DFAT 2019a). This document outlines processes and procedures for employer approval; and worker recruitment, pre-mobilisation, mobilisation/employment and returning home. Various terms and conditions of employment, as well as the general living conditions of workers under the SWP and PLS, are discussed in Section 5 regarding the legislation presented above.

Similar to SWP, the PLS employs an approved employer model whereby prospective employers are required to apply and undergo a due diligence process to confirm they meet pre-approval qualification requirements; and subsequently enter into a legal agreement through a Deed of Agreement which outlines specific requirements and principal obligations for AEs under the respective programs including recruitment and selection, the offer of employment and employment conditions; expenses and deductions; welfare and wellbeing accommodation and transport; worker information and briefings; banking and superannuation; and worker departure.

The PLS, like the SWP, has approved Offer of Employment templates which ensure that agreements between AEs and overseas workers are consistent with the requirements of the programs and Australian law.

The Pacific Labour Facility is responsible for authorizing employers under the PLS and monitoring the welfare of SWP and PLS workers respectively.

### 4.3 Recognised Seasonal Employer Scheme

In 2007, New Zealand launched the Recognised Seasonal Employer (RSE) scheme to fill seasonal labour shortages in its horticulture and viticulture industries. The Ministry of Business, Innovation and Employment (MBIE) is responsible for all the functions regarding Pacific work and residence pathways, which in Australia are covered by several separate agencies.

The scheme allows seasonal workers to stay in New Zealand for up to seven months in any 11 months; while citizens of Tuvalu and Kiribati can stay an extra two months. The annual cap has grown from the initial 5,000 to 14,400 in 2020 (INZ, 2019a).

In the 2019-20 season, 134 workers from PNG participated in the RSES out of a total of 11,152 participants from all countries, equivalent to 1.2 per cent. In March 2020, when New Zealand closed its international borders due to the COVID-19 pandemic, 146 RSES workers from PNG were in the country, the number declining to 51 by January 2021. New Zealand opened up again for the arrival of seasonal workers at the beginning of 2021. However, none of the approximately 2,000 RSE arrivals between January and March 2021 was from PNG (MBIE, Consultation, February 2021). It was an industry decision not to recruit from PNG at this time due to the existence of COVID-19 community transmission in PNG, and the cost of bringing workers from PNG to New Zealand via Australia.

The RSE's arrangements are outlined in INZ's Operational Manual, [WH1 Recognised Seasonal Employer \(RSE\) Instructions](#). To facilitate the flow of workers from PICs, the New Zealand Government has signed Inter-Agency Understanding (IAU) documents with sending Governments. The IAU with PNG was signed in August 2013 and contains Schedule 1 'Facilitative Arrangements' which outlines the recruitment process, work visa processing, pre-departure orientation, pastoral care, compliance and re-integration programme.

Together, the Facilitative Arrangements and the RSE Operational Manual are known as the RSE Policy. After 14 years of operation, the RSE Policy is up for review. The New Zealand government had planned to review all IAUs in 2020-21. The review has been delayed due to COVID-19 (MBIE, Consultation, February 2021).

As the title of the scheme suggests, the scheme employs an approved employer model. This process is outlined in INZ's Guide to Becoming a Recognised Seasonal Employer and Application Form, the latter of which outlines the obligations and responsibilities of RSEs. Immigration New Zealand is responsible for authorising New Zealand employers to recruit workers under the RSEs by providing them with an Agreement to Recruit (ATR). MBIE also includes the [Labour Inspectorate](#) that works to ensure minimum employment standards are complied with including those of workers under the RSEs. If problems cannot be resolved, employers or employees can go to the Employment Relations Authority for a determination.

The Ministry of Foreign Affairs and Trade (MFAT) is involved in the RSEs only insofar as it manages New Zealand's aid programme in the Pacific including supporting development benefits from labour mobility. Sending countries are also involved in the governance of the RSE in New Zealand. Some have employed dedicated liaison officers; others are represented via their diplomatic staff.<sup>6</sup>

**Table 4-1 Overview of Key Elements of Australian and New Zealand labour mobility programmes**

	Pacific Labour Scheme	Seasonal Worker Programme	Recognised Seasonal Employment Scheme
Country	Australia	Australia	New Zealand
Administered by	Department of Foreign Affairs and Trade Pacific Labour Facility under DFAT <a href="#">PLS website</a>	Department of Education, Skills and Employment (DESE) <a href="#">SWP website</a>	Immigration NZ and Ministry of Business, Innovation and Employment (MBIE) <a href="#">RSE website</a>
Managing Contractor	Palladium Group (PLF)	None	None
Start date	1 July 2018 (NAWPP pilot from 2015)	1 July 2012 (PSWPS pilot from 2008)	2007
Participating countries	Kiribati, Nauru, PNG Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu (and Timor-Leste)	Fiji, Kiribati, Nauru, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu (and Timor-Leste)	Priority recruitment from Fiji, Kiribati, Nauru, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. Workers from other countries permitted if certain conditions met (refer to <a href="#">WH1.1.10</a> )
PNG Access Agreement	MOU signed 20 March 2019	MOU signed 8 July 2010 (under the Pacific Seasonal Worker Pilot Scheme)	Inter-agency Understanding (IAU) signed 14 August 2013
Purpose	Demand (employer) driven to fill labour shortages. Contributes to economic development in Pacific countries.	Demand (employer) driven to fill labour shortages. Contributes to economic development in Pacific countries.	Demand (employer) driven to fill labour shortages. Contributes to economic development in Pacific countries.
Length of stay	Up to 3 years (minimum 12 months)	Up to 9 months (per year)	Up to 7 months (in any 11 months)
Sectors	All sectors in rural and regional Australia with an	Agriculture	Horticulture and viticulture sectors

<sup>6</sup> Among others, the Samoan government has appointed one and the Tongan government two liaison officers in New Zealand. In the case of Vanuatu, an honorary consul mostly works on seasonal workers. Other sending countries use staff from their embassies / high commissions.

	Pacific Labour Scheme	Seasonal Worker Programme	Recognised Seasonal Employment Scheme
	initial focus on accommodation, food services, health care and social assistance, and non-seasonal agriculture, forestry and fishing.	Accommodation (select locations) Tourism (select locations)	
Skill level	Low skilled and semi-skilled	Unskilled and low skilled	Unskilled and low skilled
Age of workers	21-45 years	21 years and over	18 years and over
Legal requirements – labour and working conditions including terms and conditions, non-discrimination, worker organization, OHS	<p>“All workers under the Scheme are protected by <a href="#">Australian workplace laws</a>, in the same manner as Australian workers” (refer to PLS Policy Handbook)</p> <p>Specific requirements covered in programme documents (see below).</p>	<p>Seasonal workers employed “in accordance with the SWP requirements and <a href="#">Australia’s Fair Work</a>, Occupational Health and Safety, Immigration, Tax, and Workers’ Compensation laws” (refer SWP implementing arrangements).</p> <p>Specific requirements covered in programme documents (see below).</p>	<p>“All employers wishing to employ non-New Zealand citizen or residence class visa holders to work in New Zealand must comply with all relevant <a href="#">employment</a> and immigration law in force in New Zealand” refer <a href="#">W2.10</a></p> <p>Specific requirements covered in programme documents (see below).</p>
Legal requirements – Useful resources for employers and workers	<p>Fair Work Ombudsman:</p> <ul style="list-style-type: none"> <li>• <a href="#">General tools and resources</a></li> <li>• <a href="#">Horticultural specific</a></li> <li>• Seasonal worker specific <a href="#">Language story boards (in Tok Pisin)</a>;</li> </ul> <p>Worksafe Australia (note various state resources also exist)</p> <ul style="list-style-type: none"> <li>• <a href="#">Resources for migrant workers</a></li> </ul>		<p>Employment NZ</p> <ul style="list-style-type: none"> <li>• <a href="#">Tools and resources</a> including self-paced online learning modules.</li> </ul> <p>Worksafe NZ</p> <ul style="list-style-type: none"> <li>• <a href="#">General tools</a></li> </ul>
Key Implementation Documents	<ul style="list-style-type: none"> <li>• <a href="#">PLS Policy Handbook</a></li> <li>• <a href="#">PLS Approved Employer Guidelines</a></li> <li>• PLS Deed of Agreement</li> <li>• Approved ‘Offer of Employment’ outlining terms and working conditions</li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">SWP Implementing Arrangements</a></li> <li>• <a href="#">SWP Approved Employer Guidelines</a></li> <li>• <a href="#">SWP Deed of Agreement</a></li> <li>• Approved ‘Offer of Employment’ outlining terms and working conditions</li> </ul>	<ul style="list-style-type: none"> <li>• NZ Immigration Operations Manual - <a href="#">WH1 RSE Instructions</a></li> <li>• <a href="#">RSE Employer Guide</a></li> <li>• <a href="#">RSE Application Form</a></li> <li>• <a href="#">RSE Worker Guide</a></li> <li>• <a href="#">RSE Worker Get Ready Guide</a></li> <li>• <a href="#">Agreement to recruit</a></li> <li>• Employment Agreement (<a href="#">Requirements</a>) and template.</li> </ul>
Program Work readiness tools	<ul style="list-style-type: none"> <li>• Comprehensive pre-departure briefing materials (in English; interpreted during training)</li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">Pre-departure guidebook</a> (in Tok Pisin)</li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">Get Ready Booklet</a> (in multiple languages but not Tok Pisin)</li> </ul>
Program Compliance: Approved employer process	<p><a href="#">Approved Employer process</a></p> <ol style="list-style-type: none"> <li>1. Deed of Agreement</li> <li>2. Approved Recruitment Plan (included welfare, working conditions etc)</li> </ol>	<p><a href="#">Approved Employer process</a></p> <ul style="list-style-type: none"> <li>• Deed of Agreement</li> <li>• Approved Recruitment Plan</li> <li>• Welfare and Wellbeing Plan</li> </ul>	<p><a href="#">Registered Employer process</a></p> <ul style="list-style-type: none"> <li>• Agreement to recruit</li> <li>• RSE Application Form</li> </ul>

	Pacific Labour Scheme	Seasonal Worker Programme	Recognised Seasonal Employment Scheme
	<a href="#">List of PLS Approved Employers</a>	<ul style="list-style-type: none"> <li>Accommodation Plan</li> </ul> <a href="#">List of SWP Approved Employers</a>	<ul style="list-style-type: none"> <li>Repatriation Agreement</li> </ul> <a href="#">List of Registered Seasonal Employers</a>
Program Compliance: Governance	<p><b>Lead:</b> DFAT &amp; (PLF – Palladium: Worker welfare team)</p> <p>Various AUS government agencies (i.e. Fair Work Commission, Worksafe etc...)</p>	<p><b>Lead:</b> DESE – Pacific labour mobility officers and contract managers</p> <p>Employer - Welfare &amp; Wellbeing Support Person (allocated by approved Employer)</p> <p>Various AUS government agencies (i.e. Fair Work Commission, Worksafe etc...)</p>	<p><b>Lead:</b> MBIE's Labour Inspectorate, labour inspectors and compliance officers</p> <p>MBIE Relationship Managers – non punitive approach to resolving issues.</p> <p>Various NZ government agencies (MBIE, Employment NZ, Accident Compensation Corporation, Safework etc..)</p>
Compliance Assurance Frameworks	<p>PLS Assurance Framework (refer <a href="#">AE Guidelines</a>) includes i) education; ii) risk-based monitoring; iii) compliance monitoring.</p> <p>Monitoring includes self-auditing/reporting, notice to report and site visits.</p> <p>Non-compliance system: include: i) education; ii) breach notice; iii) corrective action; iv) suspension; v) termination of deed</p>	<p>SWP Assurance Framework (refer <a href="#">AE Guidelines</a>) includes: i) prevention &amp; deterrence; ii) monitoring &amp; detection; iii) correction.</p> <p>Monitoring includes self-auditing/reporting, notice to report and site visits.</p> <p>Non-compliance system: include: i) education; ii) breach notice; iii) corrective action; iv) suspension; v) termination of deed</p>	<p>Assurance framework is not outlined in the RSE Instructions.</p> <p>NZ Labour Inspectorate's <a href="#">Assurance Framework</a> is used for RSE includes education, audits/investigations and enforcement.</p> <p>NZ LI manages a <a href="#">stand down list</a> – includes RSEs</p> <p>The RSE Policy is under review and compliance monitoring is being strengthened - see <a href="#">here</a> and <a href="#">here</a></p>
Incident Reporting	<a href="#">Incident management procedures</a> : classification, notification, investigation, corrective action.	Incident reporting requirements (refer <a href="#">AE Guidelines</a> ) for critical incidents and non-critical incidents	<p>No formalised RSE incident reporting framework documented. Use of RSE Relationship Managers</p> <p>NZ LI and Worksafe NZ incident reporting frameworks utilised.</p>
Grievances	Worker Welfare Team Hotline (1800 51 51 31) or <a href="#">email</a> Fair Work Ombudsman	SWP information line: 02 6240 5234 or <a href="#">email</a> .  [Worker Welfare Team Hotline (1800 51 51 31) also mentioned]	Under the IAU between NZ and PNG, workers are given the contact details of the MBIE's Relationship Managers and National Manager RSE

	Pacific Labour Scheme	Seasonal Worker Programme	Recognised Seasonal Employment Scheme
	National <a href="#">Translating and Interpreting Service</a> available - 131 450	National <a href="#">Translating and Interpreting Service</a> available - 131 450	General MBIE complaints mechanism exists. Migrant worker hotline: 0800 20 90 20 (supported by <a href="#">Ezipeak</a> – 180 languages)
<b>Host/Sender Country Coordination</b>	High Commissions Heads of Mission Roundtable	High Commissions Heads of Mission Roundtable	High Commissions Toso Vaka Manū Program
Gender based violence and Sexual Exploitation & Abuse /Sexual Harassment	<p>Protection under Australian Law; Program SEA/SH policy (refer handbook)</p> <p>GBV covered in incident reporting and GRM . Specific SEA/SH incident reporting framework</p> <p>Australian Human Rights Commission provides information/education resources and is responsible for <a href="#">receiving and investing sexual harassment complaints in the workplace</a>.</p> <p>Safework Australia – <a href="#">employer responsibilities and resources on SEA/SH</a> and support services.</p>	<p>Protection under Australian Law; No Program specific policy</p> <p>Covered more generally under worker welfare and incident reporting and GRM. Australian Human Rights Commission provides information/education resources and is responsible for <a href="#">receiving and investing sexual harassment complaints in the workplace</a></p> <p>Safework Australia – <a href="#">employer responsibilities and resources on SEA/SH</a> and support services.</p>	<p>Protection under NZ Law; No program specific policy</p> <p>Incident reporting not outlined in program documents. Covered by Worksafe Australia NZ Human Rights Commission provides information resources and a <a href="#">confidential mediation service</a></p> <p>Worksafe NZ – <a href="#">employer responsibilities and resources on SEA/SH and support services</a>.</p>

#### 4.4 Review A&NZ Law and Labour Mobility Programs Against ESS2 – Labour and Working Conditions

Table 4-2 presents a benchmarking analysis of A&NZ Law and labour mobility program design and requirements against ESS2 – Labour and Working Conditions. It presents A&NZ national legislation and its implementation in Australia and New Zealand for the major areas covered by ESS2, and summaries ESS2 relevant aspects of the key implementation documents of the three programs. No significant disparities have been identified.

**Table 4-2 Benchmarking ESS2 against Australian and NZ Legislation and Labour Mobility Schemes**

ESS2 Benchmark	Country	National legislation	Implementation of national legislation	Implementation under Australian and New Zealand labour mobility programmes	Difference between ESS2 & Laws/ Programs
<b>Terms and conditions of employment</b>					
Information and documentation provided to workers that are clear and understandable, sets out rights under national labour and employment law, and is provided at the beginning of the working relationship and when material changes are made – as required by ESS2	Australia	<p>Terms and conditions of employment are outlined in the following:</p> <p>National Employment Standards – minimum standards that apply to all employees regardless of the award, registered agreement or employment contract.</p> <p>Casual employees only get some of the NES entitlements;</p> <p>Awards – outline minimum terms and conditions for particular industries or occupations which are ancillary or supplementary to the NES;</p> <p>Enterprise agreements and other registered agreements – enterprise-level agreement outlining terms and conditions ancillary or supplementary to the NES. When an EA exists, the award does not apply.</p> <p>The terms and conditions of employment set out are provided under the Fair Work Act 2009. The Fair Work Act 2009 also covers variations to the NES, Awards and Enterprise agreements and other registered agreements</p>	<p>NES and awards, enterprise agreements and other registered agreements are publicly available on the FWC website.</p> <p>The Fair Work Commission and the Fair Work Ombudsman are the two regulatory agencies that oversee the correct adherence to the Fair Work Act and the National Employment Standards</p>	<p>SWP: SWP workers are categorised as <a href="#">casual workers under</a> Australian workplace law. AEs are required to develop/seek approval for an ‘offer of employment’ outlining terms and conditions before providing it to workers. AE Guidelines and Deed of Agreement (DoA) outline what information needs to be provided in the offer. Standard templates are provided by DESE.</p> <p>The SWP Implementation Arrangement requires AEs to employ Seasonal Workers under a Fair Work instrument in accordance with the Fair Work Act 2009 which may exceed (but not be less than) the minimum provided under Fair Work legislation. With SWP workers employed on casual contracts, only selected National Employment Standards apply to them. As per Section C of the DoA for the Seasonal Worker Programme (DESE, 2020b), seasonal workers receive a copy of the contract in writing that contains provisions indicating the conditions of work.</p> <p>PLS: PLS workers are categorised as <a href="#">full- or part-time workers</a> under Australian workplace laws. “Employment arrangements must meet Australian workplace standards... set out either in an Award or agreement or ... the National Employment Standards” (PLS Policy Handbook 2019). AEs are required to provide a ‘Letter of Offer’ which must include “employment terms and conditions, taxation, superannuation and other obligations, entitlements and deductions ... [and] contact duration. (PLS Policy Handbook 2019)</p>	None

ESS2 Benchmark	Country	National legislation	Implementation of national legislation	Implementation under Australian and New Zealand labour mobility programmes	Difference between ESS2 & Laws/ Programs
				Both: The DoA for the Seasonal Worker Programme and the PLS Policy Handbook include provisions on the requirements of informing SWP/PLS workers when material changes to the terms and conditions of employment are made after the beginning of the contract. Under the SWP DoA, any proposed change relating to amendments to the existing employment conditions of Seasonal Workers must be in accordance with Australian law and are subject to the written agreement of any Seasonal Worker affected by the amendments. Similarly, under the PLS DoA, any proposed change relating to amendments to the existing employment conditions of workers must be in accordance with Australian law and are subject to the written agreement of any Worker affected by the amendments.	
	New Zealand	<p>Terms and conditions of employment are outlined in the following:</p> <ol style="list-style-type: none"> <li>1. Employment Relations Act 2000</li> <li>2. Minimum Wage Act 1983</li> <li>3. Wages Protection Act 1983</li> <li>4. Equal Pay Act 1972</li> <li>5. Holidays Act 2003</li> </ol> <p><a href="#">Parental Leave and Employment Protection Act 1987</a></p>	<p>All national legislation is available on the Government of New Zealand website: <a href="https://www.legislation.govt.nz/">https://www.legislation.govt.nz/</a></p> <p>New Zealand's <a href="#">Labour Inspectorate</a> ensures compliance with employment standards.</p>	<p>RSES workers are categorised as seasonal employees under NZ workplace laws. Recognised Seasonal Employers (RSEs) are required to sign a written Employment Agreement negotiated by the RSE and the worker which specifies the terms and conditions of employment (Schedule 1 of the Inter-agency Understanding - IAU). This must be in accordance with the RSE Instructions and New Zealand's legislation (refer <a href="#">WH1.20</a>). The IAU or WH1 RSE Instructions have no provisions on the requirements of informing RSES workers when material changes to the terms and conditions of employment are made after the beginning of the contract. However, Employment New Zealand's Minimum employment rights and responsibilities state that "Any changes to the employment</p>	None.



ESS2 Benchmark	Country	National legislation	Implementation of national legislation	Implementation under Australian and New Zealand labour mobility programmes	Difference between ESS2 & Laws/ Programs
				conditions must be agreed by the employer and employees. The employer can't change the terms and conditions without the employee's written consent."	
Payment of wages on a regular basis as required by national law	Australia	Section 323 of the Fair Work Act 2009 stipulates that employers must pay their employees in full at least monthly.	The Fair Work Commission and the Fair Work Ombudsman are two regulatory agencies that oversee the correct adherence to the Fair Work Act.	SWP and PLS workers are employed in accordance with the Fair Work Act 2009.	None.
	New Zealand	The law in New Zealand does not specify how often employees should be paid. The pay period is included in most employment agreements.	New Zealand's <a href="#">Labour Inspectorate</a> works to ensure compliance with employment agreements.	The WH1 RSE Instructions do not specify how often RSES workers must be paid. The regularity of pay is stipulated in the Employment Agreements and is usually set weekly or fortnightly – refer RSES Standard EA.	None.
Minimum wage adhered to (not covered by ESS2)	Australia	According to the Fair Work Act 2009, a national minimum wage order outlines the minimum wage for award- and agreement-free employees. Minimum wages are reviewed every year by the FWC's Expert Panel. The national minimum wage order sets a national minimum wage; special national minimum wages for trainees, apprentices and junior employees, employees to whom training arrangements apply, and employees with a disability; and a casual loading. The National Minimum Wage Order 2020 set the national minimum wage of AUD 753.80 per week, calculated based on	The Fair Work Commission and the Fair Work Ombudsman are two regulatory agencies that oversee the correct adherence to the Fair Work Act.	National minimum wages established in the Fair Work Act apply to SWP and PLS workers, regardless of whether they are employed under an award or an enterprise agreement.  <b>SWP:</b> The most common industrial instruments used under the SWP are the Horticulture Award 2010 and Enterprise Agreements (SWP Guidelines 2020). If employed on an hourly wage or a piece rate, seasonal workers have to be employed for a minimum average of 30 hours work per week for the duration of a Seasonal Workers' employment and the rate of pay provided must meet the minimum requirements set out in the relevant Fair Work Instrument. If a piece rate is agreed under the Horticultural Award, this rate must enable the average competent employee to earn at least 15% more per hour than the minimum hourly rate prescribed in this award for the type of	None – not covered by ESS2.



ESS2 Benchmark	Country	National legislation	Implementation of national legislation	Implementation under Australian and New Zealand labour mobility programmes	Difference between ESS2 & Laws/ Programs
		a week of 38 ordinary hours, or AUD 19.84 per hour. The casual loading is set at 25 per cent.		employment and the classification level of the employee.  <b>PLS:</b> Minimum pay rates are set out either in an Award or agreement or come from the National Employment Standards. PSL employers must provide employees with at least 30 hours of work each week or a minimum average of 30 hours per week, where relevant Awards allow for this.	
	New Zealand	The current adult minimum wage rate for employees aged 16 years or older stands at NZD 18.90 an hour before tax and NZD 756 before tax for a 40 hour week. There are some exceptions to the application of the Minimum Wage Act 1983, such as for people with a disability. There is no minimum wage for employees under 16.	New Zealand's <a href="#">Labour Inspectorate</a> ensures compliance with employment agreements.	The pay of RSES workers can be calculated as an hourly rate, a piece rate, a sliding rate or a combination of these rates (MBIE 2018b), and the calculation method can change if circumstances change. Regardless of the type of pay, RSES workers must be paid at least New Zealand's minimum wage. RSE employers must also guarantee a minimum payment to workers regardless of the availability of work. If the employment agreement is for six weeks or longer, the minimum amount workers must be paid is the greater of the following: <ul style="list-style-type: none"> <li>• 240 hours at the 'per hour' rate, or</li> <li>• payment for an average of 30 hours per week at the 'per hour' rate for the period worked.</li> </ul> If the employment agreement is for less than six weeks, the employee must be paid at least 40 hours per week, at the 'per hour' rate, over the period of work offered in the employment agreement (MBIE 2018a).	None – not covered by ESS2
Deductions from wages as allowed under national law	Australia	According to the Fair Work Act 2009, Section 324, <a href="#">employers</a> may deduct amounts from pay if the deduction is authorised in writing by the <a href="#">employee and</a> is principally for the <a href="#">employee's</a> benefit; or if the	The Fair Work Commission and the Fair Work Ombudsman are two regulatory agencies that oversee the correct adherence to the Fair Work Act	<b>SWP:</b> The SWP AE Guidelines and SWP DoA outline requirements for deductions. Employers must arrange and pay upfront for travel on arrival costs (i.e. transport, insurance, and accommodation – if the worker elects this) and other expenses. These expenses can then be recouped from SWP workers' wages through	None.

ESS2 Benchmark	Country	National legislation	Implementation of national legislation	Implementation under Australian and New Zealand labour mobility programmes	Difference between ESS2 & Laws/ Programs
		deduction is authorised by the <a href="#">employee</a> in accordance with an <a href="#">enterprise agreement</a> ; under a <a href="#">modern award</a> or an FWC order; or by or under a law of the <a href="#">Commonwealth</a> , a State or a Territory, or an order of a court.		<p>deductions. The employer “must ensure that any deduction, including any alteration to a deduction, from the wages paid to Seasonal Workers: (a) is consistent with the relevant Approved Recruitment; (b) is lawful and reasonable; (c) has been explained to and agreed to by the Seasonal Worker in writing; (d) does not exceed the cost of the expense the deduction is made for; and (e) does not result in Seasonal Workers having an inadequate amount of money remaining each week with which to pay for reasonable living expenses”(SWP DoA 2020). Expenses and deductions are detailed in the SWP LoO.</p> <p><b>PLS:</b> The PLS AE Guidelines and PLS DoA outline requirements for expenses and deductions. PLS employers are required to assist PLS workers with expenses (which may include. airfares, visas, on arrival cash advances, PPE, insurance, accommodation etc..) that they later recoup through wage deductions. Any assistance must be “explained and done with the written agreement of the Worker; be reasonable; not result in a Worker having an inadequate amount of money remaining in their pay packet for reasonable living expenses; and in accordance with the Fair Work Act... minimum [repayment] period of twelve (12) weeks” (PLS DoA). Expenses and deductions are detailed in the PLS LoO.</p>	
	New Zealand	The Wages Protection Act 1983 prevents unlawful deductions from wages. Employers can make a deduction from pay if:	New Zealand’s <a href="#">Labour Inspectorate</a> ensures compliance with the Wages Protection Act.	WH1.20.10 RSE Instructions specify the conditions under which pay deductions are permissible. Among others, they have to comply with relevant legislation, in particular the requirements of the Wages Protection Act	None.

ESS2 Benchmark	Country	National legislation	Implementation of national legislation	Implementation under Australian and New Zealand labour mobility programmes	Difference between ESS2 & Laws/ Programs
		6. the deduction is specifically required by law, for example for PAYE tax; 7. the deduction is for a lawful purpose, is reasonable and the employee has agreed to or asked for the deduction in writing; 8. the deduction is to recover an overpayment in limited circumstances; or a court directs that a deduction be made.		1983; be for a specified purpose and are for actual, reasonable, verifiable expenses in relation to that purpose; and the workers must have given written consent.	
Working hours and adequate periods of rest <u>as required by national law</u>	Australia	Under the NES, an employer must not request or require an employee to work more than 38 hours for a full-time employee, or an employee other than a full-time employee, the lesser of 38 hours and the employee's ordinary hours of work in a week. The NES also indicate which factors determine whether additional hours are reasonable. Rest breaks, meal breaks and breaks between shifts are covered by awards. Under the horticultural award, workers are entitled to one 10-minute paid rest break and one 30-60 minutes unpaid meal break	The Fair Work Commission and the Fair Work Ombudsman oversee the adherence to the Fair Work Act and the NES.	<b>SWP:</b> The SWP AE Guidelines and SWP DoA require workers to be provided with a minimum average of 30 hours of work per week over the duration of their employment; LoO to contain clear information relating to breaks and typical hours and days of work. The SWP MoU guarantees SWP workers from PNG a minimum average of 30 hours per week for at least six months.  <b>PLS:</b> The SWP AE Guidelines and SWP DoA require workers to be provided with a minimum of at least 30 hours of work each week or a minimum average of 30 hours per week (as per the relevant Award). The PLS documents do not include information on working hours and rest period requirements.	None.

ESS2 Benchmark	Country	National legislation	Implementation of national legislation	Implementation under Australian and New Zealand labour mobility programmes	Difference between ESS2 & Laws/ Programs
		each day. An employee who works for 5 hours or more must get at least 1 meal break, and employees can't be required to work more than 5 hours without a meal break. Employees have to get a minimum break of 10 hours between finishing work on 1 day and starting work on the next day or shift.			
	New Zealand	The Employment Relations Act does not set a maximum of working hours. Under the Act it is obligatory for the working hours to be agreed upon by the employer and employee and, depending on the circumstances, must be specified either in a collective agreement, in the employee's additional terms and conditions of employment, or the employee's individual employment agreement. According to Employment New Zealand, employment agreements must fix the maximum number of hours to be worked by the employee at not more than 40 hours per week (not including overtime) unless the employer and employee agree otherwise. The Employment Relations Act regulates in detail the number and length of rest breaks and	New Zealand's <a href="#">Labour Inspectorate</a> ensures compliance with the Employment Relations Act.	The WH1 RSE Instructions require an employment period of 6 weeks and no more than 7 months, where working hours are the greater of either 240 hours (total) or an average of 30 hours per week. The RSE Instructions and RSE Guidelines do not contain information on working hours and rest period requirements. The RSE Standard EA outlines working hours and breaks.	None.

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		meal breaks depending on the length of the work period (Part 6D).			
Entitlements to annual, sick, maternity and family leave as required by <u>national law</u>	Australia	<p>Under the NES, all employees (except for casual employees) get paid annual leave. Full-time and part-time employees get 4 weeks of annual leave, based on their ordinary hours of work.</p> <p>All employees in Australia are entitled to parental leave which includes maternity leave, paternity leave, adoption leave and other types of leave. The requirement is that employees have worked for their employer for at least 12 months before the date or expected date of birth if the employee is pregnant or the date of the adoption.</p> <p>All employees except casual workers are entitled to paid sick and carer's leave. The yearly entitlement is based on an employee's ordinary hours of work and is 10 days for full-time employees, and pro-rata for part-time employees.</p> <p>Employees are also entitled to 2 days compassionate leave each time an immediate family or household member dies or suffers a life-threatening illness or injury. Full-time and part-time employees receive</p>	The Fair Work Commission and the Fair Work Ombudsman oversee the adherence to the Fair Work Act and the NES.	<p><b>SWP:</b> Since SWP workers are employed as casual workers, they are not entitled to annual leave, parental (including maternity) leave, or paid sick or compassionate leave. Instead, SWP workers are entitled to casual leave loading under Australian Law. This information is outlined in the SWP Predeparture Guidebook. SWP workers, like other casual workers are entitled to 5 days unpaid domestic violence leave. This is not currently outlined in SWP materials.</p> <p><b>PLS:</b> The PLS Policy Handbook, AE Guidelines, and DoA do not provide information on annual and sick leave. The PLS Policy Handbook states explicitly that PLS workers are protected by Australian workplace laws that relate to pregnancy and parental leave. PLS LoO templates outlined leave entitlements.</p>	None

ESS2 Benchmark	Country	National legislation	Implementation of national legislation	Implementation under Australian and New Zealand labour mobility programmes	Difference between ESS2 & Laws/ Programs
		paid compassionate leave and casual employees receive unpaid compassionate leave. All employees are entitled to 5 days of unpaid family and domestic violence leave each year of their employment. This includes part-time and casual employees.			
	New Zealand	<p>All employees, regardless of their classification (i.e. including part-time, full time, fixed term and 'casual') are entitled to at least four weeks of paid annual holidays after every 12 months of continuous employment for their employer, for rest and recreation.</p> <p>All employees (including part-time and casual employees) are entitled to 5 days' sick leave if they have six months' current continuous employment with the same employer.</p> <p>Parental leave is covered by the Parental Leave and Employment Protection Act 1987 and includes special leave, primary carer leave, extended leave, partner's leave and negotiated carer leave.</p> <p>Other types of leave covered by the Employment Relations</p>	New Zealand's <a href="#">Labour Inspectorate</a> ensures compliance with the Employment Relations Act.	<p>Under the RSE Instructions, the employment of RSES workers must comply with all relevant employment laws in force in New Zealand, including holiday and leave requirements.</p> <p>In NZ employees are only entitled to annual leave after 12 months. As such, RSES workers typically on contracts 7 months or less are not entitled to annual leave. However, those extending visas under the COVID will be entitled (refer to the <a href="#">INZ notice</a>). RSES workers are entitled to sick, bereavement or domestic violence leave only after six months of work. They are not entitled to any type of parental leave.</p>	<p>None.</p> <p>RSES workers are only entitled to sick leave after six months of work and are not entitled to other types of paid leave. This is compliant with New Zealand national law.</p>

ESS2 Benchmark	Country	National legislation	Implementation of national legislation	Implementation under Australian and New Zealand labour mobility programmes	Difference between ESS2 & Laws/ Programs
		Act are bereavement leave and family violence leave.			
Where required by national law: Written notice of termination of employment and details of severance payments in a timely manner required. Payment of all wages, social security benefits, pension contributions and any other entitlements required on or before termination.	Australia	The Fair Work Act 2009, section 117, stipulates that written notice of the day of termination has to be given and the minimum period of notice is prescribed by the law. Alternatively, payment in lieu is possible. The law also stipulates that the final payment has to include outstanding wages including allowances, accumulated annual leave, and if applicable accrued or pro-rata <a href="#">long service leave</a> , <a href="#">payment in lieu of notice</a> , and <a href="#">redundancy pay</a> .	The Fair Work Commission and the Fair Work Ombudsman oversee the adherence to the Fair Work Act and the NES.	<b>SWP:</b> SWP AE Guidelines stipulate that employers are expected to let the department know prior to termination if they intend to terminate the employment of a Seasonal Worker, and advise the department of the reasons. Termination is categorised as a non-critical incident requiring notification no later than the next business day. The SWP pre-departure Guidebook provides information on workplace rights and wrongful termination.  <b>PLS:</b> The PLS Policy Handbook defines termination of employment as a 'critical incident' that requires notification. The PLS DoA requires the employer to notify DoFA&T or the managing contractor no later than the next business day. The <a href="#">PLS Incident Reporting Guidelines</a> provide an Ending Employment Checklist	None.
	New Zealand	Under New Zealand legislation employers don't need to provide a written notice of termination. The legislation does not prescribe a particular period of notice, instead demanding that a fair and reasonable notice be given if the employment agreement does not have a notice period. Employees have to get as part of their final pay all outstanding wages, including penalty rates and allowances, any accumulated annual leave, accrued or pro-rata <a href="#">long</a>	New Zealand's <a href="#">Labour Inspectorate</a> ensures compliance with the Employment Relations Act.	The WH1 RSE Instructions, the RSE Employer Guide and the RSE Worker Guide do not contain details about terminations.	None  There is no national legal requirement for a written notice of termination.

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		<a href="#">service leave</a> , <a href="#">payment in lieu of notice</a> and <a href="#">redundancy pay</a> , if applicable.			
<b>Non-discrimination and equal opportunity</b>					
As required by ESS2: Equal opportunity and fair treatment irrespective of personal characteristics unrelated to inherent job requirements. This refers to all aspects of the employment relationship, such as recruitment and hiring, compensation, working conditions and terms of employment, access to training, job assignment, promotion, termination of employment or retirement, or disciplinary practices. Measures for preventing harassment, intimidation and/or exploitation required.	Australia	Various national laws cover equal employment opportunity and non-discrimination in the workplace. These include the <a href="#">Workplace Gender Equality Act 2012</a> , the <a href="#">Sex Discrimination Act 1984</a> and the <a href="#">Disability Discrimination Act 1992</a> , the Racial Discrimination Act 1975 and the Age Discrimination Act 2004.	At the national level, equal opportunity employment falls within the domain of the <a href="#">Australian Human Rights Commission</a> . The Commission investigates complaints related to the various anti-discrimination acts.  Fair Work Ombudsman provides information on <a href="#">protection from discrimination at work</a> ; <a href="#">gender pay equity</a> ; and <a href="#">bullying and harassment</a> .	<b>SWP:</b> SWP workers are covered by Australian laws for equal employment and non-discrimination. These rights and obligations are not mentioned in the SWP implementation documents however the SWP Pre-departure Guidebook provides info on Australian law and specifically non-discrimination.  <b>PLS:</b> PLS workers are covered by Australian laws for equal employment and non-discrimination. These rights and obligations are not mentioned in the PLS Policy Handbook, except that an employee cannot be discriminated against because she is pregnant.	Covered under Australian Law however SWP and PLS documents not explicit
	New Zealand	The Human Rights Act 1993 prohibits discrimination in employment based on various grounds, such as sex, race or age.	The <a href="#">Human Rights Commission</a> can help to resolve complaints of unlawful discrimination, and the Human Rights Review Tribunal can hear claims relating to breaches of the Human Rights Act 1993 brought by employees against their employer.  Employment NZ provides information on <a href="#">workplace</a>	Non-discrimination and equal opportunity are not mentioned in the RSE implementation documents	Covered under NZ Law however RSES documents not explicit



ESS2 Benchmark	Country	National legislation	Implementation of national legislation	Implementation under Australian and New Zealand labour mobility programmes	Difference between ESS2 & Laws/ Programs
			<a href="#">discrimination</a> and <a href="#">discrimination when hiring</a>		
As required by ESS2: Appropriate measures of protection and assistance to address the vulnerabilities of project workers, including specific groups of workers, such as women, people with disabilities, migrant workers and children of working age.	Australia	Special measures that aim to foster greater equality are permitted under the national laws addressing equal employment opportunity and non-discrimination in the workplace.	<p>Issues related to special measures of protection and assistance fall under the responsibility of the Australian <a href="#">Human Rights Commission</a>.</p> <p>Safework Australia – <a href="#">employer responsibilities and resources on SEA/SH</a> and support services.</p> <p>Worksafe NZ – <a href="#">employer responsibilities and resources on SEA/SH</a> and support services.</p>	<p><b>SWP:</b> SWP design and implementation arrangements provide special measures to address the vulnerability of SWP workers (i.e. migrant workers) in a number of areas including approved employer process; worker readiness; minimum average weekly hours; accommodation; pastoral care; liaison; and program compliance and assurance framework.). Special measures for other vulnerable groups such as women and people with disabilities) are not covered by SWP implementation documents other than the requirement to provide separate, private and safe sleeping and bathroom facilities for single men and women.</p> <p><b>PLS:</b> SWP design and implementation arrangements provide special measures to address the vulnerability of SWP workers (i.e. migrant workers) in a number of areas including approved employer process; worker readiness minimum average weekly hours; pastoral care; liaison; and program compliance and assurance framework). The PLS Policy Handbook refers to protection measures in case of sexual exploitation, abuse or harassment (SEAH), indicating that DFAT does not tolerate any of this within the organisation and extending to those DFAT work with. The DFAT Preventing Sexual Exploitation, Abuse and Harassment (PSEAH) Policy outlines expectations and requirements for DFAT staff and DFAT's partners to manage the risk of SEAH and SEAH incidents. The PLS Policy Handbook also</p>	SWP and PLS documents do not include specific measures for people with disabilities.

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				provides protections for women in the areas of pregnancy.	
	New Zealand	Section 73 of the Human Rights Act permits special measures to ensure equality.	Issues related to special measures of protection and assistance fall under the responsibility of the <a href="#">Human Rights Commission</a> .	RSES design and implementation arrangements provide special measures to address the vulnerability of RSES workers (i.e. migrant workers) in a number of areas including registered employer process; worker readiness minimum average weekly hours; accommodation; pastoral care; repatriation; and relationship/liaison functions). Special measures for women and people with disabilities are not mentioned in the RSE implementation documents	RSES documents do not provide comprehensive measures for women; and no specific measures for people with disabilities.
<b>Child labour</b>					
<u>As required by ESS2:</u> A child under the minimum age will not be employed or engaged. The minimum age for employment or engagement in connection with the project will be the age of 14 unless	Australia	There is no federal law that prohibits child labour. Federal legislation provides for compulsory education up to the age of 15, and there are minimum ages for employment in selected occupations. State and territory legislation restricts the types of work a child can undertake and the conditions regulating that work.	States and territories enforce the implementation of legislation that prohibits and restricts child labour.	<b>SWP:</b> The age restriction of the SWP is 21 years and over.  <b>PLS:</b> The age restriction of the PLS is 21-45 years.	None

ESS2 Benchmark	Country	National legislation	Implementation of national legislation	Implementation under Australian and New Zealand labour mobility programmes	Difference between ESS2 & Laws/ Programs
national law specifies a higher age. A child over the minimum age and under the age of 18 may be employed only under certain specific conditions. It will not be employed in a manner that is likely to be hazardous or interfere with the child's education or be harmful to the child's development	New Zealand	The Education Act 1989 prohibits any person from employing any child under the age of 16 years within school hours. Employment that prevents or interferes with a child's attendance at school is also unlawful. The Health and Safety in Employment Regulations 1995 place restrictions on the employment of young people under 15 years of age in certain industries such as manufacturing, construction and forestry.	The Education Act, which requires that school-age children cannot be employed during school hours, is enforced by schools. <a href="#">WorkSafe</a> regulates and enforces the work health and safety regulations.	The age restriction for participation in the RSE is 18 years and over	None
<b>Forced labour</b>					
<u>As required by ESS2:</u> Forced labour including any kind of involuntary or compulsory labour, such as indentured labour, bonded labour, or similar labour-contracting arrangements will not be used	Australia	Slavery and forced labour are criminalised in the Criminal Code Act 1995. Furthermore, the Modern Slavery Act 2018 prohibits the use of coercion, threats or deception to exploit victims and undermine their freedom.	Offences under the Crimes Act are dealt with in the court system.	<p><b>Both</b> - Entry into the SWP &amp; PLS is voluntary. Employees are free to accept or reject employment offers for each programme without penalty. Both programs has put in place mechanisms to ensure that workers are properly informed about the nature and conditions of these respective programs</p> <p><b>SWP:</b> The SWP Implementation Documents do not refer to forced labour. The SWP Implementation Arrangements require that SWP workers are employed in accordance with the SWP requirements and Australia's Fair Work laws, and that allegations of exploitation or misconduct by Australian Approved Employers will be promptly investigated.</p> <p><b>PLS:</b> The PLS Policy Handbook does not refer to forced labour. It does state, however, that the Australian Government does not tolerate the</p>	Covered under Australian Law

ESS2 Benchmark	Country	National legislation	Implementation of national legislation	Implementation under Australian and New Zealand labour mobility programmes	Difference between ESS2 & Laws/ Programs
				exploitation of any workers, including foreign workers, and that all workers under the PLS are protected by Australian workplace laws, in the same manner as Australian workers.	
	New Zealand	Slavery and forced labour are criminalised in the Crimes Act 1961.	Offences under the Crimes Act are dealt with in the court system.	Entry into the RSES is voluntary. Employees are free to accept or reject employment offers for each programme without penalty. The RSES has put in place mechanisms to ensure that workers are properly informed about the nature and conditions of these respective programs. The RSE Implementation Documents do not explicitly refer to forced labour.	Covered under Australian Law.
<b>Workers' organisations</b>					
The role of legally established workers' organizations and legitimate workers' representatives will be respected <u>in accordance with national law</u>	Australia	Trade unions are comprehensively regulated at the federal level by the Fair Work (Registered Organisations) Act 2009, and are also subject to regulation by State and Territory governments. Unions have a crucial role in enterprise bargaining to negotiate conditions of employment specific to their company or industry. Unions also can apply to the FWC to undertake strike action in relation to a grievance at the workplace. Unions also have right of entry into workplaces where they have members and may use this right to examine working conditions and consult with members.	The Fair Work Commission is responsible for administering certain provisions of the Fair Work Registered Organisations Act that deals with registration and accountability of registered organisations including unions.	<p><b>SWP:</b> The MoU between the Governments of Australia and PNG obliges AEs to employ SWP workers in accordance with Australian work standards, including access to Australian union membership. Under the SWP Implementation Arrangements, AEs have to ensure SWP workers are aware they can join a union. AEs must invite and use reasonable endeavours to accommodate attendance of unions at Arrival Briefings (SWP DoA). The SWP Pre-Departure Guide provides information on the role of unions.</p> <p><b>PLS:</b> The PLS Policy Handbook does not refer to the role of workers' organisations other than recommending that unions be invited to pre-departure training in Sender countries.</p>	None.
	New Zealand	The Trade Unions Act 1908 sets out the legal basis for	The <a href="#">Employment Relations Authority</a>	WH.5 RSE Instructions for RSEs includes a requirement to consent to INZ seeking	None.

ESS2 Benchmark	Country	National legislation	Implementation of national legislation	Implementation under Australian and New Zealand labour mobility programmes	Difference between ESS2 & Laws/ Programs
		Trade Unions. In addition, various provisions in the Employment Relations Act provide a simple process for the registration and operation of unions.	oversees adherence to the Employment Relations Act and promotes and regulates collective bargaining, and protects an employee's choice about whether to be a member of a union	information from relevant unions and also states the that MBIE may consult with relevant unions to determine employer compliance . RSE Get Ready Guide provides information on unions.	
<b>Grievance mechanism</b>					
<p><u>As required by ESS2:</u> Provisions of a grievance mechanism to raise workplace concerns. Workers to be informed of the grievance mechanism at the time of recruitment and the measures put in place to protect them against reprisal for its use. The grievance mechanism will not impede access to other judicial or administrative remedies that might be available under the law or through existing arbitration procedures.</p>	Australia	Modern awards and enterprise agreements contain a dispute resolution procedure to help resolve disputes. There is no comparative requirement on organisations not covered by Federal or State industrial instruments to have formal grievance procedures.	If disputes remain unresolved after following the dispute resolution procedure in the workplace, the parties may jointly or individually apply for the matter to be heard by the Fair Work Commission.	<p><b>SWP:</b> SWP worker grievance arrangements are in place. Under the SWP Guidelines, workers who have workplace concerns should talk to their employer. They can also speak to their team leader, Welfare and Wellbeing Support Officer, or contact DESE's SWP information line: 02 6240 5234 or <a href="#">email</a>. After hours, they can call the PLF Worker Welfare Team Hotline (1800 51 51 31).</p> <p><b>PLS:</b> According to the PLS Policy Handbook, workers who have concerns regarding their salary or employment conditions should contact the AE and/or the Worker Welfare Team or contact the PLF worker welfare line (1800 51 51 31) or <a href="#">email</a></p> <p>The PLS Policy Handbook also points to the Fair Work Ombudsman as a source of information about workplace rights.</p> <p><b>Both:</b> National <a href="#">Translating and Interpreting Service</a> available - 131 450</p>	None.
	New Zealand	Under the Employment Relations Act 2000, workers can raise a personal grievance if they believe their employer	If grievances remain unresolved formal steps are through the Employment Relations	The IAU between NZ and PNG states that workers may bring any concerns arising from the conduct of their RSE to the attention of their team leader, employer, union	None

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		has acted unfairly or unreasonably towards them. If the grievance cannot be resolved between employer and worker, workers have access to free Employment Mediation Services via the Employment New Zealand website.	Authority and the Employment Court can be taken.	<p>representative, Honorary Consul and/or the Ministry staff. The National Manager, RSE may investigate issues unable to be resolved by other parties.</p> <p>Under the IAU between NZ and PNG, workers are given the contact details of the MBIE's Relationship Managers and National Manager RSE.</p> <p>General MBIE complaints mechanism exists. Migrant worker hotline: 0800 20 90 20 (supported by <a href="#">Ezipeak</a> – 180 languages) has been established</p>	
<b>Occupational Health and Safety</b>					
<u>As required by ESS2:</u> OHS risk management Measures relating to occupational health and safety will be applied to the project. The OHS measures will be designed and implemented to address: (a) identification of potential hazards to project workers; (b) provision of preventive and protective measures; (c) training of project workers and maintenance of training records; (d)	Australia	<p>In Australia work health and safety is regulated by states and territories. Each jurisdiction has its own work health and safety laws and regulatory body.</p> <p>An Australian Government statutory body, Safe Work Australia, develops and evaluates workplace health and safety policies which can then be implemented by State regulatory bodies. 'Model' work health and safety laws developed by Safe Work Australia have been adopted by 6 of the 8 Australian States and territories, delivering a level of consistency between different jurisdictions.</p> <p>At the federal level, the Commonwealth regulates</p>	<p><a href="#">Safe Work Australia</a> is the national work health and safety policy agency.</p> <p>The regulation and enforcement of WHS laws is the responsibility of the states and territories.</p>	AEs under the SWP and PLS have to comply with all relevant WHS legislation and Approved Codes of Practice relating to work health and safety; and to provide a safe work environment for all of workers.	None

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documentation and reporting of occupational accidents, diseases and incidents; (e) emergency prevention and preparedness and response arrangements to emergency situations; and (f) remedies for adverse impacts.		health and safety for its employees through the Work Health and Safety Act 2011 which requires employers to ensure the health and safety of workers it engages or whose work it influences or directs. This “duty of care” specifically includes looking at the work environment; work systems; plant and structures used; substances used, handled or stored; as well as providing adequate information, instruction, training and supervision for work to be carried out safely. Access to facilities for the welfare of workers is also required. Workers have the right to refuse unsafe work.			
	New Zealand	The Health and Safety at Work Act 2015 and related regulations require that workers and others are given the highest level of protection from workplace health and safety risks, so far as is reasonably practicable. The Act places health and safety duties on ‘persons conducting a business or undertaking’ (PCBU). ‘PCBU’ is a broad term that covers many ways of doing business including in the not-for-profit	WorkSafe New Zealand is New Zealand’s workplace health and safety regulator. Its focus is to embed and promote good workplace health and safety practices. It works closely with employers, employees and others to educate them about their workplace health and safety responsibilities; engage them in making changes	All RSEs have to comply with New Zealand workplace health and safety regulations.	None

ESS2 Benchmark	Country	National legislation	Implementation of national legislation	Implementation under Australian and New Zealand labour mobility programmes	Difference between ESS2 & Laws/ Programs
		sector. A PCBU can be a business entity such as a company (legal person), or a natural person.	that reduce the chances of harm, and enforce workplace health and safety legislation.		
As required by ESS2: Procedures will be developed and implemented to establish and maintain a safe working environment. This includes providing information to project workers, training on occupational safety and health, and provision of personal protective equipment without expense to the project workers.	Australia	The Work Health and Safety Act 2011 requires employers to ensure the health and safety of workers it by maintaining a safe work environment; as well as providing adequate information, instruction, training and supervision for work to be carried out safely.	The regulation and enforcement of WHS laws is the responsibility of the states and territories.	AEs under the SWP and PLS have to comply with all relevant WHS legislation and Approved Codes of Practice relating to work health and safety; and to provide a safe work environment for all of workers.	None
	New Zealand	Under the Health and Safety at Work Act 2015, the primary duty of care is a broad, overarching duty. It includes having effective practices in place for providing and maintaining a work environment that is without risk to health and safety, safe plant and structures, safe systems of work, adequate facilities for the welfare of workers at work. It also includes the safe use, handling and storage of plant, substances and structures, the provision of information, training, instruction or supervision that is necessary to protect people from risks to health and safety arising from the work carried out, monitoring the health of workers and the conditions at	WorkSafe New Zealand is New Zealand's workplace health and safety regulator.	All RSEs have to comply with New Zealand workplace health and safety regulations. In addition, RSEs are required to provide appropriate training and information for workers so that they can work safely.	None.



ESS2 Benchmark	Country	National legislation	Implementation of national legislation	Implementation under Australian and New Zealand labour mobility programmes	Difference between ESS2 & Laws/ Programs
		the workplace to prevent illness or injury to workers arising from the work carried out.			
<u>As required by ESS2:</u> Workplace processes will be put in place for project workers to report work situations that they believe are not safe or healthy, and to remove themselves from a work situation which they have reasonable justification to believe presents an imminent and serious danger to their life or health.	Australia	Under Australian legislation, workers can remove themselves from unsafe work situations without being penalised.	The regulation and enforcement of WHS laws is the responsibility of the states and territories.	AEs under the SWP and PLS have to comply with all relevant WHS legislation and Approved Codes of Practice relating to work health and safety.	
	New Zealand	Under the Health and Safety at Work Act 2015 and related regulations, a worker has the right to stop work, or refuse to carry out work, if they believe that doing so would expose them, or anyone else, to a serious risk to health or safety from an immediate or imminent hazard. Moreover, employers must not discriminate or take negative steps against a worker because of their involvement in work health and safety.	New Zealand's workplace health and safety regulator WorkSafe New Zealand ensures implementation of the legislation.	All RSEs have to comply with New Zealand workplace health and safety regulations.	None.
<u>As required by ESS2:</u> Facilities Project workers will be provided with facilities appropriate to the circumstances of their work, including access to canteens, hygiene facilities, and appropriate areas for rest. Accommodation services provided to	Australia	Under the Work Health and Safety Act 2011 employers have to provide safe and comfortable facilities to workers. This includes clean, safe and accessible toilets, drinking water, washing and eating facilities, and secure storage for personal items.	The regulation and enforcement of WHS laws is the responsibility of the states and territories.	AEs under the SWP and PLS have to comply with all relevant WHS legislation and Approved Codes of Practice relating to work health and safety, and to provide a safe work environment for all workers.  Under both schemes, AE's have to comply with requirements concerning the accommodation that AEs must make available to their workers at a fair price.	None.
	New Zealand	Under NZ legislation, employers must provide toilets, drinking water, hand-	New Zealand's workplace health and safety regulator	All RSEs have to comply with New Zealand workplace health and safety regulations. There are additional requirements concerning the	None.

ESS2 Benchmark	Country	National legislation	Implementation of national legislation	Implementation under Australian and New Zealand labour mobility programmes	Difference between ESS2 & Laws/ Programs
workers also have to meet specific quality standards.		washing facilities, eating and break facilities, and a place for unwell workers to rest if it is unreasonable for them to leave the workplace. Facilities must be sufficient to meet the needs of your workforce. Moreover, employers who own, manage or control the accommodation, and whose workers need to occupy the accommodation for work purposes because no other accommodation is reasonably available, must maintain worker accommodation so that workers are not exposed to health and safety risks from that accommodation.	WorkSafe New Zealand ensures implementation of the legislation.	accommodation that RSEs must make available to their workers at a fair price. The accommodation needs to be safe and suitable and have been checked by MBIE and heaters, cooking facilities, washing machines and hot showers have to be provided	
<u>As required by ESS2:</u> Where project workers are employed or engaged by more than one party and are working together in one location, the parties who employ or engage the workers will collaborate in applying the OSH requirements, without prejudice to the responsibility of each party for the	Australia	National legislation does not explicitly cover situations where workers working together are engaged by more than one party, however, Australia's work health and safety laws apply equally to all workers and workplaces in Australia.	n/a	All AEs have to comply with Australian workplace health and safety regulations.	None
	New Zealand	Under NZ legislation, when two or more businesses operate together, for example at the same location or in a contracting arrangement, they must work together to fulfil their primary duties of care.	New Zealand's workplace health and safety regulator WorkSafe New Zealand ensures implementation of the legislation.	All RSEs have to comply with New Zealand workplace health and safety regulations.	None.

ESS2 Benchmark	Country	National legislation	Implementation of national legislation	Implementation under Australian and New Zealand labour mobility programmes	Difference between ESS2 & Laws/ Programs
health and safety of its own workers.					
<u>As required by ESS2:</u> A system for regular review of occupational safety and health performance and the working environment will be put in place.	Australia	National legislation in Australia does not state how often occupational safety and health performance has to be reviewed.	The regulation and enforcement of WHS laws is the responsibility of the states and territories.	AEs under the SWP and PLS have to comply with all relevant WHS legislation and Approved Codes of Practice relating to work health and safety. Under the SWP, the Recruitment Application includes a Welfare and Wellbeing Plan which is required once per Deed and has to be revised annually by Approved Employers; an Accommodation Plan.	This is not explicitly covered in national legislation
	New Zealand	Under the Health and Safety at Work Act 2015. PCBU's must have a health and safety policy. PCBU's with fewer than five employees do not have to have a written policy. The Act does not state how often the performance is reviewed.	New Zealand's workplace health and safety regulator WorkSafe New Zealand ensures implementation of the legislation.	As part of their application to become an RSE, employers have to provide a written statement documenting any changes to health and safety policies since the previous application, or confirmation that there have been no changes, as well as a recent copy of the business' health and safety policies and procedures. Employers also have to provide evidence of necessary language translation for health and safety purposes.	None.

## 5 Social Impact Assessment

This Section examines the potential social and economic benefits of PNG's participation in labour mobility schemes; outlines the risks and potential adverse impacts on Project beneficiaries associated with the Project's implementation in PNG and associated mitigation measures; and reviews the risks associated with PNG seasonal/migrant workers participation in the Australian and New Zealand labour mobility programs. As the Project has no direct relationship with the A&NZ programs or A&NZ governments, the SA presents measures to further mitigate risks to workers in Host Countries that are within the project's control. It is the firm belief of the GoPNG that the benefits outweigh risks associated with labour mobility. Notwithstanding this, more space in this Section is dedicated to investigating the risks and mitigating actions given this is the focus of the Social Assessment.

### 5.1 Potential Benefits

The vision of the Draft National Labour Mobility Policy (GoPNG 2021) is “to provide opportunities for decent, temporary work overseas for at least 8,000 youth and citizens, both women and men, per year to grow PNG's economy both through remittances and through skills and knowledge transfer to build sustainable industry at home. Workers' experience overseas will contribute to the development of sustainable livelihoods in Papua New Guinea for individuals and their communities.”

The Project, through its support in strengthening PNG's labour mobility programme, is expected to provide significant benefits to workers and their families and communities in the form of increased employment opportunities, increased remittances, skills development, improved programme governance and strengthened social risks management.

The success of the GoPNG's scale-up of its labour mobility programme, and the ability of the GoPNG to meet its vision and objectives, will rely on the ability of the LMU and RRs to identify, assess and manage social risks and potential negative impacts associated with the programme – through effective design and risk mitigation measures and adequate resourcing and capacity for their implementation (refer Section 5.2 and 5.3).

#### 5.1.1 Increased employment opportunities

The Project's support for the GoPNG's labour mobility programme is expected to contribute to a significant scale-up of PNG seasonal/migrant worker participation in overseas labour mobility programmes, particularly amongst prospective workers in rural and regional areas, and for youth and women.

##### **Improved employment opportunities in the formal economy**

PNG's labour market is characterized by a large informal sector that employs about 85-90 per cent of the working-age population, primarily in subsistence agriculture. Formal job opportunities are scarce, mostly concentrated in urban areas, and have been steadily declining since mid-2013 when the construction of the PNG LNG Project passed its peak<sup>7</sup>. The dominance of informal employment, coupled with low income levels, also helps to explain PNG's persistently low unemployment rate, which has hovered around 2-3 per cent in the last

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<sup>7</sup> The construction of the PNG LNG Project involved over 55,000 workers, with 21,220 employed at its peak in 2012. In 2014, the Project entered production phase (source: <https://pnglng.com/About/Project-overview>). The number of jobs created by the project was significant in PNG context, given that less than 10,000 new workers enter the formal labor market every year, despite the country's large labor force (ILO 2010).

two decades<sup>8</sup>. Agriculture accounts for 67 per cent of total employment, higher than in many neighbouring Pacific island countries whereas the resource sector, despite being the major driver of exports and growth, accounts for only about one per cent of employment due to its capital-intensive, enclave-based orientation and the relatively high levels of skills required.

The PNG Government aims to send 8,000 workers per annum to Australia and New Zealand under the SWP, PLS and RSES by 2025 and 30,000 workers by 2030 (GoPNG 2021). While 30,000 workers per annum is an ambitious target, the number is small in relation to the 2.5 million Papua New Guineans engaged in the informal or subsistence economy, many of whom would welcome a wage-earning opportunity overseas. With the GoPNG's aim to develop a strong and reliable pool of workers from across the country with a particular focus on rural and remote areas, labour mobility opportunities have the potential to have strong positive impacts on sending communities. With the establishment of more regional recruitment hubs and a growing revolving pool of workers, these opportunities will be spread widely across rural and remote districts. With a low average age of labour migrants, young persons are bound to benefit from these opportunities.

The Project will support the LMU to increase overseas employment opportunities through support for employer-focused selection, recruitment and mobilization arrangements; TA to identify modalities to train prospective migrants and participating households and to facilitate linkages between Australian and New Zealand employers and the LMU/ RRHs; and with reducing and meeting documentation and related costs incurred by workers prior to departure .

### **Improved opportunities for disadvantaged workers**

The Draft National Labour Mobility Policy (GoPNG 2021) explicitly mentions youth and women in its vision which is “to provide opportunities for decent, temporary work overseas for at least 8,000 youth and citizens, both women and men, per year by 2025”.

Youth unemployment is one of the most pressing labour market issues in PNG, due to its far-reaching social and economic consequences. Youth unemployment in PNG is about twice as high as for the general population (World Bank's World Development Indicators). Although in a subsistence-based economy like PNG's unemployment rates are not a good indicator of labour market performance and may mask much higher rates of under-employment, a comparison between the youth unemployment rate and the general unemployment rate reveals obvious labour market disadvantages for young people. Many young people are likely to give up looking for employment in the formal sector and instead be absorbed in subsistence activities or family businesses. The formal labour force offers only 10,000 new jobs per annum, and young people are generally at a disadvantage in terms of experience and qualifications when competing for these rare jobs. Less than 8% of the approximately 80,000 school leavers per year are absorbed into the formal labour market (GoPNG 2021). PNG graduates more university students than there are formal sector jobs. As a result, there is a growing underemployed educated youth bulge, alongside a growing unskilled youth bulge.

Women are much less likely to be in formal employment than men. At the time of the last Census of 2011, only 99,050 women and 261,682 men were part of the formal economy workforce (GoPNG 2021). The Draft National Labour Mobility Policy outlines a goal of equal participation of women and men in work opportunities and a target of at least 35% of nominated workers to be female.

The Project will support the LMU to increase overseas employment opportunities for youth and women. Youth and women will also benefit from measures designed to target disadvantaged groups, with the Project financing

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<sup>8</sup> The International Labor Organization (ILO) estimates that labor participation rate among Papua New Guineans 15-64 years of age was 48.6 per cent in 2019 and the youth labor participation rate (15-24 years old) was 35.5 per cent, which is about the average of lower-middle income country.

TA to expand participation among disadvantaged groups through outreach and preparatory assistance in participating districts and provinces.

### 5.1.2 Increased and productive use of remittances

The Project's support for the GoPNG's labour mobility programme is expected to contribute to increased remittances from migrant workers, lower costs for remittance transfer, and promote more productive use of remittance income by remittance-receiving households.

#### **Increased remittances**

While remittances are significant sources of income in other Pacific countries, including Tonga (42% of GDP), Samoa (17.2% of GDP) and Fiji (5.2% of GDP), Vanuatu (3.8% of GDP), the relative value of remittances to GDP in Papua New Guinea is almost zero (World Bank 2019). The vast majority (97%) of remittances in PNG are domestic, with Australia and the United States being the main sources for the small number of international remittances (Himelein et al 2020).

Through reforms to the PNG labour mobility arrangements, the GoPNG is aiming to significantly increase the number of PNG seasonal/migrant workers overseas; and by working with at least 12 regions, and targeting rural workers, is aiming to increase overseas remittances to provinces (GoPNG 2021).

There is currently no data available on remittances specifically for PNG seasonal/migrant workers participating in the Australian and New Zealand labour mobility programmes. However, this data will be collected as a part of the upcoming impact evaluation planned under the Project. Meanwhile, the data for all Pacific workers participating in SWP shows that over six months, workers on average earn AUD 18,252 (~USD 14,126) net of taxes, remit AUD 2,170 (~USD 1,679) and take-home AUD 6,653 (~USD 5,149) in savings (World Bank, 2017b). In the RSES, ni-Vanuatu, Tonga and Samoan workers earned an average of NZD9,773, NZD14,303 and NZD15,200 after tax and employer deductions, over a working period of approximately five months during 2014-16 (Bedford, Bedford and Nunns 2020). The median amount remitted was approximately NZ \$1800 among ni-Vanuatu, NZD 5700 among Tongans and NZD 5,900 among Samoans over the same period.

Data from a recent phone survey conducted by the World Bank shows that 84 per cent of SWP and RSES workers typically remitted money at least once a month, with an inconsiderable difference across the two schemes. The average amount remitted each time was about AUD638 among SWP workers and NZD448 among RSES workers. The cost of sending and receiving remittances from abroad can be high. Most SWP workers use Western Union which is also the most expensive option in several countries ranging from 10 to 18.5 per cent of the remitted amount (World Bank 2017). While the Australian and New Zealand governments support the [Send Money Pacific](#) initiative which provides a cost comparison of transfer services there is reportedly low awareness and use of this service amongst workers (World Bank 2017). According to this platform, the cost of transferring AUD 500 from Australia to PNG range from 3.2% to 31.25% with Western Union costing 10.28% (Smart Money Pacific website 2021).

Pacific workers participating in the SWP and RSES mainly remit to spouses and parents, followed by siblings. Workers, their families, and communities can have inflated and differing expectations about overseas incomes and the amount and frequency of remittances. The LMU working with RRHs seeks to manage worker's expectations during pre-departure sessions, however, there is currently a lack of formal engagement with the families of workers. The LM Policy highlights the importance of including the local community throughout the process so that there is a realistic understanding of potential earnings, costs, savings and remittances. This does not currently occur at scale due to resource constraints.

The Project will support the LMU to address these issues through improved information provision and financial literacy training covering financial planning, use of digital financial services, remittance services, and savings

products in the formal financial sector. These activities will target both workers and their families to support household financial management and the inclusion of female household members in decision making.

### **Productive use of remittances**

A recent study on Pacific labour mobility and remittance (World Bank, 2021a) confirms the significance of remittances for the livelihood of recipient families and communities. About 90 per cent of the respondents remitted to cover their family's living expenses, followed by education for children (more than 50%). Remittances were also sent to build or renovate houses and to spend on health care goods and services.

The GoPNG is seeking to ensure that remittances are used where possible for productive purposes through the provision of remittance use and financial literacy training during pre-departure and reintegration programmes. With project support, the LMU is also seeking to expand its reintegration support to workers, which includes advice on the use of savings and remittance income for entrepreneurial activities.

The LMU also plans to monitor and estimate remittances to inform Members and citizens about the value-for-money and economic benefits of the programme. The Project will support the establishment of an information system for this purpose.

### **5.1.3 Increased skills in the domestic labour force**

There is an opportunity through the scale-up of participation in overseas labour mobility schemes to develop the skills of PNG seasonal/migrant workers in Australia and New Zealand, with these skills then benefitting workers' families and communities upon the workers return.

### **Increasing skills in PNG**

Only half of all adults in PNG have had a basic school education with the average number of years of schooling achieved by adults being 4.7 (UNDP 2020a). The PNG National Labour Market Assessment Report (OHE and DNPM, 2010), showed that the overall level of skills and qualifications in the PNG formal labour market was low by international standards. In 2010, 69% of the total employees in the formal labour market had only basic education up to and including Grade 8. The labour market is characterised by an oversupply of low skilled labour that is absorbed in the subsistence and informal economies and a lack of skilled labour, particularly in technical and vocational areas. A quantitative shortage of skilled workers is compounded by many TVET and university graduates struggling to find employment as their skills do not match employers' expectations. Various studies have drawn attention to the mismatch between training provided by training institutions and employers' needs in PNG (e.g. Parker et al., 2012).

The Gross Enrolment Ratio for tertiary education in PNG (the ratio of the number of individuals who are enrolled in higher education institutions compared to the number of individuals who are at the higher and technical education enrolment age) is 3%, which is one of the lowest in the Pacific region (DHERST, 2015). The overall number of graduates is extremely low. For instance, there were on average less than 1,000 graduates from technical and business colleges in PNG between 1997 and 2008. This number is extremely small in relation to PNG's population and also in comparison to the number of graduates from universities which was more than twice as high.

Currently, at least 30% of Grade 12 graduates seek entry to tertiary institutions (DHERST, 2015), but only 15-20% can find places in one of the 33 recognised higher education institutions which include six universities, ten teachers' colleges, eight technical and business colleges, seven nursing colleges, and several other public and private tertiary institutions (DHERST, 2015).

In addition to providing a source of employment and income, the GoPNG also sees labour mobility as a win-win for its citizens as it upskills workers so that they can expand their businesses or find better work at home. Therefore, PNG's approach to labour mobility is to focus particularly on those sectors that employ significant numbers of workers domestically. This will not only ensure that the skills and experience of workers match the needs of employers, but also that skills learnt overseas have the greatest benefit to industry at home (GoPNG 2021).

There are different means through which participants in labour mobility schemes develop skills:

- English language skills – through participation in labour mobility and training courses
- Other soft skills including generic workplace skills such as time management, planning/organisation of daily work, improved productivity and work ethic – through participation in labour mobility
- Work-related skills in specific industries such as horticulture – through participation in labour mobility
- Specific skills such as financial literacy, numeracy, computer literacy, first aid – through participation in training courses ("Add-On Skills Training" for SWP workers and Vakameasina courses for RSE workers)<sup>9</sup>.

Project TA will support skills development of labour scheme participants through identifying modalities to train prospective migrants with training to be tailored to employers' needs, including soft skills training and worker readiness training that will be offered to aspiring migrants.

### **Improved transferability of skills**

To be beneficial for sending countries, skills acquired overseas have to be transferable and useful in the local context. It has been found that many work-related soft and hard skills acquired by Pacific labour migrants in New Zealand are transferable to the home environment and are frequently shared with family members and the wider community (Bedford, Bedford and Nunns 2020). This includes particularly horticultural skills that can be applied to horticultural production in the home country. Thinning, pruning and weeding are transferable skills for use with local crops. Informants noted that while the crops are different, the principles are the same, especially if growing crops for sale. The World Bank's Social Impact Study (2017) found that male and female SWP participants had improved their financial literacy skills and had better control and management of their finances. Female seasonal workers highlighted positive changes emanating from gaining new skills and knowledge, including increased levels of financial literacy, English language proficiency, leadership and entrepreneurial skill (World Bank, 2017b). Besides, the experience of living and working overseas in itself can change world views and support domestic reform including in regard to gender equality and similar issues.

The Draft National Labour Mobility Policy emphasises that by connecting workers with some industry experience or training to opportunities overseas, PNG can develop a skilled cohort of workers who can, in some cases, replace foreign labour when they return home. Under the Policy, the Government of PNG will focus labour mobility on strategic industries that provide employment in both host and sending countries, rather than industries that exist only overseas. For maximising the use of newly acquired skills upon return, targeted reintegration assistance will be provided by the LMU and RRHs. Moreover, linkages between employers and the LMU/RRHs will assist in matching the skills of returned workers to growth industries.

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<sup>9</sup> Basic training, known as Add-On Skills Training for SWP workers is funded by the Australian Government and delivered by the Department of Foreign Affairs and Trade (DFAT). It involves training on First Aid, English language, numeracy and IT skills. For RSE workers, the Vakameasina programme, funded by MFAT, provides workers with skill development opportunities. The programme delivers foundation-level training to new RSE recruits in English language, financial literacy and life skills, as well as more advanced training (e.g. in basic trades, leadership and small business management) to more experienced, return workers. While the courses are valued by workers, some barriers to participation are employers not signing up their workers; worker fatigue preventing them attending classes at the end of a working day; and workers who are non-English speakers are unable to participate (Bedford, Bedford and Nunns, 2020).



The Project will support the LMU to provide training to prospective migrants, including through worker readiness training that is delivered in participating districts/provinces. The Project will also support reintegration assistance. Diagnostic TA activities will be undertaken to identify appropriate reintegration support services, which would aim to ensure a smooth integration of returned migrants into the labour market.

#### **5.1.4 Improved programme governance**

The scale-up of PNG seasonal/migrant worker participation in overseas labour mobility programmes requires strong sender country programme governance. In the past, the low level of PNG's participation in labour mobility pointed to poor administration, leading to the establishment of the LMU. There is an opportunity to support effective programme governance as envisaged in the Draft National Labour Mobility Policy.

##### **Good governance and the role of the LMU**

The establishment of the LMU specifically aimed to strengthen the administration, selection and preparation of workers by creating a team of dedicated professionals recruited for their skills in this area. It is one of the goals of PNG's Draft National Labour Mobility Policy to "involve all stakeholders, including departments, agencies, private sector, social sector and international partners, in good governance of labour mobility and the protection of workers overseas". Under the new Policy, labour mobility will be coordinated through a whole-of-government approach under which the LMU is led by a Ministerial Steering Committee comprising the Minister for Treasury as Chair, Minister for Justice and Attorney General, Minister for Finance, and Minister for Immigration. Each of these Ministries has a role to play in preparing and sending workers overseas, and the coordination body ensures labour mobility policy is aligned with other key government policies and frameworks.

The LMU was established in 2020 and is tasked to assist in the recruitment, mobilisation, pastoral care and reintegration of workers participating in overseas labour mobility opportunities. Under the LMU Operational Policy, the LMU supports regional administrations to establish and manage worker recruitment processes, facilitates engagement with employers and helps mobilise workers for employment. It takes lead responsibility for assurance of worker's rights and care, and assists in reintegration processes.

The LMU Operational Policy regulates the respective roles and responsibilities of the LMU and regional administrations in worker selection and mobilisation, pastoral care and reintegration. The LMU is committed to ensuring the integrity of labour recruitment arrangements so that only the best workers are sent overseas. The LMU cooperates closely with regional administrations. PNG's approach to labour sending, therefore, places significant responsibility on regional administrations which, in close collaboration with the LMU, select workers for consideration by employers – as employer-driven schemes, it is Australian and New Zealand employers who ultimately select workers for recruitment. Labour selection and mobilisation is therefore a shared responsibility, with key roles in PNG taken by both regional administrations and the LMU.

The Project will strengthen the capacity of the LMU by financing a team of advisors who will work closely with, and assist in the development of LMU staff and regional recruitment hubs to build capacity and fully develop the labour sending systems envisaged by the GoPNG.

##### **Regional recruitment model**

The regional recruitment model was introduced in PNG in 2019. With its focus on community involvement and selection of active workers from regional locations, the regional recruitment model is designed to ensure the best outcomes for employers, communities and workers. Its success lies in maintaining a close connection between regional administrations, the LMU and workers. When problems arise, regional administrations and leaders are called upon to assist in resolving them – an arrangement that reflects realities on the ground in districts/provinces of PNG.

PNG's Draft National Labour Mobility Policy notes that regional administrations need capable, high performing administrators with a can-do attitude and a high level of technology literacy. In particular, database management skills are required. The LMU is therefore committed to working with the Department for Information and Communication Technology and relevant provinces and districts to ensure offices and staff have appropriate skills and equipment for successful videoconferencing, can maintain a 24/7 communication link for emergencies, and can manage databases and other technologies essential for the administration of workers.

The Project will provide TA to the LMU to help improve the administrative and management capacity of the LMU and is expected to have spill-over effects on the capacity of regional recruitment hubs. Project TA and resources for the development of employer-friendly systems and processes for the selection, recruitment and sending of workers overseas will also be used by LMU to support regional recruitment hubs.

## 5.2 Risks and Potential Adverse Impacts in PNG

Increased labour mobility is expected to benefit PNG seasonal/migrant workers, as it has thousands of Pacific island workers (including some from PNG) who return to participate in these schemes year after year. At the same time, participation is not free from risk, and there are cases where workers have suffered adverse impacts as a result of going overseas. Some potential risks and potential impacts manifest themselves in PNG. These include adverse impacts arising from inequitable access to labour mobility, adverse impacts on families and communities and the potential of increased gender-based violence.

### 5.2.1 Inequitable access and potential conflict

There is a risk of real or perceived inequitable access to labour mobility opportunities and related support provided by Project activities. This has the potential to lead to or exacerbate existing conflicts within or between communities, and amongst selected workers and their families.

#### 5.2.1.1 ISSUES AND FINDINGS

##### *Equity in selection and mobilisation of workers*

The Project will provide technical assistance to the LMU and RRHs to strengthen PNG's selection, recruitment and mobilisation processes. The LMU is committed to the principles of equity (and inclusion), transparency and workers' rights and care within these processes. Key approaches include managing nepotism/conflict of interest; focusing on men and women with strong skills from remote and regional areas; explicit targets for female participation; seeking opportunities for people with disabilities, and ensuring worker's informed and freedom of choice to take or reject employment opportunities without penalty (LMU 2020<sup>10</sup>). With ambitious targets to increase the number of overseas workers to 8000 by 2025, the LMU and RRHs require support for the development of systems and procedures to ensure these principles are upheld. Key challenges are discussed below.

*Wantokism<sup>11</sup>, Conflict of Interest and Corruption* – Activities relating to the promotion of access to overseas work opportunities presents risks of nepotism and conflict of interest by those involved in facilitating PNG's labour mobility programme. PNG's wantok system is underpinned by reciprocal obligations linking people from the same clan or sub-clan. While the wantok system is fundamental to the provision of support and services and

<sup>10</sup> LMU Operations Policy 2020

<sup>11</sup> In Tok Pisin, wantok means "One Talk" referring to the language of the tribe or clan to which a person belongs. The Wantok System which is based on social kinship, welfare and a reciprocal relationship of favours between kin and community members ("wantoks") has developed from PNG's traditional tribal-based society.

maintaining relationships within and between groups, it can also be associated with corruption - particularly when public servants and other elites direct state resources to their wantoks. This presents a risk to the integrity of PNG's labour mobility arrangement that seeks to ensure the best workers are presented to overseas employers who are seeking to recruit. The LMU has a policy for managing 'wantokism' and conflict of interest. Employees of the LMU or regional administrations cannot be considered for recruitment. Employees of the LMU or regional administrations are also not permitted to put forward wantoks for consideration and must remove themselves from the selection and recruitment process if wantoks are involved. Any other conflict of interest is required to be reported and managed at the discretion of the LMU Director.

*Inequity between and within regions* - During the current phase of establishing a decentralised recruitment framework, geographical inequities within and between regions will exist. The LMU's policy is to support those regions that take the initiative and commit resources that maximise the success of the programme. Adequate human and financial resources must be provided to ensure the process is undertaken with integrity and results in high-quality outcomes. The GoPNG's aim is that 12 regions have done this by 2022. At this stage, only Madang and New Island provinces have sent workers overseas. A total of 10 RRHs have been established across PNG, with a further 4 expected to be established during 2021. This staged approach is seen as necessary to drive successful outcomes for the PNG programme and is an improvement on practice before the introduction of the decentralisation policy when recruitment occurred primarily in urban centres (particularly from Port Moresby). At the same time, this approach also means that prospective workers living outside these recruitment regions do not have the same access to overseas labour opportunities – unless overseas employers specifically request their inclusion in the program. Decisions concerning which LLGs or wards to target within regions are also likely to result in inequities within these regions. These decisions are influenced by political factors intertwined with the tribal-based society or 'wantok system' and related power dynamics. The remoteness and difficult access to some areas within recruitment regions will inevitably influence decisions around the selection of target areas. The Project will provide TA to the LMU to address these issues by supporting the development of additional RRHs across PNG; assisting the development and implementation of open and transparent geographic selection processes (i.e. rural and remote communities are a target), and supporting community outreach activities within regions to support disadvantaged areas and groups (such as participation from remote wards and females).

*Inequity within communities (disadvantaged groups)* – The PNG labour mobility programme relies on close engagement between RRHs and wards. While this decentralised approach has many benefits, it also has the potential to reinforce existing inequities within target communities resulting in barriers to accessing overseas employment opportunities for vulnerable and disadvantaged groups. These groups typically include people/families with less standing and representation within traditional systems such as women, youth, poorer households, people living with disabilities, and people/groups from other areas that have migrated into the community. The GoPNG and LMU are seeking to address these issues in part with its target for 35% female workers and operational policy to extend opportunities where possible to people living with disabilities by including them in the work-ready pool. The Project will provide technical assistance to build upon and expand efforts to increase participation among disadvantaged groups including identifying partners at the community level (i.e. District Women in Agriculture Groups; Church Groups, other CSOs) to facilitate active engagement, developing innovative communication approaches and tools for effectively consulting and disseminating information; financing pilot programmes to test and refine these activities; and providing additional support during worker readiness activities.

### **Equitable Access to Project Activities**

In addition to TA support, the Project will finance several activities such as pilot programmes in the areas of upskilling, community outreach and reintegration; and financial literacy training programmes. Depending on the activity, target beneficiaries will include prospective, selected and recruited workers and their families or broader communities. The risk of real or perceived inequitable access to these activities will be managed

through activity design. The Project's support for community outreach will assist the LMU and RHHs to improve access to the PNG labour mobility programme as well as Project financed activities with a focus on rural and remote communities, women and other disadvantaged groups. The financial literacy training programme will seek to engage both workers and their families. The Project's SEP will also serve as a risk mitigation tool, by ensuring that target beneficiaries are consulted and provided with relevant information, have the means to provide feedback; and have access to the project's GRM where concerns or grievances can be raised and addressed.

### **Conflict and community unrest**

Perceived or real inequitable access has the potential to lead to or exacerbate existing conflict within or between communities, and amongst selected workers and their families. This risk is likely to increase with the scale-up of the PNG labour mobility programme.

PNG is an ethnically and linguistically diverse country undergoing intense economic and social transformation. Inter-tribal conflicts are frequent especially in the Highlands Region where traditional clan rivalries and ethnic fragmentation are most pronounced and cultural norms underscore the use of violence in engaging in disputes and retribution actions (Reilly 2008). Local ethnic relations and dynamics, elections, the distribution of resource rents, gender relations, and rising numbers of underemployed youth all potentially provide a basis for endemic, daily violence and conflict. The interplay of 'wantokism' and decentralisation has led to the politicisation of local government and service delivery and this is a significant source of inter-tribal conflict in some areas.

This poses challenges to the GoPNG's regionally delivered labour mobility programme. The LMU is seeking to mitigate the risk of conflict through the development of consistent policies, processes and systems and through support to guide their implementation at the regional level. The LMU Operational Policy requires the LMU to ensure transparency in selection and recruitment processes and to publicly report (i.e. annual report to parliament; information dissemination on the LMU's website) on the implementation of the PNG Labour Mobility Programme. It also requires regional administrations to establish equitable, transparent and robust initial selection methods based on merit. The Project will provide support to operationalise this policy through enhancement of LMU's existing social accountability mechanisms (i.e. annual report to parliament; information disclosure on LMU website and Facebook page) and development and implementation of these mechanisms at the district/provincial level. The Project will also seek to support more direct identification and management of the risk of conflict associated with the programme. This will include supporting the regional administrations to conduct regional specific risk analysis and further develop regionally appropriate management measures such as transparent geographical targeting criteria and stakeholder engagement and outreach and grievance management.

#### **5.2.1.2 DESIGN CONTROLS, MITIGATION AND MANAGEMENT MEASURES**

The Project will support the LMU and regional administrations to manage the risk of real or perceived inequity leading to social conflict in the following ways:

- Develop/refine and implement transparent geographical targeting policies and procedures as well as worker selection and recruitment procedures which balance equitable worker selection and employer demand.
- Develop/refine and implement a community outreach approach to ensure more equitable access to information about labour mobility opportunities as well as equity and transparency in the selection and recruitment of workers.
- Develop and conduct social and conflict risk analysis at regional levels to inform risk management planning in programme design, stakeholder engagement and grievance management.

- Implement the Project's Stakeholder Engagement Plan including strategies and approaches for inclusive and culturally sensitive consultation, information dissemination during the implementation of the Project.
- Implement the Project's grievance redress mechanism (GRM) including responding to grievances relating to perceived or real inequity in access to overseas work opportunities and/or activities supported by the project.
- Enhance LMU's existing social accountability mechanisms (i.e. annual report to parliament; information disclosure on LMU website and Facebook page) and development and implementation of these mechanisms at the regional level.

## **5.2.2 Impacts on workers, their family and communities and establishment of communication hubs**

### **5.2.2.1 ISSUES AND FINDINGS**

The long absence of migrant workers has the potential to negatively impact their families and dependents as well as their broader community.

#### **Impacts on family members and dependents**

Family members and dependents of SWP, PLS and RSES workers are not permitted to accompany the workers to Australia and New Zealand. Up until now, there has been little assistance for family members of workers before departure, during their stay overseas, and upon return. Pre-departure training have been targeted at workers and not their families and little support was offered to family members who stayed behind.

Long absences of migrant workers can have adverse effects on families. Although the maximum duration of absence is seven months under the RSES and nine months under the SWP, many workers return for several seasons, often leading to a considerable total length of absence with negative consequences on the workers' relationships to spouses, children and other family members. For the SWP, it was found that the absence of men from their families can lead to neglect and failure on the part of men to provide regular financial support for families (World Bank, 2018). Moreover, the absent workers are not present to support their families or help them on an ongoing basis to make decisions such as on how to spend the remitted money. There is also a concern shared by absent workers and their families that workers might be away during important family or community events such as the passing away of a family member or the birth of a child (FGDs with workers 2021).

The lack of regular communication is also an issue. In Tonga, a lack of communication eroded trust and commitment between couples and has had negative impacts on families (World Bank, 2018). Although there are no studies on the impact of long absences on intimate relationships in PNG, the impacts may be substantial as families are not used to communicating over the phone or internet compounded by technological barriers with a lack of phone or internet coverage and/or high charges.

Seasonal and temporary work has led to family breakups in the Pacific islands. Underhill-Sem et al. found evidence of "marital dissolution or family abandonment, domestic violence, poor nutrition of workers and/or those who remain at home, disciplinary problems with children, cultural transgressions, and extreme emotions felt by workers and those who remain at home" (Underhill-Sem et al., 2019: 36). In PNG, no social impact study of the schemes has been conducted. A tracer study of SWP participants in PNG did not identify significant adverse impacts on family life or relationships (Voigt-Graf, 2017). A World Bank study on social impacts on sending households from the Pacific found "limited or no evidence in both the community and household surveys and focus group discussions to suggest a spike in domestic violence driven by women's and men's participation in the SWP" (World Bank, 2018).

Upon their return, some workers have experienced a reverse culture shock and have found it difficult to adjust back into their pre-migration daily lives.

The separation of workers from their families under the PLS is up to three years. While PLS workers can visit their home countries during their annual leave as their visa permits them to leave and re-enter Australia, it is almost impossible for their family members to obtain visiting visas for Australia. Little is known about how many PLS workers visit their home countries and for how long – the scheme is only two years old, and during the COVID pandemic return visits have been impossible for most workers. This has been a key concern of workers raised during a focus group discussion in March 2021. Given the length of the absence, the risk for the disruption of family life for PLS workers is potentially larger than under the SWP or RSES.

Another key issue is the potential for unrealistic or misaligned expectations that workers, families and communities have about the benefits of overseas employment. There are reports of unreasonable demands by extended family members on the immediate family of workers even while they are overseas.

In the past, there have been no targeted measures to avoid, mitigate and manage the negative impacts on families in Papua New Guinea. Given the small number of labour migrants from PNG, the main focus was on increasing the number of participants.

One of the goals of the Draft National Labour Migration Policy is “to ensure economic and development benefits of labour mobility are maximized for workers, their family and their community”. Under the Policy, the GoPNG is committed to utilizing pre-departure training as a key to a successful mobilization and to minimize the need for welfare interventions. The LMU works closely with RRHs to operationalise the Policy and improve the quality of pre-departure training. Efforts are being made to include family members in pre-departure briefing sessions to ensure everyone understands what the worker is doing, where and how they will be living, when and how often they will be able to communicate with family, when they can expect remittances to commence, and how to get assistance in the event of a family emergency. Families will also receive financial literacy training to better understand the use of remittances – though an extension to all RRHs will only be feasible with Project support.

The LMU is currently working with one RRH to trial activities to emulate working and living conditions in Australia and New Zealand during the worker mobilisation period and aims to scale up these activities across all regions. This is potentially an important measure to avoid some of the risks for families that may be the result of separation. For the duration of the training, workers will be separated from their families and this time could be used to establish communication channels between workers and their families that could be upheld during the overseas stay. Under the LMU Operational Policy, the LMU will have a broad remit to collect data, with the approval of workers, on a variety of issues including family welfare. This will enable further analysis of these issues to inform programme adjustments/interventions.

The Project broadly supports the LMU and will provide TA to the LMU to address the impacts on families of the workers including improved pre-departure training that include families to better prepare both workers and their families for the absence of workers. Adverse impacts can be reduced by improving communication during the absence of workers, facilitating remittances, improved financial literacy, and supporting reintegration upon return. In regards to improved communication, the Project will support the setting up of telecommunications hubs at the regional recruitment hubs from where families without access to mobile/internet networks at home could contact workers overseas. The Project will also support the strengthening of worker (and family) welfare liaison functions through the LMU and RRHs. Under component 3 of the Project aimed at boosting household impacts from labour mobility programs, several activities will support the sending of remittances and improve the use of remittances. This may offset some of the negative impacts associated with labour mobility as a result of a family member’s absence. The Project will also provide reintegration support services to ensure workers and sending households maximise the benefit from their participation in labour mobility schemes.

### **Impacts on communities**

At the wider community level, one of the potential negative impacts is the opportunity cost of work not done by absent workers in their communities at home – though pervasive underemployment in PNG and the fact incomes earned under these schemes are many times what workers would earn in PNG, do mitigate against this risk. This impact has been researched in other countries. The World Bank’s RSE evaluation listed concerns of community leaders in Vanuatu and Tonga related to the loss of able-bodied young men for community work; loss of contributions to church or family; alcohol consumption; among other things (Gibson and McKenzie, 2014). In the case of Tonga, the number of SWP- and RSE-participating workers is 16 per cent of the eligible sending population (i.e., those aged 20–45). Such a significant loss of younger, mostly male, working population is expected to impact families and communities, necessitating significant adjustments to “economic activities, social responsibilities and engagement, and cultural maintenance and cohesion” at the family and community levels (Underhill-Sem et al., 2019, pp. 36). Papua New Guinea’s population is several times larger than that of all other Pacific Island countries taken together. Therefore, nationally, the impact of the temporary absence of a few thousand workers from the country will be much less than in smaller Pacific Island countries. However, with recruitment concentrated in particular regions of Papua New Guinea, some communities may be at risk of the negative impacts associated with the absence of considerable numbers of workers, especially if RRHs pursue a group recruitment approach. Due to the low number of seasonal and temporary migrants from PNG, there is so far little evidence of negative impacts on communities in Papua New Guinea.

There have been no measures to avoid, mitigate and manage the negative impacts on communities in Papua New Guinea in the past. Under the new National Labour Mobility Policy, one goal of the GoPNG is to “ensure economic and development benefits of labour mobility are maximized for workers, their family and their community”. The Policy acknowledges that communities have expectations about workers overseas, and must manage family and community emergencies while the worker is away. For this reason, the LMU will include community members in some pre-departure training. In terms of reintegration assistance, the LMU and PLF currently talk to each of the sending regions to determine strategies to assist returning workers’ reintegration. Under the LMU Operational Policy, regional administrations have a liaison function and are expected to maintain contact with workers overseas and report any concerns or issues directly to the LMU. Workers consider the role of local MPs and Ward Members in helping to resolve any issues in the home communities as potentially important (FGDs with workers, March 2021).

The Project broadly supports the LMU and will provide TA to the LMU to address the impacts on communities of the workers including improved pre-departure training that include community members, community outreach activities to improve the level of awareness of the programs within sending communities, and reintegration assistance that facilitates the reintegration of workers into their communities. With few negative impacts on communities apparent in PNG at this stage, one measure is to regularly collect feedback from sending communities regarding any negative impacts on them. A more comprehensive Social Impact Survey across several communities in different regions of PNG will be conducted during Project implementation.

### **E&S impacts of Small Scale Refurbishment Activities: Telecommunication Hubs**

Small scale refurbishment activities will be required to establish communication hubs. These hubs will be established in existing buildings and provide computers with internet access for prospective migrant workers to complete pre-departure training and other preparation activities. Key environmental risks for these works include air quality impacts due to dust, noise impacts, construction waste management, hazardous materials management (including potentially asbestos and lead should existing buildings be chosen for renovation rather than constructing new buildings), sourcing of construction materials from unsustainable sources, and occupational health and safety (OHS) risk during construction. The operation of hubs will also carry the risk of inadequate waste management processes to deal with e-waste. Social risks include community health and safety

risks due to interactions with construction workers and construction equipment, and the risk of COVID-19 transmission to workers and the community.

Construction impacts are expected to be temporary, localised and low in magnitude. These impacts will be easily mitigated via standard accepted mitigation measures. An Environmental and Social Code of Practice (ESCOP) has been prepared for the project which includes an assessment of likely risks and impacts of construction activities and standard mitigation measures which will be implemented by contractors to manage these risks (refer to Annex 3). The ESCOP also requires the development of simple waste management plans and a tracking system for the operation of the hubs to manage any e-waste associated with the facilities.

### **5.2.2.2 DESIGN CONTROLS, MITIGATION AND MANAGEMENT MEASURES**

The Project will support the LMU and regional administrations to mitigate and manage the adverse impacts on families and communities of departing workers in the following ways:

- Strengthen worker readiness and pre-departure training including information on risks and potential adverse impacts on worker's families and measures and support for managing these risks. Include specific sessions for worker's families to better prepare both workers and their families for the absence of workers.
- Support improved communication between workers and their families by setting up telecommunications hubs in regional administrations and through strengthened LMU and RHH liaison functions.
- Implement the project's ESCOP during the establishment and operation of telecommunication hubs
- Support the provision of financial literacy support to workers, their families and communities including 'whole of family' financial decision making and planning concerning the sending and use of remittances and savings.
- Providing reintegration assistance that facilitates the reintegration of workers into their families and communities. Include worker's families in social reintegration support services supported by the Project.
- Support improved community outreach activities to improve the level of awareness of the programs within sending communities. Include briefings with communities to discuss strategies for managing issues associated with the absence of migrant workers.
- Support establishment of feedback and M&E systems and regularly monitoring the impacts on the families of workers, and communities.
- Support RHHs to raise awareness with communities about the possible negative impacts of large numbers of workers taking up overseas work opportunities.
- Conduct a comprehensive social impact study across several communities in different regions of PNG to gather information on the positive and adverse impacts of overseas labour mobility on families and communities.

## **5.2.3 Migration Costs and Equitable Access to Finance**

### **5.2.3.1 ISSUES AND FINDINGS**

Prospective migrant workers from PNG face considerable costs before leaving the country and participating in the PLS, SWP or RSES. The costs can be broadly separated into fixed costs (birth certificates, police clearance, driver's license, passport photo/ passports, pre-medicals, and full health assessments) and variable costs (primarily domestic travel costs within PNG to cover airfares to and from Port Moresby (POM)/Lae for the health assessment and to POM prior to leaving for A&NZ). These costs, based on estimates from the LMU, range from



1,690 Kina for workers participating from POM through to 7,110 Kina for workers from Central Bougainville District, but for most Provinces and Districts they amount to approximately 6,000 Kina.

Workers are also required to pay for international travel cost and visa fees. These costs are covered by AEs and RSEs and later deducted through workers' wages once they arrive and commence their work stint in Australia or New Zealand.

### **Inequitable access to finance documentation (and related) costs incurred prior to employment**

For some participating workers in the existing international labour mobility schemes (the PLS, SWP and RSES), documentation and related costs incurred prior to employment are covered as grants through the existing PSIP or DSIP funds, whilst in other areas workers are expected to self-finance their costs often borrowing from extended family networks at high interest rates. Given this, there are disparities in access to finance both across existing Provinces and Districts and within them and with workers from low-income households facing lower rates of financial inclusion and less able to borrow from family members. These inequities have the potential to lead to conflict and/or community unrest (refer to section 5.2.1). Furthermore, with the planned major expansion of PNG seasonal/migrant worker participation the DSIP and PSIP source of finance is not sustainable (the PNG Government has a target of reaching 8,000 workers annually by year 5 of the Project).

### **The Loan Facility**

The Project will establish a loan facility to assist workers meet such costs and address current inequities in access to finance. These loans would be entirely voluntary, permitting workers to choose other forms of financing (if available). It is envisaged that they would be administered through the existing commercial banks and micro-finance institutions (MFIs) and cover the full portion of domestic pre-departure costs along with an additional 20% for the household (to cover any lost income resulting from the worker departing abroad). They would be provided at interest rates targeted at the lower end of the commercial range, with additional features aimed at easing the financial burden on participating workers and maximizing repayment rates, such as grace periods and interest rate rebates.

An ESS9 due diligence of the conceptual loan facility design is provided in Annex 2, although only social risks and no environmental risks have been identified. Importantly finance is being provided for a special purpose (project-related worker pre-departure costs) with no "general purpose" lending – this is an important distinction for the application of ESS9. The following potential risks, opportunities and impacts have been identified:

**Opportunities** - The loan facility has strong potential to improve transparency and access to formal and affordable finance for workers and their families and to improve the capacity of these people to act independently and to make their own free choices (increased agency). The loan facility can also be used to boost financial literacy and has the capacity to provide families with support so they are better able to cope with worker deployment and the absence of an able-bodied family member.

**Risks (potential negative impacts)** - Potential challenges to loan facility implementation include low-income households not being able to access loans due to Know Your Customer (KYC) and responsible lending requirements. Other risks include workers having trouble managing finances and loan repayments; over-indebtedness, unwilling loan default, and financial stress on families; the potential for low financial literacy to lead to the exploitation and misunderstanding of the full extent of costs involved; and the potential for disproportionate impacts on vulnerable groups.

Perceived bonded labour linked to the loan is another risk that may also need to be managed. However, the loan facility does not present a risk of bonded labour as it is entered into voluntarily by the beneficiary; is between the beneficiary and the PFI (i.e. there is no relationship with the employer); and the proposed facility includes design features that would mitigate distress faced by the beneficiary should repayment prove difficult due to

labor or other conditions. The loan facility is expected to provide more transparent and regulated finance than what is currently available to workers, which is mostly overpriced informal sources of credit with high social obligations as well. Workers will choose how they transfer money for loan repayment and if an individual does not meet the medical requirements for any reason, the loan will be cancelled except for the very low initial costs. Also, financial institutions would not take possession of other family and/or personal assets in case of default.

These risks are considered to be manageable through the design of the loan facility and effective development and implementation of fit for purpose FI environmental and social management systems (ESMS).

Regarding the participating financial institutions, there is the possibility that staff involved in the loan facility may experience inadequate labour conditions. These risks are considered low and manageable through the implementation of FI labour management procedures.

### **5.2.3.2 DESIGN CONTROLS, MITIGATION AND MANAGEMENT MEASURES**

The Loan facility will address the risks identified by the ESS9 due diligence by incorporating the proposed mitigation measures into the overall loan design.

During project implementation the LMU will:

- Require the provision of financial literacy training for beneficiaries so they can better understand and manage the repayment of loans.
- Update the ESS9 Due Diligence to assess and inform the detailed design of the loan facility to be conducted during project preparation (refer Sub-component 2.3) and confirm that the proposed loan facility as outlined in the Project Operations Manual incorporates design requirements to avoid or mitigate social risk, and obtain no objection from the World Bank.
- Require participating FIs to develop and implement ESMS and LMP for the loan facility.
- Ensure Loan Facility Agreements between the implementing agency and FIs incorporate design requirements and E&S requirements for implementation, are approved by the implementing agency with no objection from the World Bank.

### **5.2.4 Disadvantaged and vulnerable groups**

The risk of inequitable access to the PNG labour mobility programme for disadvantaged and vulnerable groups and women will be addressed through several Project activities.

#### **5.2.4.1 ISSUES AND FINDINGS**

##### **Inequitable access for disadvantaged and vulnerable groups**

Disadvantaged and vulnerable groups include women migrant workers, women-headed households in communities where recruitment occurs, individuals with low levels of education including school dropouts and illiterate people in communities where recruitment occurs, remote communities, economic migrants living outside their traditional communities, unemployed youth, and people with disabilities in communities where recruitment occurs.

The GoPNG is responsible for worker selection and formation of a work-ready pool; however, the recruitment of workers is ultimately undertaken by employers who require workers who are both ready and able to perform the required tasks and live and work effectively in the A&NZ working environments. The less ready and able a

worker is, the more vulnerable they are to labour and welfare risks and potential impacts in Australia and New Zealand.

A key challenge for the GoPNG is to strike a balance between inclusion and meeting worker readiness requirements.

The GoPNG is taking steps towards addressing gender inequality in labour mobility. In the PNG Labour Mobility Policy, youth are another disadvantaged group that is mentioned prominently. The vision of the Policy is “to provide opportunities for decent, temporary work overseas for at least 8,000 youth and citizens”, thus acknowledging the importance of labour mobility opportunities for the growing number of unemployed youths.

The LMU, through the Operation Policy, has committed to equity in selection, recruitment and mobilisation of workers; and is seeking to address barriers including access to labour mobility services (which are typically limited to areas near provincial/district centres); literacy and English proficiency constraints; and cultural norms impacting women’s involvement. Under the LMU’s principle of equity, as per the LMU Operational Policy, the LMU is also committed to expanding opportunities for people living with a disability, to the extent possible.

The Project broadly supports the LMU and will provide TA to the LMU to address the constraints faced by disadvantaged and vulnerable groups through the promotion of employment opportunities for such groups in seasonal labour schemes. TA will be provided to the LMU to support the development of additional RRHs across PNG, and the project’s support for community outreach and preparatory assistance will assist the LMU and RHHs to improve access to the PNG labour mobility programme as well as Project financed activities for disadvantaged and vulnerable groups. The LMU will be supported by the Project to facilitate recruitment from remote areas. TA will be provided to identify partners at the community level (i.e. church groups, disability support groups, youth groups, and other CSOs) to facilitate active engagement, to develop innovative communication approaches and tools for effectively consulting and disseminating information; financing pilot programs to test and refine these activities, and providing additional support during worker readiness activities.

The Project’s support to reduce costs incurred prior to employment by bringing necessary pre-departure processing services and/or training to workers and to make available pre-departure loans will reduce up-front migration costs thereby reducing barriers for participation in the schemes. In the past, such costs were prohibitive for some workers. Members of disadvantaged groups, who find it harder to access formal financial services, have been disproportionately affected by costs incurred prior to employment.

The Project will support the LMU to improve data collection and analysis to access information on the number and proportion of members of disadvantaged groups in the work-ready pool and among seasonal workers working overseas. The Project will also support the LMU’s awareness-raising programs that specifically target youth, persons with low education levels, persons with disabilities, and internal migrants living outside their traditional communities. This will be done by working with civil society organisations, by developing information flyers that particularly target specific vulnerable groups, and by promoting and encouraging positive role models of seasonal workers who belong to these groups.

#### **5.2.4.2 DESIGN CONTROLS, MITIGATION AND MANAGEMENT MEASURES**

The Project will support the LMU and regional administrations to increase the participation of disadvantaged and vulnerable groups in the following ways:

- Supporting the development of effective and efficient means to reach job seekers in remote communities with a focus on females and other disadvantaged groups.
- Implementing the project’s Stakeholder Engagement Plan including strategies and approaches for inclusive and gender-sensitive consultation and information dissemination.

- Developing and implementing community outreach and preparatory assistance to improve access to the PNG labour mobility programme as well as Project financed activities for disadvantaged groups including youth, persons with low education levels, persons with disabilities, and internal migrants living outside their traditional communities, by working with civil society organisations, developing information flyers, and by promoting and encouraging positive role models of seasonal workers who belong to these groups.
- Ensure loan scheme for prospective workers is designed to meet needs of disadvantaged groups such as people with no/limited access to formal banking infrastructure and services, women, people with low literacy levels.

### 5.2.5 Gender dimensions and gender-based violence

There is a risk of project-supported services and the PNG labour mobility programme reinforcing existing gender inequities and contributing to already high levels of gender-based violence within PNG communities. The impact of women while participating in labour mobility schemes is discussed in Section 6.3.4.

#### 5.2.5.1 ISSUES AND FINDINGS

##### *Gender inequality in labour mobility*

Women represent over half of the agricultural workforce in PNG (ADB, 2016). At the same time, less than half the number of females relative to men are employed in the formal economy in PNG (World Bank 2020a). Female participation in the various labour mobility schemes is limited, with women comprising just 17.9% of workers in the SWP, 11.8% in the RSE and 37.2% in the PLS. Across the Pacific, women's traditional role as the primary caregiver and their disproportionate lack of wage employment experience in the domestic market put them at a disadvantage in gaining employment in labour mobility schemes. Women are also prohibited from undertaking specific types of work in some cultures.

Low employer demand for women - At an operational level, employer demand for workers with particular attributes contributes to low participation by women, as evidenced in the assessment of Australia's Seasonal Workers Programme (World Bank 2018). While some of the horticultural work is traditionally mostly done by men due to its physically demanding nature (such as pruning, lifting, stacking, carrying heavy loads, and forklift driving), other tasks are regarded as equally or even better suited for women (e.g. packing, picking delicate fruits, sorting, grading and packing). Given the variety of tasks in the horticultural industry, there could be as many opportunities for women as there are for men.

Traditional gender roles and family expectations - Numerous constraints have hindered women across the Pacific to participate in these schemes, including cultural norms, gender-sensitive concerns, and pervasive gender biases in both employer preferences and sending country screening and selection processes (LMAP 2015, World Bank 2018). In the past, the costly and highly centralized government-run recruitment process and lack of outreach have historically disadvantaged women in PNG, and rural women in particular, due to their limited control over resources and ability to travel (resulting from large distances and the high incidence of gender-based violence in the country). The preference that workers should have completed at least a Year 10 certificate has also disadvantaged women who have lower educational attainment levels than men. Discrimination on the part of sending communities or local programme managers can also play a contributing role, as does the fact that families and women themselves frequently do not consider the possibility of women participating in labour mobility schemes. Poor participation rates of women may also reflect concerns about the safety of women working in largely male teams in foreign countries and the risks of abuse and exploitation (see also Section XXX below). Little is known about participation rates of women of different marital statuses or of women with or without dependents and how this would affect gender role expectations by the families of participants.

Positive impacts on gender roles as a result of women's participation have been reported. The World Bank found that women in Tonga and Vanuatu were able to negotiate their traditional gender roles through seasonal work opportunities. During their absence, husbands were more involved in domestic work. However, this did not lead to long-term changes affecting domestic power inequalities within households (World Bank, 2018). The possibility of positive impacts on gender roles in PNG will need to be confirmed through research once more women are participating in the schemes.

The GoPNG is taking steps towards addressing gender inequality in labour mobility. Under the National Labour Migration Policy, the LMU is committed to increasing the participation of women to reach 35% of all workers. Under the regional recruitment model in 2019, women are a focus and regions are encouraged to upskill women workers with in-demand skills, for example with driver's licenses and forklift truck driver training. LMU efforts to boost female participation should include measures aimed at altering the perceptions of employers and promoting opportunities in industries that would support a higher proportion of women among participating workers. An early successful outcome is the mobilisation of a group of experienced female strawberry pickers from Enga Province to work on ground crop farms in Australia – however, recruitment was stalled due to COVID-19 restrictions.

The Project will provide TA to the LMU to address the constraints faced by women through the promotion of gender-inclusive employment opportunities in seasonal labour schemes. TA will be provided to support female representation in leadership roles in RRHs, as well as to the LMU to support the development of additional RRHs across PNG; and the project's support for community outreach and preparatory assistance will assist the LMU and RRHs to improve access to the PNG labour mobility programme as well as Project financed activities for women and other disadvantaged groups. TA will be provided to identify partners at the community level (i.e. District Women in Agriculture Groups; Church Groups, other CSOs, Women leadership within Wards) to facilitate active engagement, developing innovative communication approaches and tools for effectively consulting and disseminating information; financing pilot programs to test and refine these activities, and providing additional support during worker readiness activities. The Project will support women who are involved in decision making and mobilisation of women migrant workers at the Ward level. The involvement of women at the community and ward level in different roles in the delivery of the programme is important to break down traditional views on gender roles and practices that have in the past been barriers to the participation of women.

In the past, pre-departure costs were prohibitive for some workers and women, who find it harder than men to access formal financial services, have been disproportionately affected. The project's support to reduce costs incurred prior to employment by bringing necessary pre-departure processing services and/or training to workers and to support the development of a loan facility to cover such costs will reduce barriers for women's participation in the schemes. The benefits of the scheme are envisaged to be significant for women since their existing access to loans/capital in the absence of a loans scheme is more limited than for men. It is also envisaged that this will also reduce financial stress on sending households when the worker goes overseas but is yet to receive a salary payment or send remittances.

In the past, pre-departure costs were prohibitive for some workers and women, who find it harder than men to access formal financial services, have been disproportionately affected. The project will also support the LMU's awareness-raising programs by the LMU to promote and encourage positive role models of both female and male seasonal workers and the related benefits to households and communities, including the support role played by their spouses. This will help build support of husbands and extended family members in sending communities, reducing the vulnerability of women.

### **Gender-based violence**

Violence against women, girls and boys is a common occurrence in PNG, with 63% of ever-married women aged 15-49 having experienced some form of intimate-partner violence in their lifetime (NSO and ICF 2019). It is

estimated that among businesses in PNG, family and sexual violence resulted in an average loss of 11.1 days for every staff member each year.

There is no data available on the prevalence and nature of gender-based violence among Papua New Guinean households where a household member is participating in a labour mobility scheme. An impact evaluation of the SWP conducted by the World Bank in Tonga and Vanuatu (World Bank 2018) presents no conclusive evidence linking participation in the SWP with increased incidence of GBV. The evaluation, however, does indicate that participation can contribute to conflict between partners (due to mistrust and disagreements arising from earnings, for instance) and that this effect is stronger for women migrant workers.

In Pacific countries, there is anecdotal evidence of gender-based violence against women by their partners upon return from migrant work. Research to date has been unable to confirm this. In Vanuatu, no direct causal link between women's and men's participation in SWP with increased gender-based violence was found (World Bank, 2018). There is anecdotal evidence from PNG of violence against women whose husbands are overseas including by family members in an attempt to extract money from the women, especially when extended family members are aware of remittances being received.

The GoPNG is taking steps towards addressing gender inequality in labour mobility. However, addressing gender-based violence during different stages of the migration process is not explicitly mentioned in the National Labour Migration Policy or the LMU Operational Policy. It is expected that it will implicitly be addressed through improved pre-departure training, welfare assistance and improved reintegration assistance.

The Project will provide TA to better understand and mitigate GBV risks and potential impacts for women whilst their partners are overseas and for women migrants after returning from A&NZ. The LMU will ensure that individuals who have been convicted of GBV related offences will be ineligible to participate in overseas labour mobility programs. The Project will support the incorporation of family support services before departure and upon return in PNG. Improved pre-departure training to better prepare workers and their families for their extended absence. Pre-departure training supported under the project could include modules on GBV, though the design would need to be carefully considered and informed by local context, consultations as well as the latest research in this area. The Project will also support the role of the LMU's welfare function including identifying local GBV referral and support services and providing assistance to overseas workers, returned workers and families of workers. This support is expected to help address risks for women workers on assignment in Australia and NZ and upon their return to PNG. Strengthened reintegration assistance including social integration programs for returning workers, family support services and counselling will also reduce the risk of gender-based violence. The Project will finance GBV incident monitoring and research to better understand the potential impacts of labour mobility programs. The Project will map existing women's support services (e.g. awareness, advocacy, violence prevention, referral, counselling) for each regional recruitment hub and establish a survivor centric response protocol for referring incidences of domestic violence. For Project workers, the Project will implement a zero-tolerance towards gender-based violence and sexual harassment during project activities (refer to the Project Labour Management Procedures).

#### **5.2.5.2 DESIGN CONTROLS, MITIGATION AND MANAGEMENT MEASURES**

The Project will support the LMU and regional administrations to increase the participation of women and manage the risks for women workers and gender-based violence in the following ways:

- Engaging a Gender and GBV Specialist as part of the PMU to provide technical advice on addressing gender inequality and other risks for women associated with the PNG labour mobility program;
- Implement the project's Stakeholder Engagement Plan including strategies and approaches for inclusive and gender-sensitive consultation and information dissemination.

- Ensure gender-sensitive design and develop targeted activities for ensuring women's access to and involvement (both as workers and partners) in the PNG labour mobility programme and project supported activities particularly in the following activities: community outreach, worker readiness, access to a loan facility to assist with costs incurred prior to employment, overseas worker support and reintegration.
- Providing TA to support to strengthen female representation in leadership roles in RRHs and in Ward governance structures which make decisions on the mobilisation of women migrant workers from communities.
- Commit to Implementing a zero-tolerance policy towards GBV. Individuals who have been convicted of GBV related offences will be ineligible to participate in overseas labour mobility programs.
- Develop gender and GBV awareness and training programs/modules targeted at LMU, RRH and Ward level staff involved in program delivery; and prospective workers and their families and communities.
- Map existing women's support services (e.g. awareness, advocacy, violence prevention, referral, counselling) for each regional recruitment hub and establish a survivor centric response protocol for referring incidences of domestic violence.
- Engage local GBV service providers to deliver culturally sensitive GBV awareness training and provide information on local GBV service providers and services.
- Provide gender and GBV specific technical assistance to strengthen LMU and RRH's welfare and liaison functions and the ability to effectively support overseas workers, returned workers and families of workers.
- Implementing the Project's Labour Management Procedures including measures such as training, awareness and codes of conduct to mitigate the risk of SEA/SH associated with the Project workforce.

### 5.2.6 COVID-19 transmission

There is a risk of COVID-19 transmission during services supported by the Project and the PNG labour mobility programme. This risk affects migrant workers and their families and communities as well as Project workers especially during outreach activities, pre-departure preparation training and reintegration activities.

#### 5.2.6.1 ISSUES AND FINDINGS

During the ongoing COVID-19 pandemic, the risk of COVID-19 infection is particularly high for workers during their pre-departure preparations when many travel to a town or Port Moresby to arrange for their health tests, undergo police checks, apply for passports and visas, and undertake other preparations. Moreover, workers about to depart participate in pre-departure training in Port Moresby with an associated risk of infection. Risks are also associated with awareness-raising campaigns and community outreach activities.

The LMU and the RRHs that are involved in pre-departure arrangements and training have introduced measures to prevent or minimize exposure. They follow the procedures that are regularly updated by the Joint Agency Task Force under the National Control Centre for COVID-19 (see <https://covid19.info.gov.pg/>). These include measures to restrict public gatherings, meetings and movement both within PNG and between PNG and neighbouring countries, while also working to support citizens to get back to their daily lives. It has, in partnership with the World Health Organisation, published the Niupela Pasin Transitioning to a 'New Normal' Handbook.

The Department of Treasury has published a guide, Treasury Niupela Pasin, outlining the Department of Treasury's approach to operating safely within an environment where COVID-19 is present under the Niupela

Pasin. The guide outlines practices put in place by the Department of Treasury to continue to work and operate safely and maintain physical distancing wherever possible.

The Project will adopt the GoPNG's safety and prevention measures. With the COVID-19 risk situation continuing to evolve, the Project will remain flexible and adapt its strategy to minimise COVID-19 infection risks in line with the Department of Treasury's practices. The Project's SEP includes a COVID-19 Safety Protocol entailing principles and approaches to mitigate the risk of COVID-19 during the conduct of face-to-face consultation and engagement activities during project implementation. It focuses on basic guidance for conducting COVID-19 safe meetings and workshops. The protocol follows PNG national guidelines, and good international industry practice including WHO and World Bank guidelines. The Project supports the LMU to adopt measures as per these materials if these go beyond the requirements recommended or imposed by the GoPNG. The materials include:

- For guidance on infection prevention and control (IPC) strategies for use when COVID-19 is suspected, consult [WHO IPC interim guidance](#)
- For workplace-related advice, consult [WHO guidance getting your workplace ready for COVID-19](#)

#### **5.2.6.2 DESIGN CONTROLS, MITIGATION AND MANAGEMENT MEASURES**

The Project will support the LMU and regional administrations to manage the risk of COVID-19 transmission and infection during outreach activities and pre-departure preparation of workers in the following ways:

- Adopt the COVID-19 Safety Protocol entailing principles and approaches to mitigate the risk of COVID-19 during the conduct of face-to-face consultation and engagement activities.
- Implement PNG national guidelines, and good international industry practice including WHO and World Bank guidelines.
- Support the LMU to adopt measures as per the Project's COVID-19 Safety Protocol and good international practice, in addition to the GoPNG's guidance. This involves workers undergoing a mandatory COVID-19 test prior to departure and quarantining in Port Moresby before leaving.

### **5.3 Risks and Potential Adverse Impacts in Host Countries**

Employment conditions and wages in Australia and New Zealand are far superior to those in PNG. Notwithstanding this, there are risks associated with employment in these host countries, which include: poor terms and conditions of employment; occupational health and safety risks; poor welfare and living conditions; and gender inequality and gender-based violence. These risks are being managed by the A&NZ programs and A&NZ laws and regulations.

As the Project has no direct relationship with A&NZ programs or A&NZ governments, project design controls, mitigation and management measures presented in this section are within the project's control and seek to further mitigate these risks that are within the project's control.

#### **5.3.1 Terms and conditions of employment**

##### **5.3.1.1 ISSUES AND FINDINGS**

##### **Findings of inquiries and reviews**

There are well-documented issues of migrant worker exploitation in Australia and New Zealand. These issues exist across all sectors however have been found to be more pronounced in the horticultural sector, particularly



amongst foreign workers employed outside of the SWP and RSEs such as amongst essential skills workers, working holiday makers, international students/post-study workers and undocumented migrant workers.

Pacific workers coming to Australia and New Zealand under the SWP and RSEs are subject to additional protections and oversight, as outlined in Section 4. As a result, the schemes are considered well-regulated avenues for employment of workers in the sector.

Despite these protections, there are instances of Approved Employers in Australia and Recognized Seasonal Employers in New Zealand breaching the conditions of these programs, resulting in cases of worker exploitation. Key issues include underpayment and non-payment of wages, unlawful and excessive wage deductions, extensive working hours, poor accommodation conditions, above-market rates for accommodation and transport, and racism and discrimination (Berg & Farbenblum, 2017; Braae, 2018; Lees-Galloway, 2018; McCarthy, 2018; The Guardian, 2017, The Guardian, 2020; The McKell Institute, 2020 for Australia; Ministry of Pacific Peoples, 2019; New Zealand Herald, 2020; Radio New Zealand, 2018; Stringer 2016; Stringer 2017 for New Zealand). As a consequence, the New Zealand and Australian governments have taken measures to address these gaps in recent years.

There have been several inquiries/reviews which are of relevance in the context of assessing the existing social risks for migrant workers. In Australia, these include the [Parliamentary Inquiry into the Seasonal Worker Programme](#) (2016), the [FWO Harvest Trail Inquiry](#) (2013-2018) and the [Report on the Migrant Workers' Taskforce](#) (2019). In New Zealand, the government is conducting a [Temporary Migrant Worker Exploitation Review](#). The three latter inquiries/reviews highlight some of the issues experienced in the horticulture industry as a whole, underlining the vulnerability of these workers and the challenging context in which the SWP and RSEs operate.

In contrast to SWP and RSEs workers, PLS workers are not concentrated in the horticultural industry. Given the short duration of the PLS scheme before the onset of the COVID-19 pandemic, there are fewer reports on the working conditions of PLS workers, compared to SWP and RSEs workers.

#### *FWO Harvest Trail Inquiry (Australia)*

General conditions and worker exploitation in Australia's horticultural industry were investigated in a four-year inquiry (2013-2017), during which the Fair Work Ombudsman investigated 638 employers in the horticulture and viticulture industries including 444 growers and 194 labour-hire contractors (FWO, 2018). Of the 836 investigations that were conducted 17 investigations involved SWP employees who were employed by Approved Employers. Of the investigations involving SWP employees, 11 investigations detected that the employer was not compliant with Australian workplace laws. One of these 11 cases involved deliberate exploitation, resulting in FWO commencing legal proceedings and the company being removed from the list of Approved Employers. Of the 11 investigations, four involved (4) monetary breaches, two (2) non-monetary breaches, and five (5) breaches of both monetary and non-monetary obligations. A total of AUD 150,356 was recovered for 96 employees as a result of investigations involving SWP workers.

Based on findings of the Harvest Trail Inquiry, the FWO decided to maintain a key focus on the horticultural industry. The FWO has developed specific [tools and resources for the horticultural industry](#) in the areas of pay and piece rates, workplace health and safety, hours of work and overtime, deductions for accommodation & transport as well as specifically for migrant workers. These tools are also relevant for SWP workers.

#### *Parliamentary Inquiry into the Seasonal Worker Programme (Australia)*

In 2015, the Minister for Immigration and Border Protection asked the Joint Standing Committee on Migration to inquire into and report on the SWP concerning the role of seasonal workers in the horticulture industry; expanding the SWP to other countries and sectors; the current and projected future workforce requirements for

sectors that may benefit from seasonal workers; the impact on the Australian labour force of the current and projected SWP; the merits and challenges of increased recruitment of overseas workers, in particular providing increased access for women and youth workers; the role of the SWP in supporting development assistance in the Pacific; any legislative and other impediments in attracting seasonal workers; and the visa regime for seasonal workers, including compliance and related issues.

The Committee received 44 submissions and seven exhibits from a range of overseas government departments, Federal, State and Territory government departments, peak bodies, academics and farmers, unions, a TAFE and church group, and took evidence from 33 organisations and individuals at ten public hearings.

The Committee looked into the compliance regime of the SWP and concluded that the number of complaints and investigations conducted by the Fair Work Ombudsman into non-compliance by AEs was relatively low compared to all industries Australia wide. The inquiry determined that the compliance arrangements under the SWP make those coming under the scheme different from undocumented workers and working holidaymakers, who generally face greater risks of exploitation. Other key findings and recommendations from the inquiry revolved around the risks associated with labour-hire companies, the need to increase women's participation, as well as the importance of reviewing current superannuation arrangements, which present barriers for workers who are trying to access their accumulated funds upon return. These issues are discussed in more detail in the relevant sections below.

#### *Report on the Migrant Workers' Taskforce (Australia)*

The Migrant Workers' Taskforce was established in 2018 as part of the Australian Government's response to the revelation of significant wage underpayments to foreign workers with student and working holiday visas in certain industry sectors. While focusing primarily on the working conditions of those foreign workers with working holiday and student visas, some of the Report's recommendations are of relevance to SWP workers. Recommendations include strengthening legislation to provide better protection for workers, improving the availability and accessibility of information about workplace rights, ensuring the FWO is adequately resourced, and introducing a new national regulatory scheme to provide better oversight of the labour-hire industry.

In its response to the Report of the Migrant Workers' Taskforce, the Australian Government announced in 2019 that it would finalise and introduce a model for a National Labour Hire Registration Scheme aimed at reducing worker exploitation, improving accountability, providing greater transparency and driving behavioural change among labour-hire operators in high-risk sectors, without causing major disruption to the entire labour-hire industry. While not providing the same compliance assurance as the Approved Employer system under the SWP and PLS, this registration model aims to reduce worker exploitation in the sector.

In recognising the positive work undertaken by the FWO in recovering wages, settling disputes and deterring and disrupting illegal workplace practices, particularly its work on the Harvest Trail Inquiry, the Government committed itself to ensure that the FWO is sufficiently resourced and has the appropriate powers and tools to be effective at addressing worker exploitation. This will help to ensure that Pacific workers under the SWP and PLS also have access to the necessary resources, should they find themselves needing support from the FWO.

#### *Temporary Migrant Worker Exploitation Review (New Zealand)*

In New Zealand, the MBIE is currently undertaking a multi-year review on temporary migrant worker exploitation. The Review looks at the exploitation of temporary migrant workers across all visa classes, particularly international students, as well as undocumented workers. The Review does not focus on the RSES.

As part of the Review, MBIE commissioned research on the nature of temporary migrant worker exploitation, and the gaps and opportunities to address this. The key background study Temporary migrant worker

exploitation in NZ (Collins and Stringer 2019) focused on essential skills workers, international students, post-study workers, and working holiday makers – and not specifically RSES workers.

MBIE consulted on a set of proposed changes in October 2019 to prevent migrant exploitation, protect exploited migrants, and better enforce appropriate working conditions and immigration obligations.

Some changes have already been undertaken in response to the review. In July 2020, the New Zealand Government announced it would invest NZD 50 million over four years to reduce the risk of temporary migrant worker exploitation, remove barriers to reporting exploitation, and improve response systems for helping migrant workers. The funds will also be used to establish a new visa to support migrants to leave exploitative work situations and increase the number of labour inspectors and immigration investigators. These changes are expected to positively affect RSES workers.

### *Review of the RSE Policy*

RSE Policy which consists of the Operational Manual, Employer and Worker Guide is also up for review after 14 years of operation. Due to the COVID-19 pandemic, this review has been delayed.

### **Approved Employers, Compliance and Assurance**

The SWP, PLS and RSES all operate using an approved employer process. The AE process acts as a program level compliance and assurance mechanism with each scheme retaining the discretion to terminate agreements with individual employers. The approval process and reporting and monitoring of AEs under each scheme minimize the likelihood of employers being granted access who have a track record of breaching workers' contracts.

In Australia, the AE process for SWP and PLS is managed by DESE and DFAT (Palladium) respectively. Employers are required to complete an application/vetting process to become approved employers. Criteria for becoming an approved employer under both SWP and PLS include having a record of compliance with immigration and workplace relations requirements; and a commitment to the labour and working condition requirements outlined in the program deeds of agreement – including Australian employment laws, and program specific requirements (refer Table 4-1 and Table 4-2). Both programs implement risk-based compliance and assurance frameworks to ensure the SWP is operating as intended and the welfare of workers is protected. The key elements of the framework are prevention and deterrence, detection, and correction. SWP compliance and assurance activities are carried out by a team in DESE. Pacific Labour Mobility Officers in each State are currently being hired. PLS compliance and assurance activities are conducted by DFAT's managing contractor. These programs are also regulated by Fair Work Ombudsman which enforces *the Fair Work Act 2009*. The FWO also has certain roles in administering the PLS and SWP. Among others, the FWO has a role in the approval and ongoing oversight of AEs. Depending on their nature, some complaints received via the PLF hotline by PLS and SWP workers are forwarded to the FWO. The investigative team of the FWO acts upon complaints and might be asked by DFAT or DESE to undertake a compliance check with one of the AEs. The work of the FWO's audit team is based on data and intelligence such as a tip-off or media report, following which the audit team will often conduct a more educational type of visit to a particular employer. The FWO has no record of the number of grievances received by SWP or PLS workers. The FWO has found risks for workers are higher if more players are involved in a chain through labour-hire arrangements.

In New Zealand, the Labour Inspectorate, as an agency within MBIE, has primary responsibility for monitoring and enforcing compliance with the RSE Policy as well as the NZ employment laws. Employers wishing to become registered for RSES are required to apply and undergo a vetting process against criteria outlined in WH1.5.10 and WH1.5.15 of the RSES operations manual. As part of this process, employers are required to provide information on past performance including compliance with labour and immigration laws and requirements. Employers are also required to provide evidence of human resource policies and practices (including dispute

resolution and health and safety). RSEs commitment to the labour and working condition requirements outlined in the agreement to recruit – including NZ employment laws, and program specific requirements (refer Table 4-1 and Table 4-2). The Labour Inspectorate has five RSE labour inspectors in key locations across New Zealand. Specifically, the Labour Inspectorate reviews employer applications for RSE status, visiting the worksites and checking payrolls, financials and accommodation and making a recommendation. After an employer has gained RSE status, the Labour Inspectorate conducts annual audits in the employer's offices and checks accommodation and pastoral care requirements (Labour Inspectorate, Consultation, March 2021). Labour inspectors can either be proactive and inspect workplaces or they may become aware of issues through annual reports that employers submit to MBIE.

#### *Non-compliant employers*

Some Approved Employers and Recognized Seasonal Employers who are admitted to the respective programs do not follow the regulations. When AEs or RSEs fail to comply with any of the regulations, they risk being removed from the AE/RSE list and no longer able to employ seasonal workers in subsequent seasons.

Data on the number, type, and location of SWP related grievances and non-compliances is not currently shared with the GoPNG (with the exception of critical incidents – refer to Section 5.3.5). Similarly, the FWO has not collected data on non-compliance of SWP AEs, which they were able to share. However, there have been non-compliance issues reported through other channels with 11 Approved Employers highlighted as a part of the Harvest Trail Inquiry and 29 Approved Employers through the recent submission for the Retail Supply Chain Alliance. This accounts for approximately 17 per cent of the total 173 Approved Employers under the SWP. Whilst there are issues with this data, it suggests that the majority of Approved Employers are compliant.

Similarly, data on the number and type of RSES related grievances and non-compliances is not currently shared with the GoPNG. Consultations with the New Zealand Labour Inspectorate revealed that the AE and compliance system today is generally rigid and that conditions have improved over the last few years, especially after the MBIE had been able to get rid of some of the bad employers where breaches of working conditions had been detected (Labour Inspectorate, Consultations, February 2021). In NZ, the Government has announced several changes to be implemented over the coming years (MBIE, 2020) which are expected to further strengthen this system.

#### *Strengthening Compliance Resources*

One factor that has been identified as contributing to potential risks that SWP and RSES workers may face from non-compliant employers is the small number of labour inspectors and compliance officers who are responsible for ensuring that minimum conditions are met (Lees-Galloway, 2017). However, consultations with the MBIE and the New Zealand Labour Inspectorate in February 2021 suggested that, although the number of five labour inspectors that focussed on the RSE was small, it compared quite well with other industries and sectors and was perceived as generally sufficient. Labour inspectorate resources will be further strengthened over the next four years as part of the Governments response to the TMWE Review.

The DESE, DFAT/Manging Contractor and FWO compliance teams have a tougher task, given the vast area that Australia's horticultural regions comprise. FWO have labour inspectors and compliance officers assigned to all of the key horticultural regions. In addition, the Australian Government announced in the October 2020-21 Budget, an additional AUD 9 million to safeguard the welfare of SWP workers in Australia. This will fund 19 Pacific Labour Mobility Officers eventually based in all States and Territories to undertake additional welfare, monitoring, compliance and accommodation checks.

The **Project** will contribute to the strengthening of A&NZ compliance arrangements by supporting the development and implementation of the LMU's liaison function including methods for PNG seasonal/migrant

workers to communicate directly with the LMU; support to workers in pursuing resolution to issues through A&NZ grievance redress systems; and improved coordination with A&NZ programs and regulators to ensure that issues are being addressed.

### *Labour hire-industry*

Another issue that the Australian government has started to address is the labour-hire industry. SWP, PLS and RSES workers are either directly employed by growers or other businesses, or by labour-hire companies. It has been found that breaches of working conditions are more prevalent in cases of labour-hire companies employing seasonal workers (see e.g. Fair Work Ombudsman, 2018). While labour hire companies make up only a small fraction of total employers – only 23 per cent of the total 173 Approved Employers under the SWP, for example, they generally employ a larger number of workers than other employers. In 2019, in its response to the report of the Migrant Workers’ Taskforce, the Australian Government committed to “finalise and introduce a model, in consultation with stakeholders, for a National Labour Hire Registration Scheme that will reduce worker exploitation, improve accountability, provide greater transparency and drive behavioural change among labour hire operators in high-risk sectors, without causing major disruption to the entire labour hire industry” (Attorney-General’s Department, Australia, 2019). So far, labour-hire licensing schemes have been established in Queensland, Victoria, the ACT and in a more limited form in South Australia, while a national scheme is still being developed. In Queensland, the Queensland Labour Hire Compliance Unit was established after Labour Hire Licensing Act 2017 came into effect in early 2018. The scheme in Queensland was the first state scheme in Australia and it is a requirement that all labour-hire companies renew their license annually and report every 6 months to the unit (Consultations, Queensland Labour Hire Licensing Compliance Unit, Feb 2021).

SWP workers are often not fully aware of the roles of labour-hire companies and their distinction from growers who directly employ workers. For instance, workers do not always understand the responsibilities of the labour-hire companies towards them such as in regard to pastoral care.

The **Project** will support the LMU to develop and provide in-depth information on labour-hire arrangements, the responsibilities of labour-hire companies towards the workers, and the additional risks associated with such arrangements to workers as part of worker readiness and pre-departure training.

### **Pay**

In Australia, employee entitlements in all the industries in which seasonal workers are employed are outlined in industry-specific awards or registered employment agreements. The awards do not differentiate between seasonal/temporary workers and workers who are citizens or permanent residents. **SWP** and **PLS** workers receive the same pay and employment conditions as Australian workers (see also Section 4). In contrast, SWP and PLS are at an advantage compared to other casual or part-time workers as they have the assurance to be paid for a minimum average of 30 hours per week for the duration of their employment and the rate of pay must in all circumstances meet the relevant legal standards (DESE, 2020d).

**PLS** workers are employed as part-time or full-time workers on fixed-term contracts (DFAT, consultation, February 2021). PLS AEs must provide employees with at least 30 hours of work each week or a minimum average of 30 hours per week. Similarly to the SWP, the employment of PLS workers has to meet Australian workplace standards. This means that minimum pay rates and minimum employment conditions as for the National Employment Standards have to be met. Given the shorter duration of the PLS and disruptions due to the pandemic, fewer breaches of work conditions have been reported.

In terms of wages, **RSES workers** are entitled to the same minimum rights as permanent employees. RSES workers can be paid either an hourly rate, a piece rate, a sliding rate or a combination of these rates (New Zealand, MBIE 2018a). Regardless of the type of pay, RSES workers must be paid at least New Zealand’s

minimum wage. If the employment agreement is for six weeks or longer, the minimum amount an RSE worker has to be paid is the greater of either 240 hours at the hourly rate, or payment for an average of 30 hours per week at the 'per hour' rate for the period worked. If the employment agreement is for less than six weeks, the employee must be paid at least 40 hours per week, at the hourly rate, for work offered in the employment agreement (Immigration New Zealand, 2020). The RSE policy allows RSE employers to average out the amounts of money workers earn each day to meet the minimum requirement of 30 hours of work per week over the term of the contract, reduces incentives for employers to find alternative work during quiet periods, and can reduce the incentive to work at maximum capacity during peak periods (Bedford, Nunns and Bedford, 2020).

The regularity of pay under the three schemes is stipulated in the employment agreements and is usually set weekly or fortnightly. Few concerns regarding the regularity of pay have been reported.

### *Underpayment*

Whilst the risk of underpayment is a key issue for migrant workers in both Australia and New Zealand and has been widely reported, it is less prevalent for workers under the PLS, SWP and RSE, given the additional protections these programs have put in place.

According to consultations with the FWO (February 2021), the majority of payment-related complaints received and investigated by the FWO regarding AEs involve technical issues such as workers not receiving payslips. Similarly in NZ, consultation with the Labour Inspectorate (Feb 2021) reported that few cases of underpayment involving RSEs had arisen and those that do typically involved issues with implementing complex requirements of the NZ holiday Act.

### *Piece rate payments*

In Australia, the FWO found that piece rates were a common feature of work in the horticultural industry. Only the Horticulture Award and Wine Industry Award contain provisions allowing employees to be paid piece rates, without a minimum hourly payment. Accordingly, the SWP allows workers in the horticulture or wine industry to either be paid hourly or by piece rate (DESE, 2020b). The Horticulture Award (clause 15.7) further requires that a piecework agreement must be in writing and signed by the employer and the employee. The piecework agreement must set out the piece-rate according to the respective award and this written agreement is incorporated into the Offer of Employment letter. Under the Horticulture Award, the piece rate must allow the 'average competent employee' to earn at least 15% more per hour than the relevant minimum hourly rate, while under the Wine Industry Award, the piecework rate must allow the employee of average capacity to earn at least 20% more per hour than the relevant minimum hourly rate in the Award (DESE, 2020d).

From a worker's perspective, piece rates can provide suitable rewards for an efficient and productive day of work. However, the Trail Harvest Inquiry identified key issues relating to piece rate payment including how an 'average competent employee' or 'employee of average capacity' is interpreted; and the lack of requirements for employers to record hours worked by pieceworkers under the *Horticulture Award* and the *Wine Industry Award 2010*. Since workers also rarely recorded their hours, this lack of records present a barrier to making accurate assessments of outstanding employee entitlements where piecework arrangements were found to be invalid and where Fair Work Inspectors believed that underpayments had occurred.

The Trail Harvest Inquiry report does not refer to the specific situation of SWP workers who are entitled to a minimum of 30 hours of work per week. This entitlement and the associated recording and reporting requirements is likely to make it easier to enforce the piece rate award requirements. The McKell Institute's 'Blue Harvest Report (2020) indicates that issues concerning piece rates also exist for SWP workers. The report outlines a FWO case from 2016 involving SWP workers from Vanuatu employed on a blueberry farm in New South Wales through a labour hire company who were not receiving the penalty rates they were entitled to on

public holidays under piece-rate agreements and were also denied appropriate rest breaks during 36 days of consecutive work. The company, Seasonal Labour Solutions Pty Ltd entered into an Enforceable Undertaking with FWO to pay outstanding wages and engage an external auditor to ensure future compliance. The AE was subsequently removed from the program. The case indicates the effectiveness of the FWO and Approved Employer system in dealing with the risks from piece-rate pay arrangements.

A recent RSE impact study also revealed concerns about employment conditions that relate to the complexity and lack of transparency around how piece rates are calculated as well as rates that change throughout the season (Nunns, Bedford and Bedford, 2019). RSE workers can be paid either an hourly rate, a piece rate, a sliding rate or a combination of these rates (New Zealand, MBIE 2018).

Moreover, the requirement under the three schemes according to which workers have to be paid a minimum average of 30 hours per week which can be averaged out over the terms of the contract means that excess earnings from a productive day can be carried over to offset short working days due to bad weather or fruit not ready for picking. This policy undermines incentives associated with piece rates that reward hard work and higher levels of productivity.

#### *Other Pay Related Issues*

The recent RSE impact study highlighted differences in wage rates and conditions and the lack of wage growth as areas of concern for RSES workers. The study found that many workers were concerned about differences in wage rates and employment conditions between RSE employers (Nunns, Bedford and Bedford, 2019). An informant described that some kiwifruit employers had different pay scales for New Zealand and RSES workers for the same task, where for example, New Zealanders were on piece rates for pruning while RSES workers were on hourly rates (Nunns, Bedford and Bedford, 2019). Some employers still pay their return workers the minimum wage despite increased skills and several years of experience.

#### *Pay deductions*

Employers under the three schemes make several deductions from workers' pay including for migration-related expenses which employers funded upfront, and for ongoing expenses such as accommodation (often including utilities) and transport. For PLS and SWP workers, deductions must be consistent with those agreed by the seasonal/temporary workers in the Letter of Offer. For RSES workers the Employment Agreement does not provide detailed information on ongoing expenses and deductions.

Under the SWP and RSE, employers are permitted to take 'reasonable instalments. AEs under the SWP are only permitted to make deductions from the pay of Seasonal Workers with the written agreement of Seasonal Worker and following Australian laws. Despite these safeguards, submissions to the Parliamentary Inquiry into the Seasonal Worker Programme reported some cases of unlawful deductions (see the submission by National Union of Workers).

Similarly, there have been reports of excessive wage deductions in New Zealand. New Zealand MP Lees-Galloway said in a media statement in 2017 that some workers received only \$200 a week after deductions (Lees-Galloway, 2017; Marlborough Express 2017). Consultations with the Labour Inspectorate in New Zealand in February 2021 confirmed instances of unreasonable wage deductions. Some employers charged high accommodation and transport costs to the extent that some were making a profit. The Labour Inspectorate expects that the impending review of the RSE Policy will address the issue as the RSE Policy presently does not provide detailed guidelines only stating that deductions have to be reasonable and necessary (Labour Inspectorate, Consultations, February 2021).

Efforts are underway to tighten guidelines and increase employer compliance under the schemes in Australia and New Zealand. Despite pay deductions being covered under the pre-departure training for departing workers

(including for PNG), some SWP, RSE and PLS workers still fail to fully comprehend the pay deduction that they can reasonably expect.

The **Project** will further mitigate the risks of worker exploitation concerning payment and deductions by supporting the LMU to strengthen worker readiness and pre-departure training as well as communication and information dissemination tools to increase awareness and understanding about the rights and obligations of employers and employees concerning pay and deductions, the information and tools available through respective A&NZ programs and agencies and the processes in place to resolve pay related issues.

### **Working hours and leave**

Working hours and leave entitlements of seasonal/temporary workers are regulated by national legislation. The main issues of concern regarding working hours are excessive working hours especially during harvest time and some employers failing to pay overtime (The Parliament of the Commonwealth of Australia, 2016).

Workers under the SWP and RSES do not have the standard paid leave entitlements, given the nature of the short duration of their contracts.

In New Zealand, workers are entitled to five days of sick leave and bereavement leave after six months of continuous employment with the same employer. This means that seasonal workers from Kiribati and Tuvalu who can stay up to nine months in New Zealand have paid sick leave entitlements in the last three months of their contracts, while workers from the other PICs who are allowed to stay for only seven months have paid sick leave entitlements only in the very last month of their contracts.

SWP workers in Australia work under casual contracts and as per Australian law are not entitled to paid sick or annual leave. Instead, they receive a casual loading that is equivalent to what Australian workers receive and depends on the respective award (e.g. 25% under the Horticultural Award) (see Section 4.4.8).

PLS workers are employed on fixed-term contracts and have paid leave entitlements. They have multiple entry visas for Australia and can visit their home countries during their annual leave at their own expense. There are no studies on how many PLS workers travel home during their employment in Australia or on how much other leave, such as paid sick leave, they take. During the COVID-19 pandemic Australia, New Zealand and most Pacific Island countries closed their borders and it became impossible for workers to travel or return to their home countries.

In respect of the workers' leave entitlements under the three schemes, the **Project** will assist the LMU in educating workers about their entitlements so that they are fully aware of these. Workers on casual contracts without leave entitlement will be encouraged to set aside some of their earnings should the need arise to take days off.

### **Unionization**

SWP, PLS and RSES workers have the right to join a union, unlike some other countries where migrants have no right to join or form a union.

Under the SWP, employers have to ensure that seasonal workers are aware that they can join a union and provide information on unions. Under the SWP DoA, AEs must invite and use reasonable endeavours to accommodate attendance at Arrival Briefings of a representative from a relevant union. There are no similar requirements under the PLS or the RSES, nor for PNG to invite union representatives to pre-departure training. The workers under all schemes are provided with the contact details of unions and limited information on the role of unions. Very few workers in Australia and New Zealand have joined unions, partly because of a reluctance to pay union membership fees (MBIE, Consultation, February 2021).



Despite the right of seasonal workers to join unions, there are some reports of seasonal workers being pressured by their employers not to join unions or to quit unions if they had already joined. In a case publicized by trade union groups, workers from Vanuatu employed by not-for-profit labour-hire firm MADEC, Australia's largest user of the SWP at the time, reported being pressured to quit the National Union of Workers (McKenzie and Toscano, 2017). The company in question, MADEC, distributed a pro-forma resignation form to 145 workers that they were to fill in and hand to the union in what was a clear breach of Australian laws that protect freedom of association – an action that MADEC claimed was made in error, and without any associated pressure on workers to withdraw their trade union membership.

There is a continuing risk that union membership of seasonal/temporary workers is discouraged.

The **Project** will support the LMU to raise greater awareness of the potential benefits of union membership through developing specific training modules on union membership for the pre-departure training; and to facilitating information exchanges with relevant unions. This will enable prospective workers to make informed decisions about whether or not to join a union.

### **Employment choice, Restrictions on Movement and Power Imbalances**

The SWP, PLS and RSEs have been designed and are required to operate in accordance with Australian and NZ laws and international obligations concerning forced labour, modern slavery and human trafficking (refer Section 4).

Entry into the SWP, PLS and RSEs is voluntary. Employees are free to accept or reject employment offers for each programme. Each program has put in place mechanisms to ensure that workers are properly informed about the nature and conditions of these respective programs. These are largely implemented by sending country governments in coordination with the respective programs.

#### *Restrictions on Movement and Power Imbalances*

Under ESS2, such consent must exist throughout the employment relationship and the worker must have the possibility to revoke freely given consent.

The SWP, PLS and RSEs all allow workers to terminate their employment at any time, however, because workers and their visas are typically linked to a specific employer and restrict movement to a different employer, this has generally meant that workers then have to return home. The exception to this is in cases where employers have acted illegally or contrary to workplace legislation: in such cases, DESE, MBIE and PLF have sought to relocate workers to new employers.

There are risks associated with linking work visas to employers, given the resulting power imbalance (Joint Standing Committee on Migration, 2016; Maclellan, 2017). Being tied to their employers increases the risk of exploitation due to fears among workers that actions against their employers will lead to the cancellation of their visas. SWP and RSE participants return for multiple seasons and may fear that their complaints will affect their selection in future seasons (The Parliament of the Commonwealth of Australia, 2016).

Furthermore, workers are not required to hand over their passports or any other documentation that would mean they were physically unable to leave their employment. The pre-departure guidebook for seasonal workers specifically advises SWP workers that they do not have to give their passports to their approved employer.

There have been a limited number of cases where AEs and RSEs have been found to be in breach of programme and legal obligations in this area and subsequently penalised and removed from the respective program. The most severe case in Australia involved [Maroochy Sunshine Pty Ltd](#) which withheld passports and personnel belongings and threatened SWP workers with deportation if they raised issues with police. As noted previously,

this company was prosecuted by the FWO, fined and removed from the AE list - demonstrating the importance of the SWPs compliance and assurance framework.

Consultations with the implementing agencies of respective schemes indicated that in practice, there is some scope for changing of employers should issues arise over the course of employment. Further, in Australia since mid-2020, SWP and PLS workers have been able to change employer subject to agreement from the administrator of the program as part of the government's response to COVID-19: a World Bank survey of 586 SWP and PLS workers found that 22% had changed employer in the previous 6 months. Similarly in the RSES visa extensions provided in response to COVID allow workers to change employers.

### *Risk of Indebtedness*

SWP, PLS and RSES workers are all required to fund certain pre-departure costs (refer to Section 5.2.3). Other international travel costs and visa fees are covered by AEs and RSEs and later deducted through workers' wages once they arrive and commence their work stint in Australia or New Zealand.

The money owed directly to employers is not considered high given the expected earnings (i.e. between 6,000 – 8,000 Kina per month) whilst on assignment in Australia or New Zealand and the duration under the respective scheme (seven or nine months under the RSE, nine months under the SWP, three years under the PLS) which make regular repayments manageable. The debt is typically repaid within 3 months and done so through payroll deductions. If a worker leaves prematurely, they are not required to repay this debt. There have been no such cases for PNG seasonal/migrant workers to date.

The **Project** will support the LMU to: i) strengthen informed choice in recruitment and mobilization arrangements and during worker readiness and pre-departure training activities; ii) provide financial literacy training which will ensure workers understand the up-front costs and repayment arrangements; and iii) provide enhanced support to workers through the LMU liaison function that ensures they are better informed, supported and empowered to engage with employers and respective A&NZ agencies.

### **Child labour**

The SWP and PLS are only open to workers above 21 years of age and the RSES for workers above 18 years of age. The selection and recruitment processes under the schemes, including the identification of participants, are generally strong and no instances of child labour have been identified to date.

### **Medical cover**

SWP, PLS and RSES workers are covered by the respective country's workers compensation and insurance programs.

SWP, PLS and RSES workers do not have access to Australian or NZ free public health programmes and are required to take out adequate personal health insurance by purchasing private health insurance for the duration of their work assignment as a condition of their visa (DESE, 2020b, DFAT, 2019, Department of Home Affairs, no date).

Under SWP and RSE, employers are responsible for organising and ensuring workers have this cover. Under PLS workers are responsible. The RSE Instructions in Immigration New Zealand's Operational Menu (INZ, 2020) include details of what has to be included in the policy such as the full coverage of costs for all medical expenses including diagnosis and treatment, prescribed medicines, ambulance, hospital and post-hospital discharge care, home nursing care; emergency dental care; evacuation/return home in the event of serious illness or disability; and return of remains to the country of origin in the event of death. The requirements for adequate health insurance in Australia is outlined on the [Private Health website](#). However, unlike the RSES, it does not detail specific coverage requirements.

Policies available for seasonal workers vary in price, cover and excess requirements. Basic plans, which may be the most attractive due to their lower upfront costs, often do not cover/or require co-payments for visits to General Practitioners and dentists. Most policies have lengthy (12 months maximum) waiting periods for pre-existing conditions.

SWP and RSES workers (particularly those entering the programs for the first time) are likely to have limited information about their options before private health insurance is obtained on their behalf by their employers. There is only limited information for PLS workers (and SWP and RSE employers) to navigate the complexities of choosing the most appropriate cover. For instance, the Private Health website does not provide an insurance policy comparison tool (as it does for citizens/permanent residents), instead directing users to use web search engines.

The **Project** will support workers' access to information on different private health insurance policies in order to be better informed and make informed decisions about the cover that might be most appropriate for them. This will be done by developing and delivering training modules as part of the pre-departure training. The **Project** will also support an annual review of available insurance policies (a regular review is conducted by PLF) – drawing on policy info and experiences of workers. This information will be provided to workers and employers, and the Project will also support engagement with employers on this (including worker needs).

### **Superannuation**

Australia has a compulsory superannuation scheme under which 9.5% of gross earnings are paid by employers directly into a superannuation fund. This constitutes a mandatory savings scheme with potential positive impacts for workers and their families. The downside of the scheme is that there are taxes on the savings (15% on contributions). As an example, a worker under the SWP who stays in Australia for the maximum duration of nine months (39 weeks), works in the horticultural industry for 30 hours per week (the guaranteed minimum working hours), and is paid the minimum hourly rate of AUD 19.84 under the horticultural award, will earn a gross income of AUD 23,212.80 over nine months. On top of this, the employer pays AUD 2,205.22 into their superannuation account. After deducting tax of 15% and 35%, the superannuation savings amount to AUD 1,218.38.

SWP and PLS workers must claim their superannuation savings from the Australian Tax Office after arriving in their country of origin. Employers are not required to assist them in the process. According to DESE, superannuation issues are often extremely confusing for workers (DESE, Consultation, February 2021). Many returned seasonal workers and the LMUs in the countries of origin assisting them, therefore, find it challenging to claim superannuation.

Temporary migrant including RSES workers are not eligible to enrol in KiwiSaver, NZ's superannuation scheme and RSEs are not required to pay superannuation co-contributions for their workers under the RSES. MFAT with the support of INZ has launched the Seasonal Worker Superannuation Administration Service (SWSAS), an online system, which enables RSES workers to make voluntary superannuation payments as well as make secure and low cost remittance transfers direct to the RSE worker's bank account ([Bedford 2021](#)).

The **Project** will support the LMU to assist SWP and PLS workers with claiming their superannuation savings after returning to PNG by providing information to workers and assisting them to liaise directly with the ATO. There is also an opportunity for the **Project** to support the LMU to work with FIs to develop simple, secure and low cost methods for the remittance of superannuation and other savings to worker's bank accounts in PNG, which may also explore linking their superannuation savings across to their Provident Fund account in PNG.

### **PNG Labour Mobility Program and Proposed Project Support**

One of the goals of the Draft National Labour Migration Policy is “to involve all stakeholders, including departments, agencies, private sector, social sector and international partners, in good governance of labour mobility and the protection of workers overseas”. Under the Policy, the GoPNG is committed to utilizing pre-departure training as a key to minimizing the need for welfare interventions. The LMU recognises the importance of providing quality pre-departure training to ensure that workers understand their written offers of employment, have realistic expectations of their working conditions and pay, and understand their rights under their contracts. If workers are well informed of their working conditions in Australia/New Zealand and are aware of existing grievance mechanisms both in the recipient countries and, if these are exhausted, through involving the LMU’s welfare officer, the risk of exploitation is considerably reduced, or, if it occurs, can be addressed in due course. Although the LMU welfare officer will not resolve work-related grievances, they can advise workers of the procedures to take in A&NZ. Moreover, the welfare officer proactively contacts workers and employers to check on them (PLF, Consultation, February 2021).

### **5.3.1.2 DESIGN CONTROLS, MITIGATION AND MANAGEMENT MEASURES**

The Project will support the LMU and regional administrations to further mitigate and manage the risk of worker exploitation in the following ways:

- Engage a Labour and Working Conditions Specialist through project TA to provide technical advice and support on labour and working condition risk during project implementation,
- Support for the development and implementation of the LMU’s liaison function including methods for PNG seasonal/migrant workers to communicate directly with the LMU and each other (i.e. using platforms such as Facebook or WhatsApp); support to workers in pursuing resolution through A&NZ systems; and improved coordination with A&NZ programs and regulators to ensure that issues are being addressed.
- Strengthen informed choice in recruitment and mobilization arrangements and during worker readiness and pre-departure training activities (see below);
- Provide financial literacy training which will ensure workers understand the up-front costs and repayment arrangements; and
- Support for the strengthening and implementation of worker readiness and predeparture training as well as communication and information dissemination tools to increase awareness and understanding about:
  - workers’ rights and terms and conditions of work
  - detailed information on pay, piece rate arrangements and deductions, the information and tools available through respective A&NZ programs and agencies and the processes in place to resolve pay related issues.
  - leave entitlements: Workers on casual contracts without leave entitlement will be encouraged to set aside some of their earnings should the need arise to take days off;
  - the role of unions, how to join them and contact information, as well as facilitating information exchanges with relevant unions
  - informed choice and options for ending employment if required
  - health insurance: Information on different private health insurance policies in order to be better informed and make informed decisions about the most appropriate cover that might be most appropriate for them;

- in-depth information on labour-hire arrangements, the responsibilities of labour-hire companies towards the workers, and the additional risks associated with such arrangements to workers as part of their pre-departure training
- Support for the LMU to conduct/provide information on available insurance policies – drawing on policy info and experiences of workers. This information will be provided to workers and employers, and the Project will also support engagement with employers on this (including worker needs).
- Support to develop LMU capacity to assist workers with claiming their superannuation savings after returning to PNG including providing information to workers and liaising directly with the ATO
- Engage FIs to develop simple, secure and low-cost methods for the remittance of superannuation and other savings to worker's bank accounts in PNG.
- Provide specific technical assistance on labour and working conditions to strengthen LMU and RHH's liaison functions and the ability to effectively support to overseas workers (including supporting use of A&NZ grievance mechanisms)

### 5.3.2 Occupational Health and Safety

#### 5.3.2.1 ISSUES AND FINDINGS

##### Workplace Health and Safety Risks

Occupational health and safety risks are associated with many of the industries employing seasonal and temporary migrants in Australia and New Zealand. While all workers within these industries are exposed to similar risks, for labour mobility program workers these risks may be compounded by communication challenges for workers who do not speak English as a first language, different and sometimes lower expectations of health and safety standards, a lack of understanding of health and safety standard and requirements in Australia and lack of familiarity with Australian workplaces processes (for example use of agricultural equipment). Workers may also be reluctant to report injuries due to a desire to maximise their income during their placement (MacDermott and Opekin 2010).

In addition to the compounding risks for labour mobility program workers described above, workers may be exposed to the following industry-specific risks:

- i. **Agricultural industry** - The agriculture and horticulture industries where the majority of SWP and all RSES workers are employed are high-risk industries. According to SafeWork Australia, agriculture is one of the country's most dangerous industries to work in due to the combination of hazards. These include plant, chemicals, noise, dust, sun exposure, working with animals as well as working in remote locations. Agriculture has the highest fatality rate of any Australian industry (14.8 fatalities per 100,000 workers) (SafeWorkAustralia, n.d1). Within the Agriculture industry subdivision, the Sheep, beef cattle and grain farming industry group accounted for over half (59%) of the fatalities over the five years to 2019 with 13.8% of fatalities associated with fruit and tree nut or mushroom and other vegetable growing. Over this period, the majority of fatalities (68%) in the Agriculture industry involved a vehicle (Safe Work Australia, 2019a).
- ii. **Accommodation services industry** - SWP workers in selected locations and PLS workers are also employed in accommodation services. Workplaces in the accommodation services industry can pose health and safety risks for workers. The work may be physically demanding and carried out under pressure, leading to a higher risk of injuries. Common hazards and risks in the accommodation services industry include manual handling tasks; exposure to chemicals; uneven

- or slippery floor and trip hazards; fatigue, particularly from shift and night work; exposure to work-related violence, aggression, harassment and bullying (including through engaging with the public), and stress from issues such as high work demand and a lack of support from managers (SafeWork Australia, n.d2).
- iii. Food services industry - the food services industry which includes businesses that prepare and serve food can pose significant health and safety risks, as the work is typically physically demanding and conducted under pressure which may lead to a higher risk of injuries. Common hazards that are major causes of work-related injuries to food services workers include hot liquids, substances or surfaces and food preparation leading to the risk of burns, cuts and fires; manual handling tasks; exposure to chemicals; slips, trips and falls; use of electrical equipment and appliances; exposure to work-related violence, aggression, harassment, and bullying (including through engaging with the public); stress from issues such as high work demand and low support, and fatigue, particularly resulting from shift work (SafeWork Australia, n.d3).

During consultation representatives of all three programs noted that data availability on OHS incidents was limited. Underreporting of OHS incidents may contribute to a lack of available data. A mixed methods study by Reid et al (2014) found that compared with Australian-born workers, those from Oceania reported less workplace related injuries. However, the study found that there may be underreporting of workplace related injuries by migrant workers, and precarious work, cultural factors and the demands of production may preclude workers from reporting incidents (Reid et al 2014).

Australian and New Zealand Occupational Health and Safety legislations are strong, and seasonal and temporary migrants are protected under these laws. Workers in all industries receive on the job training and relevant PPE, as required by law in A&NZ.

In Australia, AEs under the SWP and PLS are required to comply with all relevant Workplace Health and Safety legislation. This includes the Work Health and Safety Act 2011 (Cth) and relevant state legislation (see Section 3.2.2 above). Under the SWP Deed of Agreement (DESE, 2020b), employers must provide a safe work environment for all workers including providing necessary personal protective equipment to all workers at no cost to the workers and ensuring that workers understand and comply with all applicable instructions, directions, policies and procedures relating to work health and safety. Employers are also required to notify DESE of any work-related health and safety concerns. The PLS Policy Handbook (DFTA 2019a) and the PLS Deed of Agreement require the same of AEs under the PLS.

New Zealand's Health and Safety at Work Act 2015 and associated regulations apply to all work and workplaces that employ RSES workers. The application to become an RSE requires employers to provide information on health and safety procedures and demonstrate continued compliance with relevant laws and regulations (Immigration New Zealand, 2019).

No data is available on the number of workplace incidents, injuries or other safety matters involving SWP, PLS and RSES workers. A number of high profile fatalities of Pacific workers have been in the press including the deaths of two Solomon Islands nationals who had recently arrived in Australia to work as meatpackers in January 2021 and the death of one Solomon Island seasonal worker in April 2021 which were noted as the latest in a series of fatal car accidents for seasonal workers (ABC News, 2021a; ABC News, 2021b).

SWP and PLS workers are covered by legislation at a state level concerning workers compensation. These laws require employers to purchase compulsory insurance that protects workers who suffer a work-related injury or contract a work-related disease. Claims can be made for medical treatment and rehabilitation expenses, weekly payments, psychological injury, permanent impairment, injuries incurred during work breaks or journeys, and hearing impairment (Safe Work Australia 2019a). New Zealand's Accident Compensation Corporation operates a

no-fault scheme that covers everyone injured in an accident in New Zealand, regardless of their work status and immigration status (see [Accident Compensation Corporation](#)).

*Worker Readiness: Occupational Health and Safety*

As outlined above, OHS risks to Papua New Guinean workers who participate in labour mobility programs may be augmented by communication challenges for workers who do not speak English as a first language including difficulty understanding instructions, safety training and requirements, incident reporting processes and Australian requirements for workplace health and safety. Worker may also have different and in some cases lower expectations for workplace health and safety which could increase exposure to hazards. Workers may also be unfamiliar with Australian workplaces processes such as the use of agriculture equipment, and the use of chemical pesticides. (for example use of agricultural equipment). It is noted though that some industries have good existing capacity in PNG such as the food safety industry and mining industry, and some agricultural operations. Workers may also be reluctant to report injuries and may continue working while injured due to a desire to maximise their income during their placement which could worsen workplace related injuries.

**The Project** will support the LMU and RRHs to raise awareness and build the capacity of PNG seasonal/migrant workers in the area of OHS through pre-departure and worker readiness training. There is an opportunity for the Project to assist the LMU to identify and draw on the existing capacity for OHS in the mining and food sectors including developing partnerships with specific businesses on practical delivery of training, as well as sourcing specialists to work within the PMU to strengthen the LMU's overall OHS activities. In addition to pre-departure training and readiness, there is an opportunity for strengthened collaboration with A&NZ agencies and regulators, and with approved employers to address cultural challenges inherent in ensuring PNG seasonal/migrant workers are equipped to work safely within high risk sectors. This could involve, but not be limited to collaboration on strengthening of on-arrival training, development of appropriate general and sector specific material in Tok Pisin and Hiri Motu (refer Worksafe Australia (not various state resources also exist) Resources for migrant workers Worksafe NZ - General tools. The Project will also support the LMU's liaison function, ensuring that capacity is strengthened within the LMU to provide support to workers on OHS matters whilst they are on assignment.

### **5.3.2.2 DESIGN CONTROLS, MITIGATION AND MANAGEMENT MEASURES**

The Project will support the LMU and regional administrations to increase the occupational health and safety of participants in the following ways:

- Engage an OHS specialist through project TA, to provide technical advice and support on OHS aspects during project implementation,
- Identify opportunities for strengthening OHS culture of PNG seasonal/migrant workers through engagement with leading PNG businesses and industries;
- Develop and implement OHS learning modules for pre-departure and worker readiness to ensure PNG seasonal/migrant workers have sufficient knowledge of OHS and English skills to understand all health and safety instructions;
- Strengthen collaboration with A&NZ agencies and approved employers to strengthen host country measures including on-arrival training, OHS learning material in Tok Pisin and Hiri Motu, and communicating key messages about OHS risks.
- Support the LMU through its liaison function, to provide support on OHS matters to PNG seasonal/migrant workers whilst on assignment, and monitor the quality of workplace inductions on occupational health and safety issues.

### 5.3.3 Welfare and Living conditions

#### 5.3.3.1 ISSUES AND FINDINGS

Welfare and living condition related issues experienced by SWP and RSES workers have included poor accommodation conditions, above-market rates for accommodation and transport, as well as racism and discrimination. In addition to issues in the workplace, many workers frequently face challenges in their daily lives outside the workplace including culture shock when exposed to the lifestyle and culture in Australia/New Zealand and different behavioural expectations both at and outside of work. Many find the management of their finances and remittances challenging. Being overwhelmed with an entirely new situation is one of the factors that have led to instances of antisocial behaviour including abuse of alcohol and alcohol-related incidents such as drunk driving (leading to some car accidents in Australia) and assaults.

#### Welfare and pastoral care

##### *Program Welfare and Pastoral Care Arrangements*

Under the SWP and PLS AE's under their Deeds of Agreement are required to provide welfare and wellbeing supports to workers which include providing a range of support measures such as arranging transport to and from the port of arrival and departure; providing an on-arrival briefing and a work induction programme; assist with access to medical services and ensuring maintenance of health insurance; allow workers to move freely outside of working hours; develop opportunities for workers to establish connections with community stakeholders and access recreation and religious observance; and monitoring worker wellbeing among other things.

SWP Approved Employers must also appoint a "Welfare and Wellbeing Support Person" either from their organisation or from a Welfare and Wellbeing Provider within 300 kilometres of the worksite. As part of the Government's 2020-21 Budget measure "Pacific Labour Mobility Safeguarding the Welfare of Workers", the Government is providing up to AUD1 million to boost Pacific and Timorese SWP workers' connections with local communities in SWP locations across Australia. This will include (but is not limited to) engaging with local community groups to bring the SWP workers and their local communities together through events (social, sporting, cultural) outside of working hours, facilitating local community groups (including Pacific diaspora) to attend SWP Arrival briefings where appropriate and identifying and engaging relevant stakeholders to ensure workers welfare and wellbeing is supported. This is in addition to the 19 Pacific Labour Mobility Officers who will be based in all States and Territories will undertake additional welfare, monitoring, compliance and accommodation checks (refer above).

Under the PLS, AEs are required to work with the PLS managing contractor to obtain the necessary competencies in working with Pacific Islanders and to monitor the welfare of their workers. The PLF has a Worker Welfare Team and operates a 24 hour welfare hotline. The welfare role of the PLF has been expanded during the COVID-19 crisis with services introduced also for SWP workers who were unable to return home. New types of welfare issues came up during the pandemic with workers requiring assistance to repatriate, and others to move to different farms or businesses because their previous employer could not provide enough work or because they wanted to stay together with friends (DESE, Consultation, February 2021).

Similar to employer requirements under the SWP, RSEs in New Zealand have to arrange transport to and from the port of arrival and departure; provide a work induction programme; ensure access to suitable accommodation at a reasonable cost; provide information on medical insurance, banking services, and money transfers; provide transport to and from work; make occupational safety and health provisions; and provide opportunities for recreation and religious observance, among other things.



Inductions for workers are held at the place of employment. If workers arrive for the first time or if large groups of workers arrive, New Zealand's Labour Inspectorate is usually part of the inductions, together with a Relationship Manager from the Toso Vaka O Manu (TVOM) programme, a Police liaison officer, interpreters and others. For groups of returning workers, inductions are smaller and New Zealand's Labour Inspectorate might not attend. Written materials in the local language of workers are distributed to workers and put up in their accommodation that includes contact details of important agencies etc (Labour Inspectorate, Consultation, March 2021).

The RSE has established a non-punitive approach to dealing with critical incidents involving RSEs and seasonal workers through the use of relationship managers who are MBIE employees and work with both external and internal stakeholders to mediate and resolve problems. They are organisationally separate from the RSE operations unit responsible for administering the RSE and monitoring compliance. As of March 2021, there were four RSE relationship managers. They are the first point of contact with employers who have a problem and are responsible for assessing the situation and resolving the issue. Immigration New Zealand asks RSE employers to contact their relationship manager as soon as possible to report any incident involving their seasonal workers such as a workplace dispute, a serious health issue etc. The RSE Relationship Managers have been able to perform their conflict resolution role successfully, in part because they are formally independent of the administration of the scheme. In the annual surveys of RSE employers conducted by MBIE, most employers were in the past satisfied or very satisfied with the effectiveness of the Relationship Managers.

In addition to the four Relationship Managers within MBIE, there are two Relationship Managers within the Toso Vaka O Manu (TVOM) programme<sup>12</sup> who normally work largely in the Pacific sending countries where they build connections with government officials and workers. During the COVID pandemic, they have refocused their work to build relationships within New Zealand including with liaison officers, high commission staff, employers and workers. They take a proactive relationship-building approach to become aware of any issues and concerns early in order to also address and solve them early. High Commission staff from some sending countries regularly travel to regions where many workers from these countries are based and organise meetings with them. Employers are present for part of the meetings and leave after a while so that workers can talk more freely to High Commission staff in their language.

### *Sending Country Liaison*

In addition to the mechanisms provided by Australia and New Zealand, some sending country governments have appointed liaison officers based in Australia and New Zealand. In some cases, liaison officers are members of the diaspora community in Australia or New Zealand, while in other cases, they are recruited in the sending country and are based within a diplomatic mission. These officers connect with the workers and provide wellbeing and welfare in the local language. Other sending countries use staff from their embassies / high commissions.

Papua New Guinea has not appointed liaison officers in Australia and New Zealand, and is instead recruiting a welfare officer to be based within the LMU who will be responsible for supporting workers while overseas. It is envisaged that the welfare officer will be in contact and meet with workers in PNG before and after their assignment, and whilst they are in Australia and New Zealand. As the programme expands, provinces and Members may assign additional welfare officers that can help resolve issues focused on the welfare of workers and their families without having a mediating role between employers and workers. At present, the LMU uses

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<sup>12</sup> The Toso Vaka O Manu (TVOM) programme is funded by the Ministry of Foreign Affairs and Trade (MFAT) and implemented by the Ministry of Business, Innovation and Employment (MBIE) to support Pacific Island countries in gaining social and economic benefits through labour mobility.

WhatsApp and Facebook to keep in touch with workers overseas; to share information; and to directly receive information on any issues and grievances.

The Project will support the LMU (and RHHs) to strengthen their liaison functions. This is a core component of project design and will include the provision of TA to support the development of a liaison strategy and action plan; the development of LMU (and RHH) liaison staff; development of communication and information dissemination tools; strengthening of grievance and incident management arrangements; and development and implementation of activities that support liaison functions across the labour mobility cycle (i.e. from worker readiness to worker reintegration).

In addition, pre-departure training of migrants includes basic training on the legal and cultural differences between PNG and Australia/New Zealand in order to prepare workers about what to expect both in and outside of the workplace.

### **Worker Accommodation**

The three schemes closely regulate the accommodation and welfare requirements. Employers under the SWP and RSES must provide suitable accommodation to seasonal workers at a reasonable cost and comply with all relevant laws. There are detailed requirements as to the condition of the accommodation and the features that have to be included (such as hot water supply, adequate kitchen and dining facilities, adequate heating, etc). Under the PLS, where workers can stay for longer periods, accommodation is organized by the AEs or with assistance from PLF's Worker Welfare Team.

The New Zealand Labour Inspectorate conducts site inspections of all accommodation according to the RSE Worker Accommodation Standards. These inspections occur when employers apply to become RSEs and then every two years thereafter. The Labour Inspectorate has dealt with a number of cases of poor or overpriced accommodation for RSES workers over recent years however indicated that the quality of accommodation has improved since the beginning of the RSE (NZ Labour Inspectorate, Consultations, March 2021).

In Australia AEs under both SWP and PLS are required to submit details of accommodation as part of the employer approval process. SWP AEs are required to submit an Accommodation Plan for approval as part of their application and thereafter annually, as well as at any time the accommodation plan is altered. To date, the review and audit process conducted by DESE has been predominately desk-based. A Pacific Labour Mobility Accommodation Review commissioned by DFAT in 2020 covering both SWP and PLS found instances of overcrowding and potential instances of overcharging. This is consistent with other reports (Hermant, 2020; Bailey, 2018; Consultations with Pacific Trade & Invest and Skybury Coffee, February 2021). In one particular case a converted shipping container was used to house four SWP workers in Arrawarra, New South Wales. Workers paid AUD 120 per week for a bed in the container, resulting in a rent payment of AUD 480 per week for the container which was similar to rents for a three-bedroom house in the same suburb (The McKell Institute. 2020). In its response, DFAT agreed with all key recommendations for strengthening the PLS's compliance and assurance framework. The PLS has since released its new AE Guidelines with detailed accommodation standards and risk-based monitoring regimes including both desktop and site-based audits.

In addition to instances of AEs and RSEs violating the accommodation requirements under the SWP, PLS and RSES, workers from PNG, especially those from rural and remote locations, have sometimes struggled with coping with living arrangements in Australia/New Zealand including the use of electronic appliances such as microwave ovens, dishwashers, induction stoves and washing machines, different expectations of hygiene and personal presentation standards, and living in shared accommodation with other workers who are often, but not always, from a similar cultural and ethnic background. Workers of different genders often live together. While not sharing bedrooms (unless they are married) and bathrooms, male and female workers share the common facilities including kitchens and have to find ways to share their daily lives with the group. In order to prepare

workers for these living arrangements, with support from the World Bank, the LMU and RHHs will trial different approaches to the preparation of workers for overseas work. In some regions, this will include living in shared accommodation for the duration of pre-departure training with the type of electronic appliances. If successful, these approaches will be rolled out to other regions.

**The Project** will provide support to the LMU to strengthen worker readiness through financial technical assistance activities to develop sustainable modalities to prepare prospective workers through improved pre-departure training and through the support for strengthened LMU liaison function. These support measures will ensure that workers are well prepared for the living arrangements in Australia/New Zealand and in case of issues concerning the accommodation and living conditions of PNG seasonal/migrant workers in Australia/New Zealand that these are addressed adequately.

### **Communications and maintaining links with home**

Although little specific information has been published for PNG seasonal/migrant workers on communications and maintaining links with home, some information based on a survey of 26 returned SWP workers in 2016 sheds some light on these issues (Voigt-Graf, 2017).

Most respondents in the survey communicated regularly with their families in PNG. The majority communicated at least weekly (65%) and 23% communicated daily. Only one respondent did not communicate at all and 12% communicated only a couple of times. All respondents used mobile phones to communicate and had good mobile phone reception in the place of their accommodation. Twenty respondents used social media to communicate but only five used it to communicate with their families (Voigt-Graf, 2017). Recent reports on migrant workers (though not from PNG) suggest that social media has become a more important means of communication. Employers often include utilities and Wi-Fi access in the accommodation costs.

While workers in Australia/New Zealand generally have good mobile phone and Wi-Fi reception at their accommodation places, some of their families in PNG have no internet reception, especially if the families live in remote areas of the country, and the costs of phone calls to PNG remains prohibitively high.

**The Project** will support the LMU to address these communication challenges through the supporting awareness and capacity on the use of web-based communication tools and the establishment of communication hubs in RHHs to facilitate cost effective communication between workers and their families.

### **5.3.3.2 DESIGN CONTROLS, MITIGATION AND MANAGEMENT MEASURES**

The Project will support the LMU and regional administrations to mitigate and manage the risk of issues around welfare and living conditions in the following ways:

- Engage a Social Risk and Welfare specialist within the PMU to support the LMU (and RHHs) to strengthen liaison functions across the labour mobility cycle.
- Development of a liaison strategy and action plan for the LMU
- Develop and implement a capacity building program for LMU (and RHH) liaison staff including structured learning and on-the-job training
- Support LMU (and RHH) welfare/ liaison staff to strengthen collaboration and engagement with approved employers.
- Support LMU (and RHH) liaison staff to strengthen collaboration and engagement with relevant PNG agencies (i.e. DoFA), and with A&NZ agencies.

- Development innovative communication and information dissemination tools to ensuring that PNG seasonal/migrant workers are better informed and supported whilst on assignment.
- Support the establishment and operation of a PNG migrant worker representative body and a 'Labour Mobility Champions' program which identifies and builds the capacity of selected workers to further support liaison with PNG seasonal/migrant workers.
- Strengthening LMU liaison arrangements for supporting PNG seasonal/migrant workers to raise and resolve issues using A&NZ grievance and incident management mechanisms (refer Section 5.3.5).
- Develop and strengthen systems and tools for tracking, monitoring and reporting on PNG seasonal/migrant worker requests, grievances and their status as well as A&NZ agency and employer engagements.

### 5.3.4 Gender dimensions and Gender-based Violence

#### 5.3.4.1 ISSUES AND FINDINGS

##### Gender dimensions

As discussed above, women are underrepresented in the SWP, PLS and RSES for reasons that include local selection processes; gendered biases of Approved Employers in Australia and RSEs in New Zealand; and gendered perceptions on the role of women and their participation in economic opportunities (World Bank, 2018). The PLS, SWP and RSE do not have specific measures in place for increasing gender equity in their respective workforces. Fewer than one in five SWP workers are women however the share of women is rising (Curtain & Howes 2020). By contrast, the share of women in the RSE workforce has fallen to under 10 per cent (Bedford 2020). In the workplaces, the roles of women at work often differ from those of men. In general, men are involved in physically demanding tasks such as pruning, lifting, stacking, carrying heavy loads, and forklift driving while women are more involved in picking delicate produce (i.e. berries and mushrooms), packing, sorting and grading.

There is limited data/research on the barriers female seasonal/migrant workers face whilst on assignment in Australia and New Zealand. Women participating in A&NZ labour migration programs may experience a number of challenges:

*Accommodation and facilities* - All three A&NZ programs have specific requirements for accommodation and toilet/shower facilities. Previous studies have found that some employers found it difficult to provide suitable accommodation for men and women (as outlined in Section 6.3.3). Employers found it easier to employ either women or men, rather than both from an accommodation-management and pastoral care point of view (Nunns, Bedford and Bedford, 2019).

*Access to services* - In Australia, workplaces employing seasonal workers are often located in remote regions with limited access to medical and support services. While this affects both men and women, this might be a larger factor for women who might need to access reproductive health services or counselling due to suffering from gender-based violence.

*Pregnancy and women's health* - No data is publicly available on RSE, PLS and SWP workers and pregnancy. Anecdotal reports suggest that SWP workers who become pregnant are given lighter duties if needed, but inevitably return home early because of the prohibitive cost of health care with pregnancy not being covered by the insurance policies available to SWP and RSES workers due to waiting periods (Development Policy Centre, 2020). SWP and RSES workers are not eligible for paid maternity leave either. PLS workers who are in Australia for up to 3 years are covered for pregnancy after the mandatory waiting period.

*Family pressures on women workers overseas* - There is anecdotal evidence of women being pressured by family members (often their parents) to extend their overseas stay, even if they have children in PNG and would therefore like to return. This was particularly the case in 2020 when, due to the COVID-19 pandemic, visas could be extended (Skybury Coffee, Consultation, February 2021).

The PLS AE Guidelines and DoA address gender dimensions in on-arrival briefings (i.e. gender-disaggregated discussions; female specific assistance for health and safety).

The Project will support the LMU in addressing gender inequality in labour mobility including improving the quality of pre-departure training to include modules on reproductive health.

### **Gender-based violence and sexual harassment in Australia and New Zealand**

Anecdotal evidence points to incidents of gender-based violence and sexual harassment suffered by migrant workers in the recipient countries, both at the workplace as well as at the place of accommodation. Little is known about how widespread and severe such incidents are.

Sexual harassment is defined as any unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature in circumstances where a reasonable person, having regard to all the circumstances, would anticipate the possibility that the person harassed would be offended, humiliated or intimidated.

Sexual harassment is unlawful in Australia under the Sex Discrimination Act, and in New Zealand under the Human Rights Act (1993) and the Employment Relations Act (2000). In Australia the Australian Human Rights Commission is responsible for implementing the Sexual Discrimination Act including investigating sexual discrimination complaints. Safework Australia provides information on employer responsibilities and resources on SEA/SH and support services. In New Zealand, Worksafe NZ provides advice for workers on sexual harassment and the NZ Human Rights Commission provides information resources and a confidential mediation service.

In Australia all workers including SWP and PLS workers are entitled to 5 days unpaid family and domestic violence leave. In NZ RSES workers are entitled to sick, bereavement or domestic violence paid leave after six months of work.

Sexual harassment is defined as any unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature in circumstances where a reasonable person, having regard to all the circumstances, would anticipate the possibility that the person harassed would be offended, humiliated or intimidated.

According to SafeWork Australia, women are significantly more likely to experience sexual harassment than men. Being from culturally and linguistically diverse backgrounds, and being migrant workers or workers holding temporary visas are also factors that increase the likelihood of a worker experiencing sexual harassment. As such, migrant workers in Australia, particularly women, are at heightened risk of experiencing sexual harassment.

The SWP and RSES implementation documents do not specifically address the issues of gender-based violence and sexual harassment other than to highlight A&NZ laws and expectations on the topics. DFAT has a specific Preventing Sexual Exploitation Abuse and Sexual Harassment policy which “extends to those we [DFAT] work with”. DFAT has a specific SEA/SH grievance mechanism and incident reporting tools which have been adopted by the PLS.

**The Project** will support the LMU to identify modalities to train prospective migrants including training modules on gender-based violence and sexual harassment to sensitize migrants to these issues and provide information

on A&NZ laws, protections and support and grievance mechanisms. Moreover, the Project will provide TA to enhance support to workers overseas by establishing channels through which migrant workers can communicate personal emergencies and labour-related issues, regarding GBV and SEA/SH to the LMU. The LMU will be provided training and support to develop the capacity to receive and respond to these specific cases and provide information on service providers and A&NZ complaints mechanisms.

#### **5.3.4.2 DESIGN CONTROLS, MITIGATION AND MANAGEMENT MEASURES**

The Project will support the LMU to further manage the risk of gender inequities and gender-based violence in the recipient countries in the following ways:

- Include basic life skills training modules with a gender-specific focus into pre-departure training. This will include training modules on reproductive health.
- Include training modules on gender-based violence and sexual harassment into pre-departure training including information on redress mechanisms for workers who become victims of gender-based violence or sexual harassment while overseas.
- Establish channels through which migrant workers can communicate personal emergencies and complaints, including complaints related to incidents of gender-based violence and sexual harassment to the LMU.
- Provide training and support to develop the capacity of the LMU to receive and respond to these specific cases and provide information on service providers and A&NZ complaints mechanisms.

### **5.3.5 Coordination on A&NZ Grievance Redress and Incident Management**

#### **5.3.5.1 ISSUES AND FINDINGS**

The bilateral agreements between the GoPNG and GoA and GoNZ (refer Section 4.2 - Table 4-1) broadly outline the accountabilities and implementing arrangements for respective agencies in PNG, Australia and NZ. Roles and responsibilities for the timely response to grievances and incidents are held with the host country governments in coordination with sender country governments. While some of these agreements are fairly dated, all have been confirmed to be still current at the time of this assessment. These bilateral agreements are high level documents. All outline articles for cooperation on the management of risks and information sharing.

The GoPNG, GoA and GoNZ currently coordinate with sender country governments through diplomatic channels (i.e. Head of Missions). The A&NZ programs have recently introduced a joint annual forum where implementation of the programs by sender and host countries will be discussed and adapted as necessary.

Each bilateral agreement has specific articles on facilitative arrangements and state that further detail on roles and responsibilities, coordination and information sharing will be outlined in program implementation docs (refer Table 4-1). Program implementation documents continue to be updated by A&NZ programs. Updates for the SWP and PLS have occurred in 2020 and 2021 respectively. The RSES policy and operations manual is currently under review and expected to be updated in 2022. Further detail on coordination and information sharing with respect to incidents (and grievances) is provided in the 'Incident (and grievances) reporting framework section)' below.

#### **A&NZ Grievance Redress Mechanisms**

PLS, SWP and RSES workers all have access to a number of statutory and programme-specific grievance redress mechanisms. However not all workers utilize these mechanisms due to hesitancy to report issues which may impact their employment/visa status; or what they perceive as cumbersome and complicated processes (Voigt-

Graf, 2017). In response to these issues, the A&NZ programs have strengthened these mechanisms and welfare and compliance resources (refer to Section 5.3.1).

The LMU encourages workers to use the grievance mechanisms in Australia and New Zealand and provides information on these mechanisms and how to access them during pre-departure training. However there are opportunities to improve this information, and the support provided by the LMU for workers to access and navigate A&NZ mechanisms.

#### *PLS and SWP Grievance Management*

The key roles and responsibilities for obtaining and progressing support for SWP and PLS workers while in Australia are outlined below. For all these services, workers have access to interpretation services through the National Translating and Interpreting Service

**Table 5-1 Mechanisms for support for SWP and PLS workers in Australia**

Identified support need	Stakeholder responsible	Source of referral/ contact	Notes
SWP/PLS workplace matters including advice and clarification on: <ul style="list-style-type: none"> <li>- leave and entitlements</li> <li>- deductions</li> <li>- accommodation</li> <li>- worker pay</li> </ul>	SWP/PLS Approved Employer	Approved Employer – HR Representative If AE cannot be reached: contact DESE on (02) 6240 5234 or email <a href="mailto:SeasonalWorker@dese.gov.au">SeasonalWorker@dese.gov.au</a> FWO	If a worker is employed by a labour hire company, the Host or direct employer (e.g. Farm) will not have responsibility or be able to provide information or advice to workers on these issues.
SWP worker wellbeing and welfare support, including general assistance for: <ul style="list-style-type: none"> <li>- day to day support needs</li> <li>- health and wellbeing issues</li> <li>- critical incidents</li> </ul>	SWP Approved Employers Participating Countries' Labour Sending Units (LSUs) and their Australian based Country Liaison Officers and/ or Consulate staff, also provide ongoing support and assistance to workers.	AE SWP Worker Wellbeing and Welfare Officer. If AE cannot be reached contact DESE on (02) 6240 5234 or email <a href="mailto:SeasonalWorker@dese.gov.au">SeasonalWorker@dese.gov.au</a>	Worker wellbeing and welfare support may be delivered by the AE directly and/ or through the appointment of a third party. Privacy issues may prevent the worker and wellbeing officer from disclosing specific information about a worker and as such formal consent from a worker may need to be provided to facilitate a discussion.
SWP Approved Employer supplementary worker wellbeing and welfare support during exceptional events e.g. natural disaster events.	SWP Approved Employers in the first instance.	If AE cannot be reached: contact DESE on (02) 6240 5234 or email <a href="mailto:SeasonalWorker@dese.gov.au">SeasonalWorker@dese.gov.au</a> DESE Management will provide information to PLF. PLF will propose PLF action to DESE.	Support is provided subject to referral by DESE. Support will be primarily virtual in the form of general assistance including provision of information and advice on matters including repatriations as well as material support in the form of assistance with food and accommodation.

Identified support need	Stakeholder responsible	Source of referral/ contact	Notes
SWP contract management enquiries including issues relating to the SWP AE Deed of Agreement.	Department of Education, Skills and Employment (DESE)	Seasonal Worker Programme information line 02 6240 5234 or email: <a href="mailto:SeasonalWorker@dese.gov.au">SeasonalWorker@dese.gov.au</a>	9am to 5pm (AEDT) Monday – Friday
SWP worker support (out of hours): critical incidents	Pacific Labour Facility (PLF)	PLS Worker Welfare Hotline - 1800 51 51 31	Critical incidents will be referred on to Department of Education, Skills and Employment (DESE) for consideration and action outside business hours. Non-critical incidents will be referred to DESE for consideration and action during business hours.
PLS worker wellbeing and welfare support, including general assistance for: <ul style="list-style-type: none"> <li>- day to day support needs</li> <li>- health and wellbeing issues</li> </ul>	PLS Approved Employers (AE) Participating Countries' Labour Sending Units (LSUs) and their Australian based Country Liaison Officers and/ or Consulate staff, also provide ongoing support and assistance to workers.	Approved Employer – HR Representative	If a worker is employed by a labour hire company, the Host or direct employer (e.g. Farm) should be the first point of contact to support these needs.
PLS worker wellbeing and welfare support, including general monitoring and assistance for: <ul style="list-style-type: none"> <li>- health and wellbeing issues</li> <li>- critical incidents</li> <li>- exceptional events and/ or issues</li> </ul>	Pacific Labour Facility (PLF)	PLS Worker Welfare Hotline - 1800 51 51 31 or PLS Worker Welfare Case Manager number.	All mobilised PLS workers are provided with contact details for their respective Worker Welfare Case Manager.
PLS contract management enquiries including issues relating to the SWP AE Deed of Agreement.	Pacific Labour Facility (PLF)	Pacific Labour Facility (PLF): 07 3557 7750	9am to 5pm (AEDT) Monday – Friday
PLS worker support (out of hours): Critical incidents	Pacific Labour Facility (PLF)	PLS Worker Welfare Hotline: - 1800 51 51 31	Non-critical incidents will be addressed during business hours.



Identified support need	Stakeholder responsible	Source of referral/ contact	Notes
Known or suspected breaches of Australian workplace laws.	Fair Work Ombudsman (FWO)	Fair Work Ombudsman (FWO) – phone 13 13 94	Referrals to FWO can be initiated directly by a worker or another party.  Interpreter service for non-English speaking employees is provided.

Source: PLS and SWP, Pathways for accessing worker support

### *RSES Grievance Management*

In case of employment-related grievances, the steps for RSES workers are as follows:

1. Talking to employer/team leader,
2. Involving RSE Labour Inspectors from New Zealand's Labour Inspectorate or relationship managers under the RSES
3. Mediation through MBIE's mediation services or independent mediators
4. Determination through the Employment Relations Authority.

In case of general wellbeing and welfare grievances, the steps for RSES workers are as follows:

- Talking to employer/team leader,
- Contacting MBIE / relationship managers.

Formal mechanisms for migrant workers to seek information or resolution to employment related issues are outlined on [Employment NZ's website](#) and summarized in the table below. For MBIE services, including the Migrant Worker Hotline, RSES workers have access to interpretation services through [NZ Ezispeak](#)

**Table 5-2 Mechanisms for support for SWP and PLS workers in New Zealand**

Identified support need	Stakeholder responsible	Source of referral/ contact	Notes
All forms of worker exploitation	Employment New Zealand	Labour Inspectorate 0800 20 9020	Interpreters provided for 180 languages through Ezispeak service
Immediate physical danger	Police	111	

Identified support need	Stakeholder responsible	Source of referral/ contact	Notes
Early Mediation <ul style="list-style-type: none"> <li>- working arrangements, hours, pay or leave</li> <li>- health and safety concerns.</li> <li>- End of employment</li> <li>- Unfair treatment or bullying</li> <li>- concerns about your employee's performance.</li> </ul>	Employment New Zealand	Early mediation through- <a href="https://earlyresolution.employment.govt.nz/">https://earlyresolution.employment.govt.nz/</a>	Early meditation for issues that employees feel could be resolved promptly with help from an independent resolution facilitator.  Not suitable for reoccurring issue; reporting migrant exploitation; relating to personal grievance or previous mediation; case has been through courts already; reporting a wage subsidy issue
Mediation and or Settlement Service	Employment New Zealand	Online mediation meeting (Zoom) – online <a href="#">application form</a>	

The Project will finance TA to strengthen the LMU and RHHs liaison functions including supporting PNG seasonal/migrant workers to raise and resolve complaints using A&NZ grievance mechanisms. The liaison function, and specifically communication between the LMU and PNG seasonal/migrant workers, is expected to assist in ensuring concerns are addressed by AEs and relevant authorities promptly and effectively. A&NZ programs have established mechanisms for coordinating with sender country governments on complaints (as well as incidents) – refer below, and the LMU will utilise and strengthen these existing arrangements. The Project will support LMU to develop capacity to ensure facilitation of A&NZ grievances is done discreetly, in a culturally appropriate manner, and sensitive and responsive to the needs of the worker. Pre-departure training supported by the project will include strengthened modules, activities and materials on grievances, A&NZ grievance redress mechanisms, and LMU (and RHH) liaison support. The project will support the LMU to develop grievance tracking and reporting tools. These tools will enable the LMU to monitor the status/resolution of grievances, report, and evaluate the functioning of the liaison/grievance function, and identify key issues/trends which can be further addressed by the LMU during in-country preparation and mobilisation activities.

### **Incident Reporting Frameworks**

Incident reporting requirements for AEs are outlined in the PLS DoA. The PLS also has guidelines for [Reporting Incidents to the Pacific Labour Facility](#). These guidelines provide guidance to PLS approved employers about procedures for reporting incidents to the PLF including critical and non-critical incident classification; associated reporting requirements and process; and a standard reporting form. AEs are required to notify PLF of critical incidents immediately via the 24/7 worker welfare hotline and provide an incident report within 24 hours of the event. Incident reporting requirements for SWP are outlined in the SWP DoA and the [SWP AE Guidelines](#). Similar to the PLS, SWP AEs are required to notify DESE via phone immediately and submit a report within 24 hours of the event. For non-critical incidents, AE's must notify DESE by submitting a report no later than 5 pm

the next business day. The PLS incident reporting guidelines require AEs to provide regular updates to the PLF assigned case manager and sending country via email.

PLS has recently release a 'First Response Escalation Process' which provides further detail on the management of low risk (level 1), medium risk (level 2) and high risk (level 3) complaints/issues and incidents. The standard operating procedure for PLS Support Service (2021) further outlines referral pathways including AE and workers directly raising issues with labour sending units such as PNG's LMU; and the response and escalation process – including involvement of LSUs for medium risk (level 2) and the requirement to notify LSUs and HOMs for all high risk (level 3) matters. Any engagement between the LSUs such as the LMU and Australian Agencies for both PLS and SWP is coordinated by the PLF and DFAT. The PLS process is expected to be adopted by SWP as the program is further aligned with PLS through [PALM](#). The LMU currently engages the DFAT, the PLF and DESE (and employers and other agencies) through these arrangements. It also coordinates with the PNG High Commission in Australia where necessary. However LMU's capacity and systems for doing so require strengthening.

For RSES the NZ Labour Inspectorate's and Worksafe NZ incident reporting frameworks are utilised. MBIE has four RSES Relationship Managers that work to support workers and employers. RSE employers are required to contact the relevant RSES Relationship Manager as soon as possible to report any incident involving their seasonal workers. There are also two Relationship Managers within the Toso Vaka O Manu programme who have recently extended their role beyond liaison with sender country governments, to building relationships within New Zealand including with liaison officers, high commission staff, employers and workers. Together, RSES and TVOM relationship managers take a proactive relationship-building approach to become aware of any issues and concerns early in order to also address and solve them early. Where significant issues or incidents do arise, sender country governments are engaged through relevant High Commissions and HOMs in sender countries. For PNG, there are opportunities for strengthening engagement with the LMU and the LMU's coordination with the HCs and HOMs.

In both Australia and New Zealand, PNG High Commissions undertake site visits with relevant A&NZ agencies where appropriate. There are also opportunities for the LMU to strengthen collaboration with HCs to support this function.

The Project, through its support for strengthened LMU liaison functions will establish processes and systems to support referral and response, and track and report on critical and non-critical incidents involving PNG seasonal/migrant workers that occur whilst they are on assignment in Australia and NZ. Information on these incidents will be shared with the World Bank through regular project reporting. The LMU will provide individual incident information to the World Bank for critical incidents outside of regular progress reporting, and in a timely manner.

The Project technical assistance will also support the LMU to strengthen coordination on critical/high risk grievance and incident response with the PNG Department of Foreign Affairs and High Commissions in Australia and NZ.

### **5.3.5.2 DESIGN CONTROLS, MITIGATION AND MANAGEMENT MEASURES**

The Project will support the LMU to strengthen liaison and interagency coordination functions to better facilitate the management of PNG seasonal/migrant worker grievances and incidents while on assignment, in the following ways:

- Include grievance redress and incident management in the broader TA/capacity building program for LMU (and RHH) liaison staff.
- Support development and delivery of specific pre-departure training modules, activities and materials on grievances, A&NZ grievance redress mechanisms and LMU (and RHH) liaison support.

- Support use/development of communication, information sharing and worker welfare monitoring tools (i.e. WhatsApp and/or tailored app; online survey tool) between PNG seasonal/migrant workers and the LMU which assist the discrete, culturally appropriate and responsive facilitation of concerns, complaints and grievances through existing A&NZ grievance mechanisms.
- Develop grievance tracking and reporting tools which enable the LMU to monitor the status/resolution of grievances; report, and evaluate the functioning of the liaison/grievance function; and identify key issues/trends which can be further addressed by the LMU during in-country preparation and mobilisation activities.
- Establish processes and systems to support response, and track and report on critical and non-critical incidents involving PNG seasonal/migrant workers that occur whilst they are on-assignment in Australia and NZ – including strengthened coordination on critical/high risk grievance and incident response with the PNG Department of Foreign Affairs and High Commissions in Australia and NZ. Information on these incidents will be shared with the World Bank through regular project reporting. Individual incident information will be provided to the World Bank for critical incidents outside of regular progress reporting, and in a timely manner.

## 6 Social Management Plan

The LMU will implement the following SMP to ensure that Project-related risks and potential adverse impacts for migrant workers, and their families and communities in PNG are avoided, mitigated and managed during Project implementation.

### 6.1 Scope of the SMP

This SMP includes agreed E&S risk and impact design control, mitigation and management measures; a monitoring and reporting framework; and institutional arrangements for implementation.

The SMP outlines measures to manage risk and potential impacts associated with Project financed technical assistance for the strengthening of the broader PNG Labour Mobility Program as well as project financed activities such as pilot programs (upskilling, community outreach and reintegration), pre-departure loan facilities and financial literacy training programs. As detailed design for the majority of these activities will occur after Project effectiveness, these measures represent agreed actions to further assess (where necessary) and manage risks and potential impacts during Project implementation.

The SMP also includes measures, within the Project's control, which seek to better prepare, inform and support migrant workers and their employers, to further mitigate social and workplace risks in Australia and New Zealand. These risks are being managed by the PLS, SWP and RSES and relevant authorities in Australia and New Zealand and are outside the direct control of the Project – including the approved employer, compliance and assurance processes. However, arrangements for coordination and cooperation between the Project and the PLS, SWP and RSES on the management and monitoring of these risks, are also outlined – and are consistent with the high level agreements between the GoPNG and government of Australia and New Zealand and the more detailed program implementation documents.

### 6.2 Social Management and Mitigation Measures

Key social risk mitigation measures have been integrated into Project design and include:

- **Equitable access to labour mobility opportunities:** Support for equitable worker selection policies and procedures; improved community outreach; targeted support for women and other vulnerable and disadvantaged groups; and provision of loans to finance pre-departure costs incurred prior to employment.
- **Informed and prepared migrant/seasonal workers:** Strengthening worker readiness and pre-departure training; and support financial literacy training to ensure that PNG seasonal/migrant workers (and their families) are better informed and prepared to benefit from and manage labour, working condition and welfare risks associated with overseas work.
- **Involved and prepared families and communities:** Strengthening engagement and involvement of worker's families and communities in labour mobility decision making, financial decision making and preparatory/reintegration activities; and support for improved communication facilities between overseas workers and their families.
- **Supporting migrant/seasonal workers (and their families):** Strengthen the LMU (and RHHs) liaison and A&NZ agency coordination functions to better support workers and their families whilst workers are overseas including use/development of communication, information sharing and worker welfare monitoring tools (i.e. WhatsApp and/or tailored app; online survey tool) and enhanced capacity, processes and systems for supporting workers to use and navigate A&NZ grievance mechanisms and for LMU coordination with PNG High Commissions and A&NZ agencies.

- **Reintegration and development:** Strengthen support and assistance for returning workers and their families including identification and/or supporting employment, business development and social reintegration support services (i.e. psychological and emotional well-being, family counselling and GBV services).

The following risk mitigation instruments and tools will also be implemented:

- **Social and conflict analysis tool** - to inform risk management planning in programme design, stakeholder engagement and grievance management
- **COVID-19 Response Protocol** to manage the risk of COVID-19 transmission between project workers and project beneficiaries.
- **Stakeholder Engagement Plan** and **Grievance Redress Mechanism** to ensure effective public consultation, information dissemination, enhanced social accountability and project related grievance management.
- **Labor Management Procedure** and **Worker Grievance Redress Mechanism** to manage labour and working condition risks for Project workers and related grievances.
- **Environmental and Social Code of Practice** to manage risks associated with small scale construction activities.

Annex 4 outlines social risks and impacts, avoidance mitigation and management measures, as well as timing/frequency and responsibility for their implementation.

## 6.3 Social Monitoring and Reporting

### 6.3.1 Progress Monitoring and Reporting

The LMU will prepare and submit regular (six-monthly) monitoring reports on the environmental, social, health and safety (ESHS) performance of the Project. These reports will include the status of the implementation of the ESCP, SA/SMP, SEP and LMP; information on any project incidents and grievances; and information on labour/welfare support provided to overseas workers.

Progress reports will also include information on A&NZ program related grievances and incidents involving PNG seasonal/migrant workers overseas that have occurred during the reporting period, measures taken by Australia or New Zealand authorities to address them; the involvement of the PNG Labour Management Unit (liaison function) and PNG Department of Foreign Affairs (DoFA); and proposed measures that the LMU will take with support of the project to prevent or reduce the likelihood of their recurrence.

### 6.3.2 Grievance Management and Reporting

#### 6.3.2.1 PROJECT GRIEVANCES

The LMU will establish and maintain a project GRM (refer SEP) to manage complaints and grievances concerning project financed activities being implemented in PNG. The LMU will also establish a Workers GRM (refer LMP) to manage complaints and grievances raised by project workers.

These mechanisms will act as important tools for monitoring E&S risks and the efficacy of E&S management measures.

### 6.3.2.2 A&NZ PROGRAM GRIEVANCES

Grievance Redress Mechanisms have already been established for the three labour mobility schemes. The LMU through its liaison function, will provide support to PNG seasonal/migrant workers on assignment in Australia or New Zealand to ensure that they can access and navigate the A&NZ mechanisms available to them – including coordination with and making representation to relevant A&NZ agencies through the LMU and through PNG High Commissions. (refer Section 5.3.5; and SEP). The LMU will be supported through project TA to register/track grievances it receives and refers through A&NZ mechanisms; and to strengthen its collaboration with A&NZ agencies to receive information on critical issues (including grievances).

The LMU will also develop and implement an online survey for seasonal/migrant workers with surveys to be conducted before, during (at regular intervals) and post assignment.

## 6.3.3 Incident Response and Reporting

### 6.3.3.1 PROJECT INCIDENTS

The LMU will respond to Project-related E&S incidents that occur during Project implementation in accordance with the World Bank's Environmental and Social Incident Reporting Toolkit (ESIRT).

This includes:

- Promptly notifying the World Bank of any incident or accident related to the Project which has, or is likely to have, a significant adverse effect on the environment, the affected communities, the public or workers.
- Providing sufficient detail regarding the incident or accident, indicating immediate measures taken or that are planned to be taken to address it, and any information provided by any contractor and supervising entity, as appropriate.
- Preparing a report on the incident or accident and propose any measures to prevent its recurrence.

### 6.3.3.2 A&NZ PROGRAM INCIDENTS

The LMU will be supported through project TA to strengthen its collaboration with A&NZ agencies to receive information on critical issues (including grievances); and to establish processes and systems to support the response to, track and report on critical and non-critical incidents involving PNG seasonal/migrant workers that occur whilst they are on-assignment in Australia and NZ. Information on these incidents will be shared with the World Bank through regular project reporting. The LMU will provide individual incident information to the World Bank for critical incidents outside of regular progress reporting, and in a timely manner.

## 6.4 Implementing Arrangements

### 6.4.1 Department of Treasury/Labour Management Unit

The SMP will be implemented by the Department of Treasury (DOT) in PNG, through its Labour Mobility Unit (LMU) which is responsible for coordinating PNG's Labour Mobility Program. LMU has overall responsibility for project implementation including ensuring that environmental and social aspects are managed in accordance with the project's legal and other requirements.

The **LMU Director** will provide oversight and support coordination of Project implementation across PNG government departments, with Provincial Authorities and with A&NZ governments and labour mobility programs.

The LMU has a Technical Steering Committee which is chaired by the LMU Director and comprised of officials from the Department of Treasury, the LMU, Department of Foreign Affairs, the Department of Labour and Industrial Relations, and other relevant departments. This committee will take the role of **Project Steering Committee** to review the progress of the Project, ensure coordinated efforts by all stakeholders and conduct annual reviews of the Project. The Project will also receive guidance from the existing high-level Ministerial Steering Committee on Labour Mobility, which is comprised of several MPs and chaired by the Treasurer/Deputy Prime Minister.

The Approved LMU Structure (February 2020) consists of one (1) Director, three (3) Assistant Directors and nine (9) officers. The LMU is currently staffed by a provisional Head / Adviser. Recruitment of two Assistant Directors was completed by September 2021. Three (3) officer level positions are also being recruited. A **Welfare and Liaison Officer** is expected to be recruited by December 2021. This position will be responsible for worker liaison/labour and welfare functions being supported by the Project.

### **Project Management Unit**

A Project Management Unit (PMU) will be established within the LMU (and regional administrations where required) to support project implementation. The PMU will be headed by a Project Manager and include a Financial Management Specialist, Procurement Specialist, M&E Specialist and Admin Officer.

The PMU will also include specialists to support E&S risk management and the implementation of the SA/SMP and associated instruments including:

A **Social Risk and Welfare Specialist** (full time) will function as a core member of the PMU and will support the PMU Project Manager to ensure that environmental, social, and health and safety risks are managed in accordance with the Project's legal and other requirements.

A **Gender and GBV Specialist** (part time) will support the PMU Project Manager to ensure that gender and GBV risks are managed. The LMU will develop detailed Terms of References for these positions and see technical No Objection from the Bank before proceeding with recruitment.

Technical advisers will be employed through project TA to work closely with LMU staff and regional recruitment hubs to build capacity and fully develop the labour sending systems envisaged by the Government of PNG. Relevant specialists to be included in project TA and include a Labour and Working Conditions Specialist and OHS Specialist. A firm will be hired to contract specialist consultants, covering key results areas including pre-departure training, reintegration support, outreach in PNG, outreach in A&NZ. They will be allocated responsibilities for project implementation, including the implementation of measures to manage and monitor social risks.

### **6.4.2 Regional Administrations**

Regional Recruitment Hubs established at the district or provincial level play an important role in the selection and mobilization of workers with support from the LMU. The project will not have a direct relationship with RRHs but will support the LMU in its ongoing work with and assistance to RRHs.

### **6.4.3 World Bank**

The Bank's Environmental and Social team will provide regular E&S risk management compliance support, remote and during missions, and help to build capacity for the implementation of the SA/SMP and associated instruments. As international travel may be slow to resume, supervision and missions may continue to be conducted remotely for some time.



## 6.5 Other implementing partners

The Project is expected to partner with several other organisations to implement project activities including:

- **Training and upskilling:** A consulting firm will be contracted to strengthen labour mobility softskills and worker readiness training. The consulting firm's team will include specialists with experience in labour and working conditions, workplace safety and welfare for seasonal/migrant workers in A&NZ. Partnerships will also be developed with local training providers and local businesses who can provide placements on-the-job training to job-seekers. These organisations will be required to demonstrate relevant experience and capacity in managing ESHS risks associated with these activities.
- **Pre-departure Loan Facility to assist with costs incurred prior to employment:** One or more PNG commercial banks will be engaged by the Project to act as financial intermediaries for the pre-departure loan, the design of which will be supported through Project-funded TA. Where relevant, these banks will be required to demonstrate they have the systems and capacity to identify, assess, and manage E&S risks associated with these facilities.
- **Community Outreach and preparatory assistance:** The Project will identify partners at the community level and will work with them to pilot innovative interventions for community outreach and preparatory assistance. These partners will be required to implement relevant aspects of the SA/SMP and associated instruments.
- **Financial literacy:** The project will explore the potential to partner with the Bank of PNG (the central bank), financial institutions including microfinance institutions, telecommunication companies, other development partners and civil society in the delivery of financial literacy activities. These organisations will be required to demonstrate they can manage E&S risks associated with the implementation of these activities.

## 6.6 Coordination with A&NZ Programs

The LMU already coordinates closely with A&NZ agencies that are responsible for the implementation of the PLS, SWP and RSES. The bilateral agreements between the GoPNG and GoA and GoNZ broadly outline the accountabilities and implementing arrangements for respective agencies in PNG, Australia and NZ.

The Project will support enhanced coordination and cooperation on the management of E&S risks for Project beneficiaries whilst on assignment in Australia or New Zealand through its support to the LMU's worker welfare and liaison functions.

## 6.7 Training and Capacity Building

The Project will finance a fully staffed PMU to provide technical assistance to the LMU. The PMU will conduct an institutional capacity assessment and develop a capacity development program consisting of formal and on-the-job training and professional development activities.

Key social risk management themes are expected to include but not limited to:

- Project E&S Instruments and their implementation including the SA/SMP, SEP, LMP and ESCOP
- Managing inequitable access to labour mobility opportunities and project activities
- Managing social impacts of labour mobility on workers and their families and communities
- Gender equity and gender based-violence
- Managing risks to PNG seasonal/migrant workers in Australia and NZ:

- Better informed workers, families and communities
  - Welfare and liaison functions of the LMU and RHHs
- Project E&S monitoring and reporting

## **6.8 Social Management and Monitoring Budget**

Key social risk mitigation measures have been integrated into the main project design and included in relevant component implementation budgets.

The budget for the implementation of other risk mitigation tools and instruments, and ongoing monitoring and reporting is included in the overall costs of full time Social Risk and Welfare Specialist (US\$350,000) and part-time Gender and GBV Specialist (US\$125,000). Other PMU staff will be allocated E&S risk management responsibilities by the PMU Project Manager.

Other technical specialists such as an Occupational Health and Safety Specialist and Labour and Working Conditions Specialist will be supplied through project supported technical assistance activities.

## 7 Public Consultation, Information Disclosure and Grievance Redress

Stakeholder engagement, consultation and disclosure are tools for managing two-way communication between the project sponsor and the public to improve decision making and building understanding by actively involving individuals, groups and organisations with a stake in the project. It is a core requirement of the World Bank's ESS10 Stakeholder Engagement. The project prepared a stand-alone Stakeholder Engagement Plan (SEP).

The overall objective of the Project's SEP is to define a programme for stakeholder engagement around the Project, including public information disclosure and consultation, throughout the entire project cycle. The SEP outlines how the project team will communicate with stakeholders and includes a mechanism by which people can raise concerns, provide feedback, or make complaints about the Project and project-related activities. The involvement of the target beneficiaries, their families and their communities is essential to the success of the Project.

### 7.1 Public Consultation and Information Disclosure

#### 7.1.1 PCID during Project Preparation

The following public consultation and information disclosure activities were conducted during Project preparation:

Type of activity and date	Stakeholders involved	Aim
Project scoping meetings (May - June 2020)	<ul style="list-style-type: none"> <li>Government agencies PNG, Australia, NZ;</li> <li>Private-sector employers and civil society organizations PNG</li> </ul>	<ul style="list-style-type: none"> <li>Confirm the scope of the proposed project;</li> <li>Exchange views with government agencies and other stakeholders.</li> </ul>
Project preparation meetings (February 2021)	<ul style="list-style-type: none"> <li>Government agencies PNG, Australia, NZ</li> </ul>	<ul style="list-style-type: none"> <li>Confirm the scope of the proposed project;</li> <li>Exchange views with government agencies and other stakeholders;</li> <li>Agree on steps and a schedule for initiating project preparation.</li> </ul>
Social Assessment virtual consultations (February - March 2021)	<ul style="list-style-type: none"> <li>Government agencies Australia, NZ</li> <li>Employers Australia</li> </ul>	<ul style="list-style-type: none"> <li>Information disclosure on the design of the Project;</li> <li>Consultations on the role of the different agencies in the implementation of the labour mobility schemes with a particular focus on mechanisms to mitigate and manage the risks for workers and their families.</li> </ul>
Two virtual focus group discussion (March 2021)	<ul style="list-style-type: none"> <li>Some 20 workers about to leave for Australia (departure delayed due to COVID-19 outbreak in POM)</li> </ul>	<ul style="list-style-type: none"> <li>Information disclosure on the design of the Project;</li> <li>Consultations regarding experiences of workers with pre-departure phase, and expectations.</li> </ul>
Project design and E&S consultations (October 2021)	<ul style="list-style-type: none"> <li>National and subnational government agencies in PNG</li> <li>Other stakeholders.</li> </ul>	<ul style="list-style-type: none"> <li>Information disclosure and consultation on the design of the Project and E&amp;S instruments;</li> </ul>

### 7.1.2 PCID during Project Implementation

The following public consultation and information disclosure activities will be conducted during Project implementation:

<b>Consultation activities</b>		
<b>Labour Mobility Cycle</b>	<b>Target Stakeholders</b>	<b>Methods</b>
Selection & worker readiness	Prospective workers and their families Vulnerable groups Local communities Civil Society Organisations Provincial/District Governments with established RRHs	<ul style="list-style-type: none"> <li>Outreach activities – including community and small group meetings – that are safe and culturally appropriate               <ul style="list-style-type: none"> <li>Public announcements (radio)</li> <li>Information desks in RRHs and LMU</li> </ul> </li> <li>Internet and social media (i.e. LMU website and Facebook page)               <ul style="list-style-type: none"> <li>Outreach by local Members of Parliament.</li> </ul> </li> </ul>
Employer-led Recruitment	Prospective employers Selected workers and their families	<ul style="list-style-type: none"> <li>Internet and social media (i.e. LMU website and Facebook page)</li> <li>Meetings with families of selected workers that are safe and culturally appropriate</li> <li>Phoneline to welfare officer within LMU</li> </ul>
Worker Mobilisation	Selected workers and their families GoPNG National Agencies including Treasury, Police, Immigration, Labour, National Planning, Foreign Affairs	<ul style="list-style-type: none"> <li>Meetings with families of selected workers that are safe and culturally appropriate</li> <li>Consultations with departing worker groups</li> <li>Phoneline to welfare officer within LMU</li> </ul>
Overseas Employment (Led by employers and A&NZ government agencies/contractors)	Workers and their families Administrators of A&NZ labour mobility programs GoPNG National Agencies including Treasury, Police, Immigration, Labour, National Planning, Foreign Affairs	<ul style="list-style-type: none"> <li>Meetings with families of employed workers that are safe and culturally appropriate</li> <li>Phoneline to welfare officer within LMU</li> <li>Ministerial meeting</li> <li>Consultation with GoPNG National Agencies</li> </ul>
Return/reintegration (Led by RRHs & LMU)	Workers and their families Local communities Civil Society Organisations Provincial/District Government	<ul style="list-style-type: none"> <li>Meetings with all returning groups of workers in POM</li> <li>Meetings with communities and families of returned workers involving Civil Society Organisations</li> <li>Phoneline to welfare officer within LMU               <ul style="list-style-type: none"> <li>Information desks in RRHs and LMU</li> </ul> </li> </ul>
Overarching	GoPNG National Agencies	- Ministerial Meeting

Information disclosure activities	
Stakeholder	Information to be disclosed
Target beneficiaries/communities	<ul style="list-style-type: none"> <li>• Project objectives and design</li> <li>• GRM</li> <li>• Project Social risk and impact management</li> <li>• Project implementation</li> <li>• Awareness messages on labour mobility opportunities</li> </ul>
PNG Government agencies with role in labour mobility	<ul style="list-style-type: none"> <li>• Project objectives and design</li> <li>• GRM</li> <li>• Stakeholder participation</li> <li>• Project implementation</li> <li>• Design of specific activities</li> <li>• Project Social risk and impact management</li> <li>• Project implementation outcomes – critical evaluation, performance gaps, corrective actions</li> </ul>
A&NZ Government agencies involved in implementing aspects of the labour mobilities schemes	<ul style="list-style-type: none"> <li>• Project objectives and design</li> <li>• GRM</li> <li>• Stakeholder participation</li> <li>• Project implementation</li> <li>• Design of specific activities</li> <li>• Project Social risk and impact management</li> <li>• Project implementation outcomes – critical evaluation, performance gaps, corrective actions</li> </ul>
Other affected and interested parties	<ul style="list-style-type: none"> <li>• Project objectives and design</li> <li>• GRM</li> <li>• Project Social risk and impact management</li> <li>• Project implementation</li> </ul>

## 7.2 Project Grievance Redress Mechanisms

The LMU will establish and maintain a project GRM to manage complaints and grievances concerning project financed activities being implemented in PNG. The main objective of a Grievance Redress Mechanism (GRM) is to address and resolve complaints and grievances in a timely, effective and efficient manner that satisfies all parties involved. The Project's GRM will be equipped to handle cases of SEA/SH and has mechanisms in place for confidential reporting with safe and ethical documenting of SEA/SH issues.

The LMU will also establish a separate Worker Grievance Redress Mechanism (WGRM) for direct workers and contracted workers to raise workplace concerns.

Grievance Redress Mechanisms have already been established for workers that participate in the three A&NZ labour mobility schemes. The project will provide TA to strengthen the LMU's capacity and systems to support PNG seasonal/migrant workers to access and navigate these A&NZ mechanisms; and coordinate with A&NZ agencies where necessary.

The GRMs will be implemented and updated throughout Project implementation. They are publicly available on the LMU website to receive and facilitate the resolution of concerns and grievances concerning the Project, consistent with ESS10.

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## Annexes

### Annex 1: List of Stakeholder Consulted

First World Bank virtual mission, May 25 to June 18, 2020	
Country	Stakeholder
PNG	<p><b>Government agencies and authorities</b></p> <ul style="list-style-type: none"> <li>• Department of Treasury</li> <li>• Department of Higher Education, Research, Science and Technology</li> <li>• Department of Labour and Industrial Relations</li> <li>• Enga Provincial Administration</li> <li>• Lae City Authority</li> <li>• Namatanai District Development Authority</li> <li>• Madang District Development Authority</li> </ul> <p><b>Australian and New Zealand agencies and organisations in PNG</b></p> <ul style="list-style-type: none"> <li>• Department of Foreign Affairs and Trade (DFAT), Australia</li> <li>• Ministry of Foreign Affairs and Trade (MFAT), New Zealand</li> <li>• Australia Pacific Training Coalition (APTC)</li> <li>• Pacific Labour Facility</li> </ul> <p><b>Private sector employers and civil society organizations</b></p> <ul style="list-style-type: none"> <li>• Niupay</li> <li>• ABT</li> <li>• Infrastructure Construction Engineering LTD</li> <li>• SME Net Solutions</li> <li>• Women's Business Resource</li> <li>• Steamships</li> <li>• SME</li> <li>• Bank of Papua New Guinea</li> <li>• Bank South Pacific</li> <li>• Business Council PNG</li> <li>• Family Farms Program in PNG</li> <li>• Pacific Women</li> </ul>
Australia	<ul style="list-style-type: none"> <li>• Department of Foreign Affairs and Trade (DFAT), Australia</li> <li>• Pacific Labour Facility</li> <li>• Approved Employers Association</li> <li>• Food Industry People</li> </ul>
New Zealand	<ul style="list-style-type: none"> <li>• Ministry of Foreign Affairs and Trade</li> </ul>
Second World Bank virtual mission, February 15 to 19, 2021	
Country	Stakeholder
PNG	<p><b>Government agencies and authorities</b></p> <ul style="list-style-type: none"> <li>• Labour Mobility Unit –Department of Treasury</li> <li>• Department of National Planning and Monitoring</li> <li>• Department of Labour and Industrial Relations</li> <li>• Department of Higher Education, Research, Science and Technology</li> <li>• Regional Hubs Coordinators, East Sepik Province</li> <li>• Regional Hubs Coordinators, North Fly District Office, Western Province</li> <li>• Regional Hubs Coordinators, Enga Province</li> </ul> <p><b>Australian and New Zealand agencies and organisations in PNG</b></p>

	<ul style="list-style-type: none"> <li>• Australian Department of Foreign Affairs and Trade</li> <li>• New Zealand High Commission in PNG</li> <li>• Australia Pacific Training Coalition</li> </ul> <p><b>Private sector employers and civil society organizations</b></p> <ul style="list-style-type: none"> <li>• Financial and Banking Service Providers in PNG</li> </ul> <p><b>International organisations</b></p> <ul style="list-style-type: none"> <li>• World Bank PNG Office</li> <li>•</li> </ul>
Australia	<ul style="list-style-type: none"> <li>• Australian Department of Education, Skills and Employment</li> <li>• Pacific Labour Facility</li> <li>• Labour Hire Licensing Compliance Unit, Office of Industrial Relations, QLD</li> </ul>
New Zealand	<ul style="list-style-type: none"> <li>• NZ Labour Inspectorate, Migrant Exploitation Team</li> </ul>
<b>Consultations for Social Assessment, February to October, 2021</b>	
<b>Country</b>	<b>Stakeholder</b>
PNG	<ul style="list-style-type: none"> <li>• Pacific Labour Facility</li> </ul>
Australia	<ul style="list-style-type: none"> <li>• Department of Foreign Affairs and Trade</li> <li>• Department of Education, Skills and Employment</li> <li>• Fair Work Ombudsman</li> <li>• Pacific Trade and Invest</li> <li>• Labour Hire Licensing Unit, Queensland</li> <li>• Skybury Coffee</li> </ul>
New Zealand	<ul style="list-style-type: none"> <li>• Ministry of Business, Innovation and Employment</li> <li>• Labour Inspectorate</li> </ul>
<b>Consultation with Outgoing Workers, March 24-25, 2021</b>	
PNG	<ul style="list-style-type: none"> <li>• 20 workers from New Ireland, Madang and Enga Provinces in preparation for their departure under the SWP</li> </ul>
<b>Consultation with Financial Institutions (June, August, November)</b>	
PNG	<ul style="list-style-type: none"> <li>• Consultation with various FIs and MFIs on loan facility design</li> </ul>
<b>Consultations on Design and E&amp;S work (October and November 2021)</b>	
PNG	<ul style="list-style-type: none"> <li>• 25 prospective workers in Madang undertaken by the LMU</li> </ul>
Australia and NZ	<ul style="list-style-type: none"> <li>• NZ High Commission; Australia High Commission; DFAT; PLF; MFAT, MBIE</li> </ul>
PNG - National Workshop	<ul style="list-style-type: none"> <li>• Department of Treasury; Department of Labour and Industrial Relations; Department of Higher Education, Science, Research and Technology; Department of Foreign Affairs; East Sepik RRH; North Fly RRH; World Bank.</li> </ul>
Australia	<ul style="list-style-type: none"> <li>• Consultation with DFAT and PLF on project design</li> </ul>

## **Annex 2: ESS9 Due Diligence of the Conceptual Loan Facility**

[See separate document – to be added here later]

### **Annex 3: Code of Environmental and Social Practice (CoESP) for Minor Works**

[See separate document – to be added here later]





## Annex 4: Social Management and Monitoring Table

\*Specific roles and responsibilities for implementing measures to be updated once project staffing structure is finalised.

Risk	DESIGN CONTROLS, MITIGATION AND MANAGEMENT MEASURES	Timing/ frequency	Responsibility for implementing*	Monitoring Method	Timing/ frequency	Responsibility for monitoring
<b>Risks &amp; Potential Impacts in Papua New Guinea</b>						
<b>Inequitable access and social conflict</b>	Develop/refine and implement transparent geographical targeting policies and procedures as well as worker selection and recruitment procedures which balance equitable worker selection and employer demand.	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Policies and procedures; progress reports	once-off; quarterly	LMU Director
	Develop/refine and implement a community outreach approach to ensure more equitable access to information about labour mobility opportunities as well as equity and transparency in the selection and recruitment of workers.	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Policies and procedures; progress reports	once-off; quarterly	LMU Director
	Develop and conduct social and conflict risk analysis at regional levels to inform risk management planning in programme design, stakeholder engagement and grievance management.	Project Implementation	PMU PM; LMU/PMU/TA technical and E&S risk staff	Social and conflict analysis for each RRH	once-off; quarterly	LMU Director
	Implement the Project's Stakeholder Engagement Plan including strategies and approaches for inclusive and culturally sensitive consultation, information dissemination during the implementation of the Project.	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	LMU's reports to World Bank and to Parliament	Quarterly to World Bank; annually to Parliament	LMU Director
	Implement the Project's grievance redress mechanism (GRM) including responding to grievances relating to perceived or real inequity in access to overseas work opportunities and/or activities supported by the project.	Project Implementation (ongoing)	PMU PM; LMU/PMU technical and E&S risk staff	Log of grievances at LMU, information fed into quarterly progress reports to World Bank	Quarterly	LMU Director
	Enhance LMU's existing social accountability mechanisms (i.e. annual report to parliament; information disclosure on LMU website and Facebook page) and development	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director

Risk	DESIGN CONTROLS, MITIGATION AND MANAGEMENT MEASURES	Timing/ frequency	Responsibility for implementing*	Monitoring Method	Timing/ frequency	Responsibility for monitoring
	and implementation of these mechanisms at the regional level.					
<b>Adverse impacts on workers, their families and communities in PNG</b>	Strengthen worker readiness and pre-departure training including information on risks and potential adverse impacts on worker's families and measures and support for managing these risks. Include specific sessions for worker's families to better prepare both workers and their families for the absence of workers.	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director
	Support improved communication between workers and their families by setting up telecommunications hubs in regional administrations and through strengthened LMU and RHH liaison functions.	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Hubs established	Annually	LMU Director
	Implement the project's ESCOP during the establishment and operation of telecommunication hubs	Project Implementation (ongoing)	Contractors; PMU PM; LMU/PMU technical and E&S risk staff	Works reporting	Monthly (as required)	LMU Director
	Support the provision of financial literacy support to workers, their families and communities including 'whole of family' financial decision making and planning concerning the sending and use of remittances and savings.	Project Implementation (ongoing)	Service Providers; PMU PM; LMU/PMU technical and E&S risk staff	Progress reports	Quarterly	LMU Director
	Providing reintegration assistance that facilitates the reintegration of workers into their families and communities. Include worker's families in social reintegration support services supported by the Project.	Project Implementation (ongoing)	Service Providers; PMU PM; LMU/PMU technical and E&S risk staff	Progress reports	Quarterly	LMU Director
	Strengthen and implement community outreach activities to improve the level of awareness of the programs within sending communities. Include briefings with communities to discuss strategies for managing issues associated with the absence of migrant workers.	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director

Risk	DESIGN CONTROLS, MITIGATION AND MANAGEMENT MEASURES	Timing/ frequency	Responsibility for implementing*	Monitoring Method	Timing/ frequency	Responsibility for monitoring
	Support establishment of feedback and M&E systems and regularly monitoring the impacts on the families of workers, and communities.	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff		Annually	LMU Director
	Conduct a comprehensive social impact study across several communities in different regions of PNG to gather information on the positive and adverse impacts of overseas labour mobility on families and communities.	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Social impact study in selected communities	Once-off	LMU Director
<b>Migration Costs, Equitable Access and Pre-Departure Loan Facility</b>	Require the provision of financial literacy training for beneficiaries so they can better understand and manage the repayment of loans.	Project implementation (ongoing)	PMU PM; LMU/PMU technical and E&S risk staff	Quarterly reports	Quarterly	LMU Director
	Update the ESS9 Due Diligence to assess and inform the detailed design of the loan facility to be conducted during project preparation (refer Sub-component 2.3) and confirm that the proposed loan facility as outlined in the Project Operations Manual incorporates design requirements to avoid or mitigate social risk, and obtain no objection from the World Bank.	Project implementation (before signing loan agreements)	PMU PM; LMU/PMU technical and E&S risk staff	Final loan design document	Once-off	LMU Director
	Require participating FIs to develop and implement ESMS and LMP for the loan facility.	Project implementation (before commencing of loan facility; ongoing)	PMU PM; LMU/PMU technical and E&S risk staff	Approved documented ESMS	Once-off; Quarterly	LMU Director
	Ensure Loan Facility Agreements between the implementing agency and FIs incorporate design requirements and E&S requirements for implementation, are approved by the implementing agency with no objection from the World Bank.	Project implementation (before signing loan agreements)	PMU PM; LMU/PMU technical and E&S risk staff	Final loan design document	Once-off	LMU Director
<b>Inequitable Access for disadvantaged</b>	Supporting the development of effective and efficient means to reach job seekers in remote communities with a focus on females and other disadvantaged groups	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director

Risk	DESIGN CONTROLS, MITIGATION AND MANAGEMENT MEASURES	Timing/ frequency	Responsibility for implementing*	Monitoring Method	Timing/ frequency	Responsibility for monitoring
<b>and vulnerable groups</b>	Implementing the project's Stakeholder Engagement Plan including strategies and approaches for inclusive and gender-sensitive consultation and information dissemination.	Project Implementation (ongoing)	PMU PM; LMU/PMU technical and E&S risk staff	Progress reports	Quarterly	LMU Director
	Developing and implementing community outreach and preparatory assistance to improve access to the PNG labour mobility programme as well as Project financed activities for disadvantaged groups including youth, persons with low education levels, persons with disabilities, and internal migrants living outside their traditional communities, by working with civil society organisations, developing information flyers, and by promoting and encouraging positive role models of seasonal workers who belong to these groups.	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director
	Ensure loan scheme for prospective workers is designed to meet needs of disadvantaged groups such as people with no/limited access to formal banking infrastructure and services, women, people with low literacy levels; .	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director
<b>Gender inequality and gender-based violence</b>	Engaging a Gender Specialist as part of the PMU to provide technical advice on addressing gender inequality and other risks for women associated with the PNG labour mobility program	Project Implementation (ongoing)	PMU PM	Progress reports	Quarterly	LMU Director
	Implement the project's Stakeholder Engagement Plan including strategies and approaches for inclusive and gender-sensitive consultation and information dissemination.	Project Implementation (ongoing)	PMU PM; LMU/PMU technical and E&S risk staff	Progress reports	Quarterly	LMU Director
	Ensure gender sensitive design and develop targeted activities for ensuring women's access to and involvement (both as workers and partners) in the PNG labour mobility programme and project supported activities particularly in the following activities: community outreach, worker readiness, the loan facility, overseas worker support and reintegration.	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director
	Providing TA to support to strengthen female representation in leadership roles in RRHs and in Ward governance structures which make decisions on the	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA	Progress reports	Quarterly	LMU Director

Risk	DESIGN CONTROLS, MITIGATION AND MANAGEMENT MEASURES	Timing/ frequency	Responsibility for implementing*	Monitoring Method	Timing/ frequency	Responsibility for monitoring
	mobilisation of women migrant workers from communities.		technical and E&S risk staff			
	Commit to Implementing a zero-tolerance policy towards GBV. Individuals who have been convicted of GBV related offences will be ineligible to participate in overseas labour mobility programs	Project Implementation (ongoing)	PMU PM	Progress reports	Quarterly	LMU Director
	Develop gender and GBV awareness and training programs/modules targeted at LMU, RRH and Ward level staff involved in program delivery; and prospective workers and their families and communities.	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director
	Map existing women's support services (e.g. awareness, advocacy, violence prevention, referral, counselling) for each regional recruitment hub and establish a survivor centric response protocol for referring incidences of domestic violence.	Project Implementation (ongoing)	LMU/PMU Technical and E&S Risk Staff (with regional administrations)	Progress reports	Quarterly	LMU Director
	Engage local GBV service providers to deliver culturally sensitive GBV awareness training and provide information on local GBV service providers and services.	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director
	Provide gender and GBV specific technical assistance to strengthen LMU and RHH's welfare and liaison functions and the ability to effectively support to overseas workers, returned workers and families of workers.	Project Implementation (ongoing)	PMU PM; TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director
	Implementing the Project's Labour Management Procedures including measures such as training, awareness and codes of conduct to mitigate the risk of SEA/SH associated with the Project workforce.	Project Implementation (ongoing)	PMU PM; LMU/PMU technical and E&S risk staff	Progress reports	Quarterly	LMU Director
<b>COVID-19 transmission</b>	Adopt the COVID-19 Safety Protocol entailing principles and approaches to mitigate the risk of COVID-19 during the conduct of face-to-face consultation and engagement activities.	As long as COVID-19 transmission remains a risk during	PMU PM; LMU/PMU technical and E&S risk staff	Progress reports	Quarterly	LMU Director

Risk	DESIGN CONTROLS, MITIGATION AND MANAGEMENT MEASURES	Timing/ frequency	Responsibility for implementing*	Monitoring Method	Timing/ frequency	Responsibility for monitoring
		Project Implementation				
	Implement the PNG national guidelines, and good international industry practice including WHO and World Bank guidelines.	As long as COVID-19 transmission remains a risk during Project Implementation	PMU PM; LMU/PMU technical and E&S risk staff	Progress reports	Quarterly	LMU Director
	Adopt measures as per the Project's COVID-19 Safety Protocol and good international practice, in addition to the GoPNG's guidance. This involves workers undergoing a mandatory COVID-19 test prior to departure and quarantining in Port Moresby before leaving.	As long as COVID-19 transmission remains a risk during Project Implementation	PMU PM; LMU/PMU technical and E&S risk staff	Progress reports	Quarterly	LMU Director
<b>Social and environmental risks associated with small scale construction activities</b>	Implement the project ESCOP to manage environmental, occupational health and safety, and community health and safety risks associated with small scale construction activities.	Project Implementation (ongoing)	PMU PM; LMU/PMU technical and E&S risk staff	Progress reports	Quarterly	LMU Director
<b>Risks &amp; Potential Impacts in Host Countries (Australia &amp; New Zealand)</b>						
<b>Worker Exploitation Risks: Terms and Conditions of Employment</b>	Engage a Labour and Working Conditions Specialist through the project TA to provide technical advice and support on labour and working condition risk during project implementation,	Project Implementation (one-off)	PMU PM	Progress reports	Once-off	LMU Director
	Support for the development and implementation of the LMU's liaison function including methods for PNG seasonal/migrant workers to communicate directly with the LMU and each other (i.e. using platforms such as Facebook or WhatsApp); support to workers in pursuing resolution through A&NZ system s; and improved	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director

Risk	DESIGN CONTROLS, MITIGATION AND MANAGEMENT MEASURES	Timing/ frequency	Responsibility for implementing*	Monitoring Method	Timing/ frequency	Responsibility for monitoring
	coordination with A&NZ programs and regulators to ensure that issues are being addressed.					
	Strengthen informed choice in recruitment and mobilisation arrangements and during worker readiness and pre-departure training activities (see below);	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director
	Provide financial literacy training which will ensure workers understand the up-front costs and repayment arrangements; and	Project Implementation (ongoing)	Service Providers PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director
	Support the strengthening and implementation of worker readiness and pre-departure training as well as communication and information dissemination tools to increase awareness and understanding about: <ul style="list-style-type: none"> <li>- workers' rights and terms and conditions of work</li> <li>- detailed information on pay, piece rate arrangements and deductions, the information and tools available through respective A&amp;NZ programs and agencies and the processes in place to resolve pay related issues.</li> <li>- leave entitlements: Workers on casual contracts without leave entitlement will be encouraged to set aside some of their earnings should the need arise to take days off and the pre-departure loans finance through the project will also provide an additional safety net;</li> <li>- the role of unions, how to join them and contact information, as well as facilitating information exchanges with relevant unions</li> <li>- informed choice and options for ending employment if required</li> <li>- health insurance: Information on different private health insurance policies in order to be better informed and make informed decisions about the most appropriate</li> </ul>	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director

Risk	DESIGN CONTROLS, MITIGATION AND MANAGEMENT MEASURES	Timing/ frequency	Responsibility for implementing*	Monitoring Method	Timing/ frequency	Responsibility for monitoring
	cover that might be most appropriate for them; - in-depth information on labour-hire arrangements, the responsibilities of labour-hire companies towards the workers, and the additional risks associated with such arrangements to workers as part of their pre-departure training					
	Support LMU to conduct an annual review of available insurance policies – drawing on policy info and experiences of workers. This information will be provided to workers and employers, and the Project will also support engagement with employers on this (including worker needs).	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director
	Develop LMU capacity to assist workers with claiming their superannuation savings after returning to PNG including providing information to workers and liaising directly with the ATO	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director
	Engage FIs to develop simple, secure and low cost methods for the remittance of superannuation and other savings to worker's bank accounts in PNG.	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director
	Provide specific technical assistance on labour and working conditions to strengthen LMU and RHH's liaison functions and the ability to effectively support to overseas workers (including supporting use of A&NZ grievance mechanisms)	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director
<b>Occupational Health and Safety Risks</b>	Engage an OHS specialist through project TA, to provide technical advice and support on OHS aspects during project implementation,	Project Implementation (ongoing)	PMU PM	Progress reports	Quarterly	LMU Director
	Identify opportunities for strengthening OHS culture of PNG seasonal/migrant workers through engagement with leading PNG businesses and industries;	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director
	Develop and implement OHS learning modules for pre-departure and worker readiness to ensure PNG seasonal/migrant workers have sufficient knowledge of	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director



Risk	DESIGN CONTROLS, MITIGATION AND MANAGEMENT MEASURES	Timing/ frequency	Responsibility for implementing*	Monitoring Method	Timing/ frequency	Responsibility for monitoring
	OHS and English skills to understand all health and safety instructions;					
	Strengthen collaboration with A&NZ agencies and approved employers to strengthen host country measures including on-arrival training, OHS learning material in Tok Pisin and Hiri Motu, and communicating key messages about OHS risks.	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director
	Support the LMU through its liaison function, to provide support on OHS matters to PNG seasonal/migrant workers whilst on assignment and monitor the quality of workplace inductions on occupational health and safety issues	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director
<b>Risk of poor welfare and living conditions</b>	Engage a Social Risk, Labour and Welfare specialist within the PMU to support the LMU (and RHHs) to strengthen liaison functions across the labour mobility cycle.	Project Implementation (ongoing)	PMU PM	Progress reports	Quarterly	LMU Director
	Development of a liaison strategy and action plan for the LMU	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director
	Develop and implement a capacity building program for LMU (and RHH) liaison staff including structured learning and on-the-job training	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director
	Support LMU (and RHH) liaison staff to strengthen collaboration and engagement with approved employers.	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director
	Support LMU (and RHH) liaison staff to strengthen collaboration and engagement with relevant PNG agencies (i.e. DoFA), and with A&NZ agencies.	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director
	Development innovative communication and information dissemination tools to ensuring that PNG seasonal/migrant workers are better informed and supported whilst on assignment	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director

Risk	DESIGN CONTROLS, MITIGATION AND MANAGEMENT MEASURES	Timing/ frequency	Responsibility for implementing*	Monitoring Method	Timing/ frequency	Responsibility for monitoring
	Support the establishment and operation of a PNG migrant worker representative body and a 'Labour Mobility Champions' program which identifies and builds the capacity of selected workers to further support liaison with PNG seasonal/migrant workers.	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director
	Strengthening LMU liaison arrangements for supporting PNG seasonal/migrant workers to raise and resolve issues using A&NZ grievance and incident management mechanisms (refer Section XX);	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director
	Develop and strengthen systems and tools for tracking, monitoring and reporting on PNG seasonal/migrant worker requests, grievances and their status as well as A&NZ agency and employer engagements.	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director
<b>Gender and GBV risks abroad</b>	Include basic life skills training modules with a gender-specific focus into pre-departure training. This will include training modules on reproductive health.	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director
	Introducing training modules on gender-based violence and sexual harassment into pre-departure training including information on redress mechanisms for workers who become victims of gender-based violence or sexual harassment while overseas.	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director
	Establish channels through which migrant workers can communicate personal emergencies and complaints, including complaints related to incidents of gender-based violence and sexual harassment to the LMU.	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director
	Provide training and support to develop the capacity of the LMU to receive and respond to these specific cases and provide information on service providers and A&NZ complaints mechanisms.	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director
<b>Coordination on Grievance and incident management</b>	Include grievance redress and incident management in the broader TA/capacity building program for LMU (and RHH) liaison staff.	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director

Risk	DESIGN CONTROLS, MITIGATION AND MANAGEMENT MEASURES	Timing/ frequency	Responsibility for implementing*	Monitoring Method	Timing/ frequency	Responsibility for monitoring
	Support development and delivery of specific pre-departure training modules, activities and materials on grievances, A&NZ grievance redress mechanisms and LMU (and RHH) liaison support.	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director
	Support use/development of communication, information sharing and worker welfare monitoring tools (i.e. WhatsApp and/or tailored app; online survey tool) between PNG seasonal/migrant workers and the LMU which assist the discrete, culturally appropriate and responsive facilitation of concerns, complaints and grievances through existing A&NZ grievance mechanisms.	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director
	Develop grievance tracking and reporting tools which enable the LMU to monitor the status/resolution of grievances; report, and evaluate the functioning of the liaison/grievance function; and identify key issues/trends which can be further addressed by the LMU during in-country preparation and mobilisation activities.	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director
	Establish processes and systems to support response, and track and report on critical and non-critical incidents involving PNG seasonal/migrant workers that occur whilst they are on-assignment in Australia and NZ – including strengthened coordination on critical/high risk grievance and incident response with the PNG Department of Foreign Affairs and High Commissions in Australia and NZ. Information on these incidents will be shared with the World Bank through regular project reporting. Individual incident information will be provided to the World Bank for critical incidents outside of regular progress reporting, and in a timely manner.	Project Implementation (ongoing)	PMU PM; LMU/PMU/TA technical and E&S risk staff	Progress reports	Quarterly	LMU Director

## **Annex 5: Social Characteristics of Target Beneficiaries and their Communities**

[See separate document – to be added here later]