



Australian Government

Fair Work
OMBUDSMAN

A photograph of a person from behind, driving a tractor through an orchard. The tractor is pulling a wooden crate filled with fruit. The orchard is filled with trees and fruit on the ground. The image has a warm, orange-toned filter. White geometric shapes (a hexagon and a large irregular shape) are overlaid on the right side of the image.

A report on workplace arrangements
along the Harvest Trail

Harvest Trail Inquiry

2018

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Harvest Trail Inquiry



Nearly 1,300
education & compliance activities across Australia



Growers audited
ranged from small family-run businesses, large scale family-run farms operating across multiple states, to big companies with significant market share



More than \$1 million in wages recovered for 2,500 workers
average recovery for harvest workers was \$409



638 businesses investigated with over half breaching workplace laws
breaches included underpayments of the hourly rate and non-payment for time worked, failure to keep records and payslips



Almost 70% of businesses along the Harvest Trail employed visa holders
working holiday subclass 417 visa holders (aged 18-31 years old) were the most common overseas workers on the harvest trail



Legal action
commenced against eight employers



150
Formal
Cautions



13
Compliance
Notices



132
Infringement
Notices



7
Enforceable
Undertakings

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Executive summary

The 'Harvest Trail' comprises thousands of horticulture and viticulture enterprises throughout every state and territory in Australia. The Harvest Trail is a pathway in regional Australia that follows the seasonal harvesting of fresh fruit, vegetables and wine grapes. Workers follow seasonal jobs around the country using a number of sources, including the *National Harvest Guide*.¹

The horticulture and viticulture industries include the Australian and New Zealand Standard Industrial Classification (ANZSIC) groups: Fruit and Tree Nut Growing, Mushroom and Vegetable Growing and Nursery and Floriculture Production. According to the Australian Bureau of Statistics (ABS) there are 8023 employing entities in these industry groups and 14 510 non-employing entities.² A report by the then Department of Employment put the number of people employed in horticulture at 73 000.³

The Fair Work Ombudsman (FWO) commenced an Inquiry into workplace arrangements on the Harvest Trail in August 2013, in response to employee and community concerns about non-compliance with Australian workplace laws.

Seeking to identify the drivers of non-compliance, the FWO Harvest Trail Inquiry (the Inquiry) focused on areas and crop sectors that are heavily reliant on manual harvesting, preparation, maintenance and processing.

During the Inquiry, the FWO engaged with growers, workers, labour hire contractors, industry bodies, community groups and consumers to complete 1295 discrete education and compliance activities.

The majority of employers involved in the Inquiry were selected randomly. A smaller number of employers were selected on the basis of intelligence gathered from industry stakeholders, other government agencies and departments, media, community members and workplace participants. The FWO revisited non-compliant employers in subsequent seasons to assess compliance.

Fair Work Inspectors completed 836 investigations, involving 444 growers and 194 labour hire contractors across all states in Australia and the Northern Territory.⁴

As a result of these activities, the FWO recovered \$1 022 698 for 2503 employees. As Fair Work Inspectors were unable to assess and determine the full extent of underpayments in many cases due to issues such as poor record-keeping, cash payments and a transient workforce, the FWO believes the full extent of worker underpayments is significantly higher than this.

¹ National Harvest Guide <https://jobsearch.gov.au/documents/harvest%20guide%2020150225.pdf>, <https://jobsearch.gov.au/harvest/towns-and-crops>

² ABS Counts of Australian Businesses report (8165.0) February, 2018

³ Department of Employment, Interactive data file, Employment levels and change with projections by industry sector, May 2017, viewed 4 September 2018, <http://lmip.gov.au/default.aspx?LMIP/Downloads/InteractiveDataFiles>

⁴ Some businesses were subject to repeat investigations over the course of the Inquiry. It is difficult to assess the labour hire representation of this sample size without accurate data on the number of labour hire contractors and the number of workers they supply to the industry

As part of the Inquiry, the FWO commissioned market research to examine consumer attitudes and preferences when buying fresh fruit and vegetables. While price, taste and convenience are key considerations, the research found that some consumers are prepared to pay more for produce they know has been handled by a workforce that has been treated fairly and paid properly.

The Inquiry identified five key findings relating to workplace arrangements along the Harvest Trail:

- widespread non-compliance among the employers investigated
- misuse of piece rates
- significant reliance by growers on overseas workers
- a negative impact where labour hire arrangements were illegally used
- consumers can play a role in addressing exploitation.

The ability to detect, quantify and recover underpayments was impeded by a number of issues, including:

- record-keeping deficiencies
- invalid or absent piecework agreements
- reluctance or unwillingness to share information with the FWO
- transient workers and labour hire contractors.

The Inquiry resulted in a number of compliance and enforcement outcomes, including:

- 150 Formal Cautions
- 132 Infringement Notices
- 13 Compliance Notices
- seven (7) Enforceable Undertakings
- commencement of eight (8) legal proceedings.⁵

This report outlines the background to the Inquiry, its methodology, Harvest Trail working conditions and market dynamics. In detailing the Inquiry's key findings, the report contains a number of recommendations designed to secure future industry-wide compliance.

⁵ At the time of publication, the courts have decided in favour of the FWO in six matters and handed down penalties of over \$521 777 (\$435 967 against companies and \$85 210 against five individuals as accessories under section 550 of the Fair Work Act 2009)

The Inquiry

To address concerns highlighted through intelligence from various sources, in August 2013 the FWO commenced an in-depth Inquiry into workplace arrangements along the Harvest Trail. This strategic intervention aimed to:

- better understand employment conditions and market characteristics on the Harvest Trail
- identify drivers of non-compliance, including within associated industry subsectors
- educate growers, labour hire contractors and workers about workplace rights and obligations
- ensure, where possible, that workers were receiving correct minimum employment entitlements
- address non-compliance by taking effective compliance and enforcement action
- encourage ongoing sustainable self-monitoring arrangements within Harvest Trail supply chains.

The Inquiry was multifaceted, involving:

- extensive stakeholder engagement
- targeted awareness-raising and education communications
- consumer research
- compliance and enforcement activities.

Stakeholder engagement

During the course of the Inquiry, the FWO engaged with a number of key stakeholders, including:

- industry associations
- community groups
- unions
- commonwealth and state government departments
- members of parliament
- local councils.⁶

Through these interactions, Fair Work Inspectors developed a better understanding of Harvest Trail operations and the drivers of non-compliance. Fair Work Inspectors continued to leverage these relationships as the Inquiry progressed to realise its objectives.

⁶ A detailed list of stakeholders is at Appendix A

For example, the FWO took part in the **Horticulture Worker Interagency Group (HWIG)**, which comprised members from a number of Queensland and Australian Government departments and authorities and focused on issues of concern in areas such as Bundaberg, the Lockyer Valley and Bowen.

The FWO also worked closely with the **Recruitment and Consulting Services Association (RCSA)**. The RCSA's relationship with the FWO was formalised in a Memorandum of Understanding (MoU) executed in August 2016.⁷ The MoU established an information-sharing pathway for the RCSA and its members to inform the FWO about labour hire providers alleged to be acting unlawfully.

The FWO formed a relationship with the **Local Council in the Lockyer Valley** horticultural region of Queensland to address the plight of backpackers in the area. Fair Work Inspectors participated in Council-run sessions and provided educational resources to backpackers to help them understand what to expect as employees in Australia.

The FWO also worked with bilingual **Community Liaison Officers of the Queensland Police Service** who assisted the Inquiry in its interactions with Mandarin, Cantonese and Korean speaking overseas workers. Officers accompanied Fair Work Inspectors to pop-up education posts, encouraging employees to engage with the Inquiry, and yielding useful intelligence.



Photo: Fair Work Inspectors talking with overseas workers in Caboolture, assisted by Queensland Police Community Liaison Officers.

In 2016, the FWO also presented at a number of information sessions for prospective employees in the strawberry industry, as part of the **'The Sweetest Job Campaign'**. The campaign was funded by Regional Development Australia, the Sunshine Coast and Moreton Bay Councils and widely supported by industry stakeholders.⁸ The Campaign, which has continued into 2018⁹, focusses on developing local workforces to

⁷ RCSA Memorandum of Understanding: <https://www.fairwork.gov.au/ArticleDocuments/725/recruitment-and-consulting-services-association-memorandum-of-understanding.pdf.aspx>

⁸ <http://mysunshinecoast.com.au/news/news-display/6000-sweet-jobs-are-ripe-for-the-picking,43495>

⁹ At the time of this report the Campaign is focussing on mango picking in the Northern Territory: <https://www.thesweetestjob.com.au/participants/>

improve regional employment opportunities, and to meet the seasonal demand for horticultural workers along the Harvest trail.

In January 2017, the FWO announced it had partnered with Growcom in support of their **Fair Farms Initiative**.¹⁰ The Initiative was launched in May 2017, with funding assistance over four years provided by the FWO through its Community Engagement Grants Program.¹¹ The Initiative supports growers with tools and information to implement employment practices that comply with workplace laws and industry standards, and to demonstrate this to customers and the wider community. As part of this initiative, growers access training and certification that supports them to achieve compliance with their workplace obligations and helps ensure ethical supply chain practices. Growcom launched the Fair Farms Training and Certification Pilot Program in October 2018, with the full program rollout planned for 2019.¹² On 5 November 2018, the Australian Government announced further funding of \$1.5 million in support of the initiative.¹³

Since the completion of the Inquiry, the FWO has maintained and enhanced its industry stakeholder network through regular meetings and information sharing. Ongoing information sharing also occurs with:

- Department of Jobs and Small Business (in relation to the Seasonal Worker Programme¹⁴)
- Department of Home Affairs (in relation to activities conducted under Taskforce Cadena, the Visa Assurance Protocol¹⁵ and the FWO's monitoring of certain 457 and 482 subclass visa arrangements).

Awareness-raising and educational communications

Over the course of the Inquiry, the FWO issued 37 dedicated media statements covering education offerings, field activities, information-sharing opportunities, and compliance and enforcement outcomes.

In addition, social media was used to communicate Inquiry messages. The first social media campaign occurred early in the Inquiry and included Facebook posts on key issues facing working holiday makers and a live 'Question and Answer' session. These Facebook posts were seen by over 410 000 individuals.

Digital display advertising was also used on English and in-language websites to spread campaign messages and promote resources translated into Chinese, Korean and Vietnamese. Websites where individuals were known to post Harvest Trail jobs (such as Gumtree) were preferenced in the digital display advertising. In total display ads were seen 622 000 times.

¹⁰ <https://www.fairwork.gov.au/about-us/news-and-media-releases/2017-media-releases/january-2017/20170105-cegp-media-release>

¹¹ <https://www.growcom.com.au/fairfarmsinitiative/#!/form/FairFarms>

¹² Fair Farms Initiative fact sheet: <https://www.growcom.com.au/fairfarmsinitiative/#!/form/FairFarms>

¹³ <https://www.northqueenslandregister.com.au/story/5739645/farmers-back-fair-farms-funding-visa-reforms/?cs=4752>

¹⁴ See page 16

¹⁵ <https://www.fairwork.gov.au/find-help-for/visa-holders-and-migrants>

In August 2015, the FWO ran an advertising campaign at regional airports in Mildura, Rockhampton, Mackay, Ballina, Bundaberg and Cairns targeting backpackers following the Harvest Trail. This advertising was potentially seen by up to 530 000 individuals during the four-week campaign period.

The airport advertising ran in conjunction with a second, four-week social media campaign through Facebook and Twitter. Campaign content was viewed approximately 218 000 times on social media. The impact was notable, with visits to the [fairwork.gov.au/harvesttrail page](https://fairwork.gov.au/harvesttrail/page) increasing by 573% during the campaign period (1147 visits).

Examples of social media communications used by the FWO to support the Inquiry are provided below.

Figure 1: FWO Facebook post example – promoting educational resources

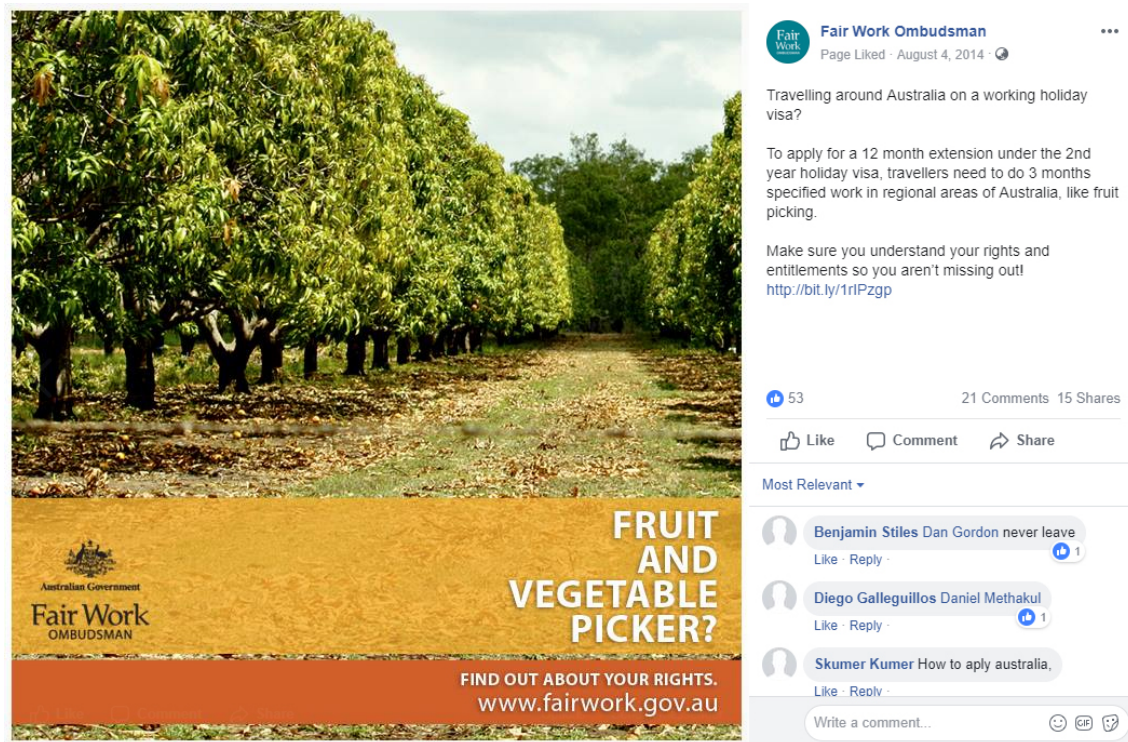


Figure 2: FWO Facebook post example – highlighting airport advertising

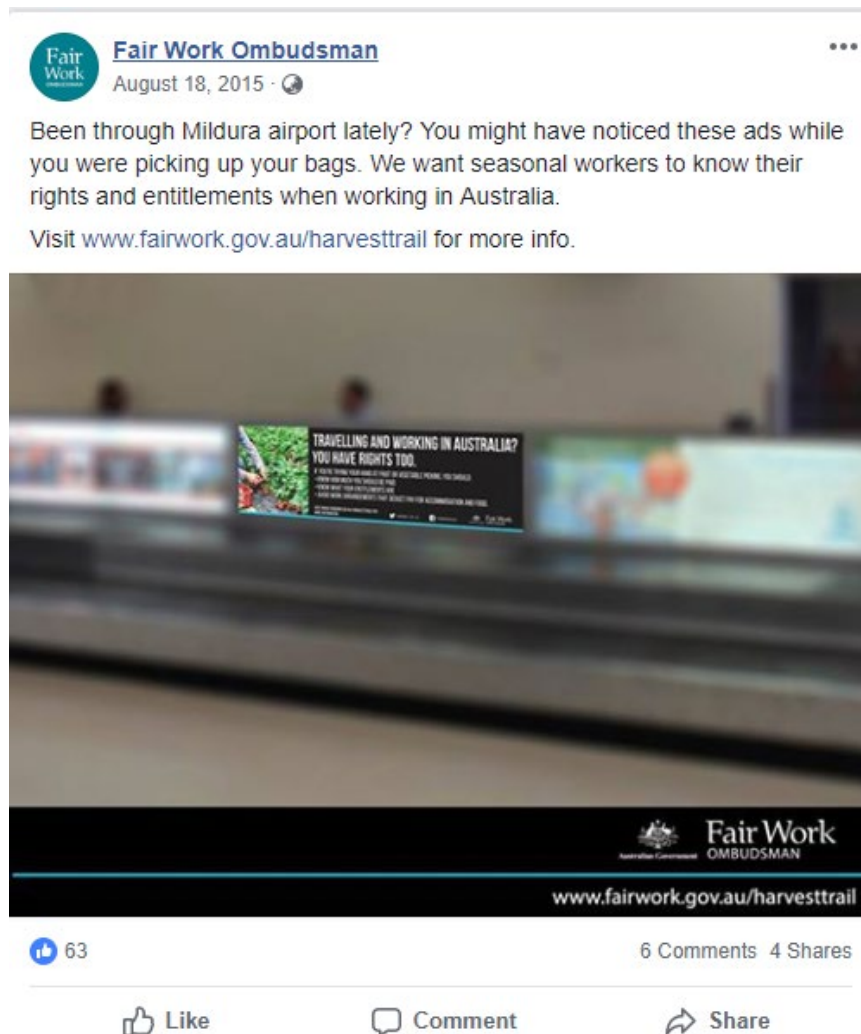


Figure 3. FWO Twitter post examples



Compliance and enforcement activities

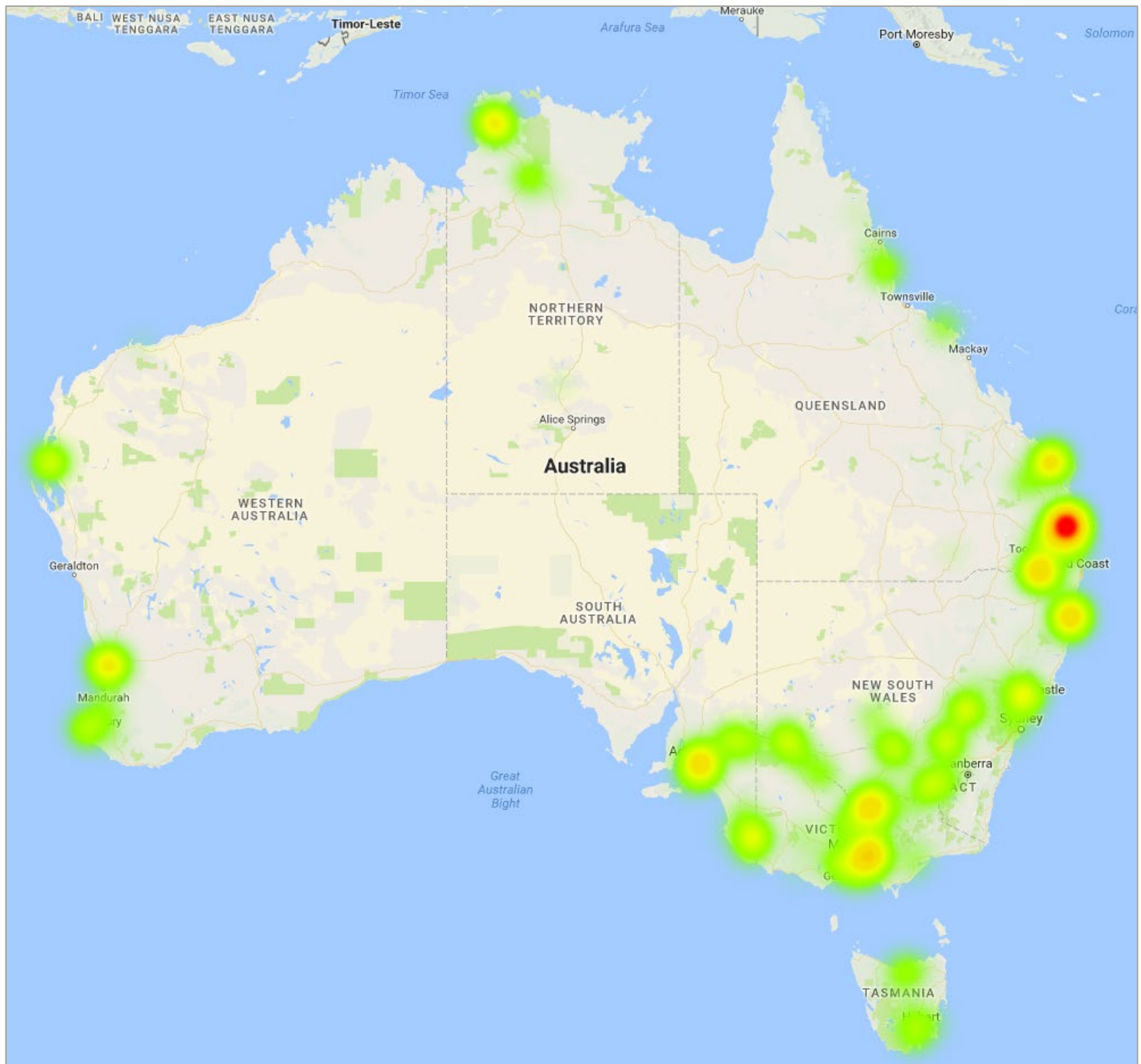
Over the course of the Inquiry, Fair Work Inspectors visited produce farms across Australia. They interviewed workplace participants, investigated employers and, where appropriate, took compliance and enforcement action to address and deter unlawful workplace practices.

In the first two years of the Inquiry in particular, Fair Work Inspectors devoted considerable time onsite at Harvest Trail businesses. Fair Work Inspectors used these interactions to educate employers on issues such as award coverage, and to promote FWO tools to help achieve compliance.

There were 1295 discrete education and compliance interactions with Harvest Trail participants, and 836 completed investigations.

Many visits were made in response to intelligence the FWO received, including requests for assistance and anonymous tip-offs. The first visits were to strawberry farms in Caboolture, Queensland, in August 2013. The Inquiry then progressed to different regions and crops throughout the Harvest Trail. If non-compliance was identified in a region, it would be revisited again the following year. The map below shows where visits took place.













































Figure 4. Map illustrating number of FWO Harvest Trail visits¹⁶



¹⁶ Green indicates fewer visits, red indicates more visits

The table below shows the regions visited over the course of the Inquiry and the type of produce grown.

Table 1. Regions visited during the Harvest Trail Inquiry

Crop	ACT	NT	NSW	QLD	SA	TAS	VIC	WA
Mixed crops								
Strawberries								
Cucumbers								
Cherries								
Grapes (wine)								
Apples and pears								
Blueberries								
Bananas								
Mushrooms								
Tomatoes								
Vegetable packing								
Mangoes								
Stone fruit								
Citrus								

Where minor non-compliance was identified as a result of an error, Fair Work Inspectors provided employers with an opportunity to voluntarily rectify underpayments and correct record-keeping or pay slip breaches.

Where serious breaches were identified, Fair Work Inspectors issued Formal Cautions and Infringement Notices in accordance with the FWO's Compliance and Enforcement Policy.¹⁷ As the Inquiry progressed, Fair Work Inspectors revisited non-compliant businesses to assess compliance. Where subsequent breaches were identified, the FWO escalated its compliance and enforcement response to drive behavioural change and deter any future unlawful conduct.

A number of instances of significant non-compliance resulted in the FWO initiating Enforceable Undertakings and legal proceedings. By entering into an Enforceable Undertaking with the FWO, businesses

¹⁷ FWO Compliance and Enforcement Policy: <https://www.fairwork.gov.au/about-us/our-vision/compliance-and-enforcement-policy>

acknowledged breaches of the law, accepted responsibility and agreed to remedy the harm. Enforceable Undertakings are made in a legally binding document, which is published on the FWO website. If the terms of an Enforceable Undertaking are not complied with, the FWO can take legal action in a court to enforce them, as well as seek other orders the court considers appropriate.

Legal proceedings were commenced in those cases where it was considered warranted to penalise employers and send a message of deterrence to the wider business community about the consequences of significant non-compliance.

Constraints

The ability to detect, quantify and recover underpayments was impeded by:

- record-keeping deficiencies
- invalid or absent piecework agreements
- reluctance or unwillingness to share information by workplace participants
- transient workers and labour hire contractors.

Record-keeping deficiencies in particular, prevented Fair Work Inspectors from being able to fully establish outstanding entitlements in a number of investigations. This issue was noted by the court in the FWO's case against labour hire contractor, Seasonal Farm Services Pty Ltd.¹⁸

Case study: Seasonal Farm Services Pty Ltd

Seasonal Farm Services Pty Ltd was a labour hire contractor based in the Lockyer Valley, Queensland.

In October 2015, the FWO received a Request for Assistance from an employee in relation to underpayment of wages.

A FWO audit of the business considered a 12-month period. Records and information gathered by Fair Work Inspectors showed 214 employees were engaged by the company. However, record-keeping breaches meant the assessment was required to be limited to 144 employees. A total of \$60 780.30 was identified as having been underpaid to 144 employees.

The FWO commenced legal proceedings in the Federal Circuit Court, which resulted in pecuniary penalties of \$85 000 and \$17 000 being imposed on the company and a director respectively.

The court noted that the absence of records of hours worked made the FWO investigation "extremely difficult" and that there was no way of ascertaining if the breaches "were even more blatant than what the investigation discovered".¹⁹

The FWO found that in a number of instances, employers were not paying the piecework rates prescribed by the *Horticulture Award 2010* (Horticulture Award) or had failed to document the arrangements as required in a written piecework agreement.

¹⁸ FWO media release: <https://www.fairwork.gov.au/about-us/news-and-media-releases/2017-media-releases/june-2017/20170602-seasonal-farm-services-penalty>

¹⁹ <http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCCA/2017/1020.html?context=0;query=%22seasonal%20farm%20services%22>

Currently, employers are not required to record hours worked by pieceworkers under the Horticulture Award and the *Wine Industry Award 2010* (Wine Industry Award). Fair Work Inspectors also found workers rarely recorded their hours. This presented a further 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 Harvest Trail is characterised by itinerant workplace participants, which again compounded difficulties in establishing the extent of underpayments. Fair Work Inspectors were at times unable to locate and speak with itinerant labour hire contractors operating across state and territory boundaries. Workers too, had often moved on to other locations or left Australia altogether.

The FWO encountered workers and growers reluctant to provide information. For instance, growers who did not want to reveal the identity of certain contractors whom they considered less reputable, or workers who were fearful of government officials, loss of employment, or not having their second visa issued.

The FWO used the full range of compliance and enforcement tools that were available at the time of the Inquiry, including litigation. However, it should be noted that the Inquiry did not benefit from the *reverse onus* provisions now contained in the FW Act.²⁰ These provisions require employers who fail to meet record-keeping or pay slip obligations, without a reasonable excuse, to disprove wage claim allegations made in court, meaning the employer bears the onus of proof.

Consumer research

To complete the Inquiry and improve our understanding of market dynamics, the FWO commissioned research on consumer and retailer attitudes.

The research found that some consumers are willing to pay more for produce if they know it is picked and packed by a workforce treated fairly.²¹ The research report is provided at Appendix B.

²⁰ The provisions came into operation through the passage of the *Fair Work Amendment (Protecting Vulnerable Workers) Act 2017*, which came into effect on 15 September 2017

²¹ Research report – See Appendix B

The industry

Australians spend \$18 billion annually on fresh fruit and vegetables²² and just under \$3 billion a year on wine.²³

According to the ABS, in the financial year ending 30 June 2017, the overall value of Australian agricultural commodities produced was worth approximately \$60.8 billion. Of this amount, approximately \$9.6 billion was the combined value for the production of fruit, nuts, grapes and vegetables.²⁴

Horticulture Innovation Australia values exports of Australian horticultural products for the financial year ending 30 June 2017 at \$2.23 billion (not including grapes). For the same period the value of horticultural imports (not including grapes) into Australia was \$2.79 billion.²⁵

Wine Australia reports that there was \$2.3 billion in export wine sales in 2016-17 and \$3.3 billion in domestic sales.²⁶

The significant majority of fruit and vegetables grown and sold in Australia is through supermarket chains and wholesale markets. A recent Roy Morgan report shows that Australia's two largest supermarket retailers - Woolworths and Coles - captured a larger share of Australia's \$18 billion fresh fruit and vegetable market than all the other retail outlets combined (including supermarket IGA, greengrocers, markets, other supermarkets and other non-supermarkets), with more than 51%. Greengrocers account for just under 16% of the market.²⁷

The Australian Bureau of Agricultural and Resource Economics and Sciences (ABARES) has conducted annual surveys of Australian vegetable growers since 2007. Hired labour costs are consistently the largest component of cash costs to vegetable growers.²⁸

Harvest Trail growers that the FWO interacted with were a mixture of:

- small, family run businesses with small acreage farms
- larger-scale family-run farms operating across a number of states
- large companies with significant market share.

²² Roy Morgan, Supermarket and Fresh Food Currency Report, March 2018

²³ Wine Australia, Australian Wine: Production, Sales and Inventory Report 2016-17

²⁴ ABS 7503.0 Value of Agriculture Commodities Produced, 2016-17

²⁵ Horticulture Innovation Australia, Australian Horticulture Statistics Handbook, 2016-17

²⁶ Wine Australia, Australian Wine: Production, Sales and Inventory Report 2016-17

²⁷ Roy Morgan, Supermarket and Fresh Food Currency Report, March 2018

²⁸ ABARES Australian vegetable-growing farms survey 2018 <http://www.agriculture.gov.au/SiteCollectionImages/abares/veg-fig-16-large.png>

A wide spectrum of sophistication was identified in terms of the systems used for managing compliance with Australian workplace laws - from unsophisticated through to operations with dedicated human resources functions overseeing the employment practices of the company.

Harvest Trail growers supplement their labour pool during peak periods with overseas workers, mostly working holiday makers (subclass 417 visa holders). The FWO considers temporary visa holders as vulnerable workers due to a higher incidence of cultural and language barriers, low awareness of workplace rights and barriers to accessing assistance.²⁹

The Inquiry found a significant percentage of growers utilise the services of labour hire contractors to source labour to pick and pack crops during the short harvest season. Labour hire contractors that the FWO engaged with during the Inquiry varied in terms of size and sophistication: from large, very well organised and managed, through to much smaller, individual operators with limited infrastructure or business and administrative capability.

The use of labour hire contractors creates a labour supply chain. This report uses the term 'labour supply chain' to describe multi-level subcontracting, namely, where one business contracts another business to provide workers or services and then responsibility for contracting labour is further subcontracted out, creating a labour supply chain or contracting network.³⁰

Since 2015, the FWO has conducted several inquiries into labour supply chain arrangements, including the contracting of trolley collection, cleaning and poultry processing services.³¹ These inquiries have generally found that ineffective supply chain governance contributes to a culture of non-compliance by contractors throughout the labour supply chain.

Working conditions

People are often attracted to work on the Harvest Trail for the opportunity to combine work and travel around Australia, visiting scenic parts of the country and meeting other travellers along the way.

Piece rates are a common feature of work on the Harvest Trail. This incentive-based payment system is further discussed later in this section. From a worker's perspective, piece rates can provide suitable reward to an efficient and productive day of work.

However, working conditions can be challenging. Harvest Trail jobs are physically demanding. It is not uncommon for workers to work long hours for short and defined periods (e.g. four weeks) to ensure a crop is picked, packed and dispatched for the market 'just in time'. Harvest Trail workers can find themselves working in a range of temperature extremes. For example, in the summer months in Mildura (regional

29 FWO's Inquiry into the wages and conditions of people working under the 417 Working Holiday Maker Program <https://www.fairwork.gov.au/ArticleDocuments/763/417-visa-inquiry-report.docx.aspx>

30 FWO guidance on contracting labour and supply chains <https://www.fairwork.gov.au/find-help-for/contracting-labour-and-supply-chains>

31 <https://www.fairwork.gov.au/about-us/access-accountability-and-reporting/Inquiry-reports>

Victoria), temperatures exceed 40 degrees Celsius for protracted periods.³² Combined with humidity, these working conditions can be dangerous. Extreme cold can also be an issue, particularly when working to prepare sites for the next harvest period.

Working on the Harvest Trail may also involve risk of injury or even death. In the crop, fruit, vegetable and flower growing industries there were 82 fatalities in the ten years to 2016.³³

Individuals often work in isolated areas where quality accommodation may be scarce and/or of sub-standard condition.

Terms and conditions of employment

With the exception of sole traders and partnerships in Western Australia, employers involved in the Harvest Trail are 'national system employers' under the *Fair Work Act 2009* (the Act).

The majority of the employers in the Inquiry were covered by the Horticulture Award or the Wine Industry Award. Less frequently, the Inquiry also encountered businesses covered by the *Storage Services and Wholesale Award 2010*.

A smaller percentage of employers involved in the Inquiry had enterprise agreements in place, including some made under the *Workplace Relations Act 1996* that had passed their nominal expiry date.

Enterprise agreements are made by an employer and the majority of their employees, and must be approved by the Fair Work Commission. Where an enterprise agreement is operating, employee entitlements are informed by the agreement. The ordinary hourly base rate of pay cannot be less than any applicable modern award rate and the National Employment Standards apply, although all other terms and conditions come from the relevant enterprise agreement.

Apart from some specific requirements³⁴, workers engaged under the Seasonal Worker Programme (SWP) are covered by the same terms and conditions of employment as other workers in the industry, be that the Horticulture Award, or a relevant enterprise agreement.

The SWP started on 1 July 2012 and is administered by the Department of Jobs and Small Business as the lead agency, in partnership with the Departments of Foreign Affairs and Trade and Home Affairs and the FWO.³⁵ Building on a three and a half year pilot scheme it is an aid initiative with two key objectives:

- To contribute to the economic development of nine Pacific Island countries (Fiji, Kiribati, Nauru, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu) and Timor Leste.

³² Bureau of Meteorology, Average annual & monthly maximum, minimum, & mean temperature, http://www.bom.gov.au/jsp/ncc/climate_averages/temperature/index.jsp?maptype=1&period=sum

³³ Safe Work Australia, Work-related Traumatic Injury Fatalities, 2016

³⁴ Seasonal Worker Programme fact sheet:

https://docs.jobs.gov.au/system/files/doc/other/seasonal_worker_programme_approved_employer_factsheet_updated_0.pdf

³⁵ <https://www.jobs.gov.au/seasonal-worker-programme>

- To assist Australian employers to meet seasonal labour needs in the agriculture sector, accommodation sector (in selected locations) and tourism sector (the Northern Australia tourism pilot), subject to local labour market testing.

In addition to the SWP, the Pacific Labour Scheme (PLS) program commenced on 1 July 2018 with the aim of helping to deliver more workers to fill shortages in rural and regional Australia. The PLS program allows people from Pacific Island countries to work in low and semi-skilled jobs in rural and regional Australia for up to three years. The FWO supports the PLS by informing participants of their workplace rights and obligations, and monitoring compliance with workplace laws by PLS employers.³⁶

Horticulture Award 2010 [MA000028]

Clause 4.2 of the Horticulture Award defines the 'horticulture industry' as:

- a) the sowing, planting, raising, cultivation, harvesting, picking, washing, packing, storing, grading, forwarding or treating of horticultural crops in connection with a horticultural enterprise; or*
- b) clearing, fencing, trenching, draining or otherwise preparing or treating land or property in connection with the activities listed at 4.2 (a).*

Exclusions to this definition at clause 4.3 include the wine industry, silviculture and afforestation, sugar farming or sugar cane growing, sugar milling, sugar refining, sugar distilleries, and/or sugar terminals, any work in or in connection with cotton growing or harvesting, cotton ginneries and associated depots, cotton oil mills and the extraction of oil from seed, or plant nurseries.

Clause 4.7 of the Horticulture Award specifies coverage for employers supplying labour on an on-hire basis.

Wine Industry Award 2010 [MA000090]

Clause 3.1 of the Wine Industry Award defines the 'wine industry' as:

...the industry of growing and processing wine grapes and includes:

- a) the preparation of land for the planting of wine grape vines, the planting of wine grape vines, the pruning of wine grape vines, the care, growing, treating, picking, harvesting and forwarding of wine grapes and other activities associated with a wine grape vineyard; and/or*
- b) processing wine grapes, producing wine juice or grape spirit, the bottling, packaging, storage or dispatch of wine, brandy or other potable spirit, liqueurs, vinegar or grape juice and other activities associated with a winery or wine distillery including but not limited to cellar door sales, laboratory activities and making or repairing barrels, vats, casks and like articles; and/or*

³⁶ <https://www.fairwork.gov.au/how-we-will-help/helping-the-community/pacific-labour-scheme>

- c) *packaging, storing and dispatching of wine or grape spirit from a warehouse facility or other place of storage associated with a winery or wine distillery.*

Key conditions applying to Harvest Trail employees in these Awards (as at the date of publication) are included in the table below.

Table 2. Key provisions of Harvest Trail Awards

Provisions	Horticulture Industry Award 2010 ³⁷	Wine Industry Award 2010 ³⁸
Casual employees	<p><i>Clause 10.4 (b): Casual employment</i></p> <p><i>For each hour worked, a casual employee will be paid no less than 1/38th of the minimum weekly rate of pay for an employee in that classification in clause 14—Minimum wages, plus a casual loading of 25%.</i></p>	<p><i>Clause 13.2: Casual employment</i></p> <p><i>A casual employee for working ordinary time must be paid an hourly rate calculated on the basis of 1/38th of the minimum weekly wage prescribed in clause 16—Classifications and adult minimum wages for the work being performed plus a casual loading of 25%.</i></p>
Hours of work	<p><i>Clause 22.1: Types of employment</i></p> <p><i>22.1 The ordinary hours of work for all full-time and part-time employees other than shift workers will not exceed 152 hours over a four week period provided that:</i></p> <p><i>(a) The ordinary hours will be worked between Monday and Friday inclusive except by arrangement between the employer and the majority of employees in the section/s concerned that the ordinary hours will be worked between Monday and Saturday inclusive.</i></p> <p><i>(b) The ordinary hours will be worked between 6.00 am and 6.00 pm except if varied by arrangement between the employer and the majority of the employees in the section/s concerned.</i></p> <p><i>(c) The ordinary hours will not exceed eight hours per day except by arrangement between the employer and the majority of employees in the section/s concerned in which case ordinary hours should not exceed 12 hours on any day.</i></p> <p><i>(d) All time worked by full-time and part-time employees in excess of the ordinary hours will be deemed overtime.</i></p>	<p><i>Clause 28.2: Ordinary hours of work—day workers</i></p> <p><i>(a) Subject to clause 28.4, the ordinary hours of work for a day worker are an average of 38 per week.</i></p> <p><i>(b) Subject to clauses 28.2(c) and 28.2(d), the ordinary hours of work are to be worked continuously, except for meal breaks, between the hours of 6.00 am and 6.00 pm, Monday to Friday.</i></p> <p><i>(c) The ordinary hours of work for an employee rostered to perform work in the cellar door are to be worked continuously, except for meal breaks, between the hours of 6.00 am and 6.00 pm, Monday to Friday, and 8.00 am and 6.00 pm Saturday to Sunday.</i></p>
Overtime	<p><i>Clause 24.2: Payment of overtime</i></p> <p><i>(a) The rate of pay for overtime will be 150%, except for overtime worked on a Sunday.</i></p> <p><i>(b) The rate of pay for overtime worked on a Sunday, except during harvest period, will be 200%.</i></p> <p><i>(c) Should employees be required to work on a Saturday and the majority of such employees elect not to work on the Saturday</i></p>	<p><i>Clause 30.1: Payment for working overtime</i></p> <p><i>Except as provided in clauses 30.2, 30.3 and 30.6, all time worked outside ordinary hours on any day or shift must be paid for at the rate of 150% for the first two hours on any day or shift and 200% thereafter until the completion of the overtime work.</i></p>

³⁷ https://www.fwc.gov.au/documents/documents/modern_awards/award/ma000028/default.htm

³⁸ https://www.fwc.gov.au/documents/documents/modern_awards/pdf/ma000090.pdf

	<p><i>but rather on the Sunday then such work performed on that Sunday will be paid for at the rate prescribed for Saturday work.</i></p> <p><i>(d) During harvest period, the first eight hours of overtime in a week may include five hours work on a Sunday at the rate of 150% but all Sunday work in excess of the eighth overtime hour worked in the week, or in excess of five hours on a Sunday, will be paid at the rate of 200%.</i></p> <p><i>(e) All employees required to work on a Sunday will be paid for a minimum of three hours.</i></p>	
Public holidays	<p><i>Clause 28.3 Public holiday rates of pay</i></p> <p><i>All work performed on public holidays will be paid for at the rate of 200% of the ordinary rate.</i></p>	<p><i>Clause 30.3: Public holiday work</i></p> <p><i>An employee required to work overtime on a public holiday must be paid for a minimum of four hours work at the rate of 250% until the completion of the overtime.</i></p>
Level 1 classification	<p><i>Schedule B – Classification Structure and Definitions</i></p> <p><i>B.1 Level 1</i></p> <p><i>B.1.1 Level 1 employee means an employee classified in accordance with the following criteria:</i></p> <p><i>B.1.2 General description</i></p> <p><i>An employee at this level:</i></p> <p><i>undertakes induction training which may include information on the enterprise, conditions of employment, introduction to supervisors and fellow workers, training and career opportunities, plant layout, work and documentation procedures, occupational health and safety, equal employment opportunity and quality control/assurance;</i></p> <p><i>performs routine duties essentially of a manual nature and to the level of their training;</i></p> <p><i>exercises minimal judgment;</i></p> <p><i>works under direct supervision;</i></p> <p><i>is responsible for the quality of their own work;</i></p> <p><i>is a new employee; or is an existing employee performing work within this grade who is undertaking training so as to enable advancement to Level 2.</i></p>	<p><i>B.5.2 Grade 2—Vineyard stream</i></p> <p><i>(a) Point of entry</i></p> <p><i>(i) A Grade 1 employee who has passed an accredited assessment for progression from Grade 1 to Grade 2 with successful completion of training and assessment in all of the following modules:</i></p> <p><i>pruning</i></p> <p><i>vine training</i></p> <p><i>basic machinery training</i></p> <p><i>irrigation</i></p> <p><i>harvesting</i></p> <p><i>safety and safety regulations (on-going)</i></p> <p><i>chemicals handling</i></p> <p><i>grafting; or</i></p> <p><i>(ii) A Grade 1 employee who has passed an accredited assessment for progression from Grade 1 to Grade 2 with training in more than one stream and successful training and assessment in general viticulture (internal or external) and two modules essential to one or two other streams such as:</i></p> <p><i>forklift driving (certificate required)</i></p> <p><i>heavy vehicle driving</i></p> <p><i>basic machinery maintenance; or</i></p> <p><i>Wine Industry Award 2010 MA000090</i></p> <p><i>(iii) A person deemed by the employer to have the necessary skills and competence to satisfactorily perform duties at this level.</i></p>

Piece rates

The Horticulture Award and Wine Industry Award are distinct from most other modern awards in that they contain provisions allowing employees to be paid piece rates, without a minimum hourly payment. The provisions prescribe how an employer enters into such an arrangement and what sort of documentation is required.

Designed as an incentive-based payment system, a key issue relating to piece rates is how an 'average competent employee' or 'employee of average capacity' is interpreted.

The Horticulture Award (clause 15.2) states:

The piecework rate fixed by agreement between the employer and the employee 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 employment and the classification level of the employee. The piecework rate agreed is to be paid for all work performed in accordance with the piecework agreement.

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 Wine Industry Award (clause 23.2) states:

The piecework rate fixed by agreement between the employer and the employee must enable an employee of average capacity to earn at least 20% more per hour than the minimum hourly wage for ordinary hours of work which is prescribed in this award for the type of employment and the classification level of the employee. The piecework rate agreed is to be paid for all work performed in accordance with the piecework agreement.

The Wine Industry Award (clause 23.6) prescribes a number of piecework agreement requirements, including setting out which clauses of the Award do not apply, such as meal allowance, overtime and penalty rates. Clause 23.6 of the Wine Industry Award states that piecework agreements must:

- a) *be in writing, name the parties to the agreement and be signed by the employer and the individual employee and, if the employee is under 18 years of age, the employee's parent or guardian;*
- b) *detail the piecework rate;*
- c) *set out that the piecework rate will be paid instead of the minimum wages specified in clause 16—Classifications and adult minimum wages of the Wine Industry Award 2010;*
- d) *set out that the following clauses of the Wine Industry Award 2010 do not apply to the employee as the employee is on a piecework rate:*
 - a. *clause 24.3—Meal allowance; and*
 - b. *clause 28—Ordinary hours of work and rostering; and*

c. *clause 30—Overtime and penalty rates; and*

e) *state the date the agreement commences to operate.*

Total cost of an employee

During the Inquiry, employers told Fair Work Inspectors that labour costs are one of their highest operating costs. There is therefore, a risk that some employers experiencing market and cost pressures may seek to improve financial viability by cutting labour costs. The FWO's experience suggests that labour costs can be more susceptible to cost-cutting than fixed costs such as fuel, electricity, mortgages and supplier contract prices.

The Inquiry considered the total cost of an employee as comprising both direct and indirect costs to an employer. Direct costs may include:

- minimum ordinary hourly rates
- overtime and public holiday rates
- piece rates
- weekend penalties
- casual loadings
- allowances
- leave payments e.g. personal leave or annual leave
- annual leave loading.

There are two categories of potential indirect costs to an employer:

- items that provide a benefit to the individual employee
- items that are a part of running a business and a consequence of having employees.

Indirect costs may include benefits such as insurance, health insurance payments, transport or accommodation.

Superannuation contributions are considered an indirect cost because they are paid to a fund rather than directly to the employee. Superannuation contributions are compulsory, and if they are not paid, an employer must pay the Superannuation Guarantee Levy. Other common indirect costs to an employer may include workers' compensation premiums and payroll tax. Workers compensation premiums vary according to the industry and type of employment, as well as the employer's past history.

Industry has advised the FWO that the competing pressures identified above can be difficult for employers to manage and can become drivers for non-compliance with workplace laws.

There are also specific costs borne by both approved employers³⁹ and employees participating in the SWP.⁴⁰ For example, approved employers are required to provide pastoral care, accommodation and transport for employees, as well as pay the cost of workers' return airfares up-front. Approved employers can incrementally recoup some costs from workers, through deductions, during their period of employment in Australia.

³⁹ An 'approved' employer enters into agreement with the Department of Jobs and Small Business. They must also obtain the approval of the Department of Home Affairs to become a Temporary Activities (TA) sponsor

⁴⁰ <https://www.jobs.gov.au/seasonal-worker-programme>

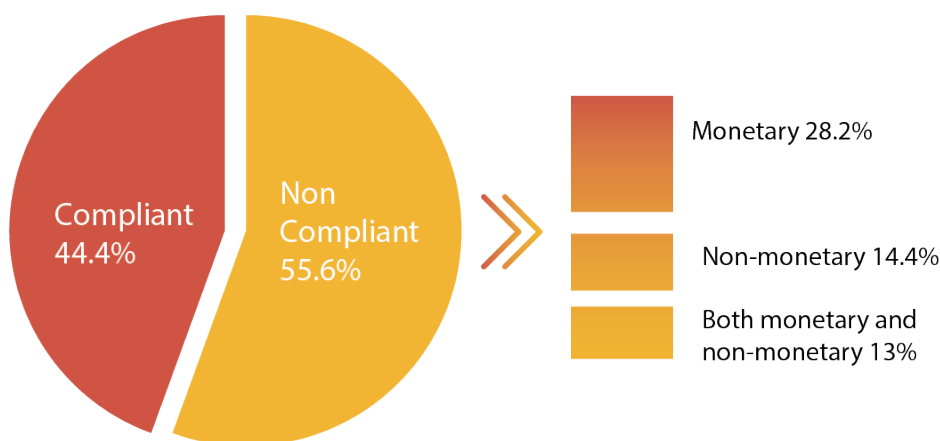
Finding 1 – Widespread non-compliance amongst investigated employers

Fair Work Inspectors investigated 638 employers as part of the Inquiry. This included 444 growers and 194 labour hire contractors. In total, these 638 employers were subject to 836 investigations.⁴¹

In more than half (465 or 55.6%) of these investigations, the FWO determined that there had been a failure to comply with Australian workplace laws. These breaches were as follows:

- 236 (or 28.2% of all investigations) monetary breaches – mainly in relation to underpayment of the hourly rate and not being paid for time worked
- 120 (or 14.4% of all investigations) non-monetary breaches – mainly a failure to keep records and payslips
- 109 (or 13.0% of all investigations) both monetary and non-monetary breaches.

Figure 5. Overall compliance rates



In the 465 investigations in which non-compliance was found, the FWO identified a total of 693 individual breaches. Underpayment or non-payment of wages (44% of breaches) and failure to meet pay slip and record-keeping obligations (41%) were the most common types of breaches identified, with the balance comprising casual loading, penalty rate, leave and leave loading, overtime and other technical breaches.

Money recovered

A total of \$1 022 698 was recovered for 2503 employees. The average monetary recovery per employee was approximately \$409. The smallest recovery was approximately \$21 and the largest recovery arising from a single investigation was \$125 053 for 15 employees.

⁴¹ The total number of investigations is greater than the number of employers investigated. This is because the FWO investigated some employers on more than one occasion to examine their compliance over a sustained period of time

Compliance and enforcement outcomes

Fair Work Inspectors issued:

- 150 Formal Cautions
- 132 Infringement Notices, totalling \$155 390 in fines for record-keeping and pay slip breaches
- 13 Compliance Notices, of which 11 were complied with, recovering back pay of \$87 649.62 for 32 employees.⁴²

The FWO entered into Enforceable Undertakings with seven businesses, through which a total of \$233 569.04 was recovered for 584 employees:

- Jasbinder Singh Benning, Tarlochen Singh Benning, Balbir Kaur Benning, Amrarjit Kaur Benning trading as K S Benning & Sons - \$46 082.31 recovered for 137 employees.⁴³
- TDS International Investment Group Pty Ltd - \$51 974.08 recovered for 52 employees. Note: The total underpayments were \$92 381.92 of which \$40 407.84 was recovered from Gromor Enterprises Pty Ltd as an accessory (below).⁴⁴
- Gromor Enterprises Pty Ltd - \$40 407.84 recovered for 52 employees.⁴⁵ Note: This figure was the proportion of the overall \$92 381.92 in underpayments attributed to Gromor Enterprises Pty Ltd after it admitted it was an accessory to the contraventions of TDS International Pty Ltd (above).
- Lai Yoong Ching & Swee Cheng Khong trading as Team Search Harvesting - \$15 892.33 recovered for 255 employees.⁴⁶
- Seasonal Labour Solutions Pty Ltd - \$14 720.38 recovered for 26 employees.⁴⁷
- Boonah Packing Pty Ltd - \$16 710.77 recovered for 110 employees.⁴⁸
- Letusgrow Hydroponics Pty Ltd - recovered \$37 781.33 for four (4) employees.⁴⁹

The FWO also commenced legal proceedings in the Federal Circuit Court of Australia (FCCA) or Federal Court of Australia (FCA) against eight businesses, and to date has obtained penalties against six of those businesses:

- Gurmakh Singh Dosanjh - \$13 005 penalty against Mr Dosanjh.⁵⁰

⁴² One of the outstanding Compliance Notices involved a business that went into liquidation, the other was taken to court - Vinai Chaipom, trading as The Mango Shop

⁴³ <https://www.fairwork.gov.au/ArticleDocuments/884/enforceable-undertaking-ks-benning-and-sons-redacted.docx.aspx>

⁴⁴ <https://www.fairwork.gov.au/ArticleDocuments/884/enforceable-undertaking-tds-international-investment-group-pty-ltd-redacted.docx.aspx>

⁴⁵ <https://www.fairwork.gov.au/ArticleDocuments/884/enforceable-undertaking-gromor-enterprises-pty-ltd-redacted.docx.aspx>

⁴⁶ <https://www.fairwork.gov.au/ArticleDocuments/884/enforceable-undertaking-team-search-harvesting-redacted.docx.aspx>

⁴⁷ <https://www.fairwork.gov.au/ArticleDocuments/971/seasonal-labour-solutions-eu-redacted.docx.aspx>

⁴⁸ <https://www.fairwork.gov.au/ArticleDocuments/971/enforceable-undertaking-boonah-packing-pty-ltd-redacted.docx.aspx>

⁴⁹ <https://www.fairwork.gov.au/ArticleDocuments/1179/letusgrow-hydroponics-enforceable-undertaking-redacted.pdf.aspx>

⁵⁰ *FWO v Dosanjh* (2016) FCCA 923. FWO media release: <https://www.fairwork.gov.au/about-us/news-and-media-releases/2016-media-releases/may-2016/20160518-dosanjh-penalty>. Decision: http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCCA/2016/923.html?context=1;query=dosanjh;mask_path=au/cases/cth/FCCA+au/cases/cth/FMCA+au/cases/cth/FMC Afam

- Maroochy Sunshine Pty Ltd and Mr Emmanuel Bani - \$186 000 penalty against the company and \$41 300 against sole director Mr Bani⁵¹
- I Luv Pty Ltd, Mr Hour Him and Ms Tay-Duc Nguyen - \$56 000 penalty for the company, \$6 400 for Mr Him and \$6 400 for Ms Nguyen.⁵²
- Vinai Chaipom - \$25 412 penalty against Mr Chaipom.⁵³
- Seasonal Farm Services Pty Ltd and Mr Ram Kumar - \$85 000 penalty for the company and \$17 000 penalty for director Mr Ram Kumar.⁵⁴
- HTA Farmings Pty Ltd and Mr Tuan Le - \$70 550 penalty against the company and \$14 110 against director Mr Le.⁵⁵
- Hu Tao, Marland Mushrooms Qld Pty Ltd and Mr Troy Marland.⁵⁶
- Zucco Farming Pty Ltd and Mr Chris Zucco - awaiting a decision on penalty.⁵⁷

⁵¹ *FWO v Maroochy Sunshine Pty Ltd & Anor* (2017) FCCA 559. Decision: <http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCCA/2017/559.html?context=1;query=%5b2017%5d%20FCCA%20559>

Note: employees have not yet received payment of outstanding entitlements

⁵² *FWO v I Luv Pty Ltd & Anor* (2016) FCCA 2569. FWO media release: <https://www.fairwork.gov.au/about-us/our-role/enforcing-the-legislation/litigation/litigation-outcomes-2016-2017> (decision not available)

⁵³ *FWO v Chaipom & Anor* (2017) FCCA 3211, Decision: https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCCA/2017/3211.html?context=1;query=Fair%20Work%20Ombudsman%20v%20Chaipom;mask_path=

⁵⁴ *FWO v Seasonal Farm Services & Anor* (2017) FCCA 1020. Decision: <http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCCA/2017/1020.html?context=0;query=%22seasonal%20farm%20services%22>

⁵⁵ *FWO v HTA Farmings Pty Ltd & Anor* (2017) FCCA 1847. Decision: <http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCCA/2017/1847.html?context=1;query=%5b2017%5d%20FCCA%201847>

⁵⁶ *Fair Work Ombudsman v Hu* (No 2) (2018) FCA 1034. Decision: <http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2018/1034.html>

Note: aspects of the decision are being appealed by the FWO

⁵⁷ FWO media release: <https://www.fairwork.gov.au/about-us/news-and-media-releases/2017-media-releases/july-2017/20170705-zucco-farming-litigation>

Finding 2 – Misuse of piecework arrangements

Both the Horticulture and Wine Industry Awards provide for piecework arrangements.

The availability of labour and quick harvesting of crops is critically important for growers of produce with short shelf lives. In many cases, this drives the use of incentive-based systems such as piece rates.

The FWO found that more than a third of employers were paying piece rates or a combination of piece and hourly rates, which is acceptable under the Awards. However, over 100 of those employers were not engaging pieceworkers correctly by having no written piecework agreement or having an invalid piecework agreement.

Fair Work Inspectors observed some growers and labour hire contractors applying group rates for pieceworker employees. This practice involves a group of employees working together to fill a unit of measurement (for example filling a bin of mangoes) for which they are paid an equal share. This method of arranging work does not take into consideration the actual contribution of each employee and can lead to situations where more productive employees are financially disadvantaged.

The FWO treats these arrangements as inconsistent with the piecework arrangements contemplated under the Horticulture and Wine Industry Awards because piecework arrangements are between an individual employee and their employer. The amounts payable to the employee are contingent on their individual productivity, which cannot be accurately quantified in this type of group arrangement.

The FWO's position is that an employer must be able to demonstrate that the piece rate offered will allow an average competent employee to earn at least 15% more per hour than the minimum hourly rate prescribed by the Horticulture Award, and at least 20% of the rate prescribed by the Wine Industry Award (see clause 15.2 of the Horticulture Industry Award and clause 23.2 of the Wine Industry Award).⁵⁸

Industry guides may assist employers in determining relevant factors and employee characteristics to take into consideration in the calculation of appropriate piecework rates.

Case study: Good practice

Fruit Growers Victoria (FGV) publishes a piece rate guide for its members each season. To set these rates, FGV meets with key growers and analyses the bins picked, taking into consideration the length of time it takes to pick bins of fruit and environmental conditions. The price per bin that it publishes is a guide and growers are encouraged to keep productivity records to allow them to show how their rates have been calculated.

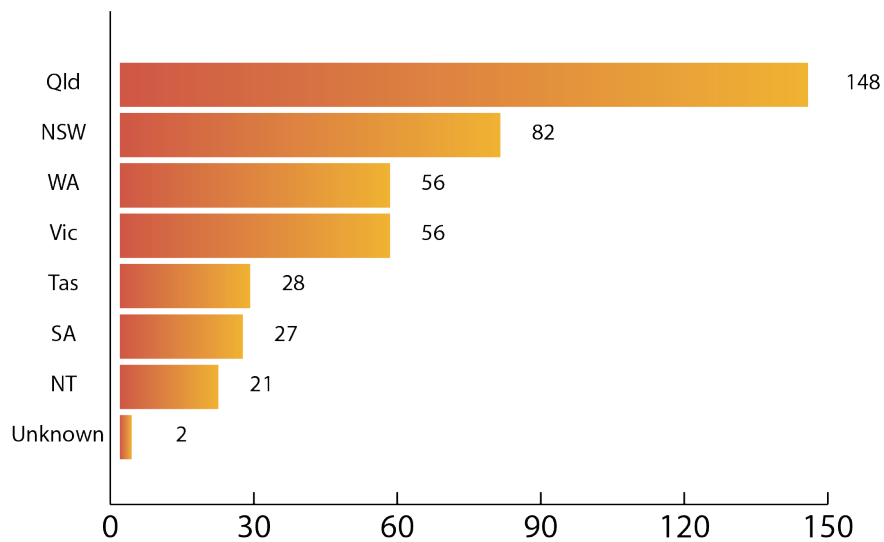
⁵⁸ The meaning of clause 15.2 was considered by the Federal Court in the matter of *FWO v Hu* (No.2) (2018) FCA 1034 (Justice Rangiah, 12 July 2018). On 3 August 2018, the FWO filed an appeal of the decision of the Federal Court which will be heard before the Full Bench of the Federal Court

Finding 3 – Significant reliance by growers on overseas workers

The Inquiry found Harvest Trail growers rely heavily on overseas labour. Of the 626 employers⁵⁹ FWO interacted with who were employing staff at the time, 67% (420) were employing overseas workers.

The 420 growers employing overseas workers is broken down by state/territory in the graph below.

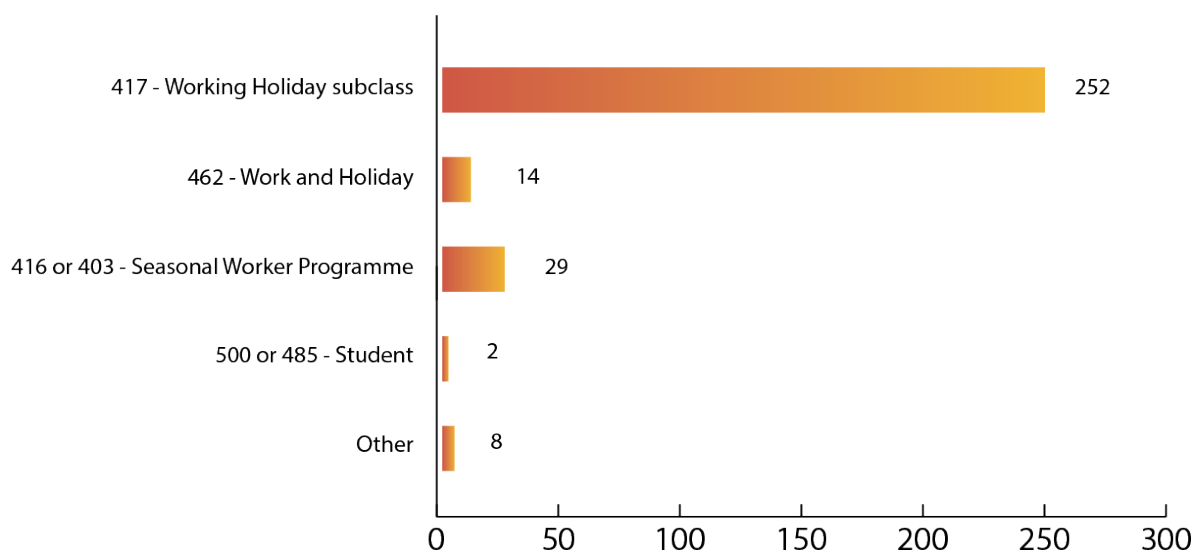
Figure 6. State/territory breakdown of employers hiring overseas workers



⁵⁹ Some employers were investigated more than once, hence the difference between the number of employers and the number of investigations overall

73% (305) of 420 growers who advised they were employing overseas workers identified Working Holiday visa subclass 417 as the most commonly held visa type. There were also employers who did not provide this information to the FWO.

Figure 7. Visa breakdown



Working Holiday visa subclass 417

With a subclass 417 visa, 18 to 30 year olds from 17 eligible nations and regions, and 18 to 35 year olds from Canada and the Republic of Ireland, can holiday and work in Australia for one year. They have the option to apply for a visa for a second year if they undertake three months (88 calendar days) of ‘specified work’ in plant and animal cultivation, fishing and pearling, tree farming and felling, mining and construction in regional Australia.⁶⁰

In 2017-18, 185 450 subclass 417 Working Holiday visas were granted, including 152 622 first and 32 828 second Working Holiday visas. As at 30 June 2018, there were 118 524 working holiday makers in Australia (on first and second visas).⁶¹

As detailed in the FWO’s Inquiry into the working conditions of 417 Visa Holders⁶², positive outcomes of the program include:

- workers are drawn to regional areas that would otherwise struggle to attract an adequate workforce from the local community
- growers are able to increase and decrease the size of their workforce throughout the season
- for many crops, 88 days suits the seasonal requirements for harvesting labour.

⁶⁰ <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/work-holiday-417>

⁶¹ Home Affairs Working Holiday Maker Report 2018 <https://www.homeaffairs.gov.au/research-and-stats/files/working-holiday-report-jun18.pdf>

⁶² FWO’s Inquiry into the wages and conditions of people working under the 417 Working Holiday Maker Program <https://www.fairwork.gov.au/ArticleDocuments/763/417-visa-inquiry-report.docx.aspx>

Inherent vulnerabilities of overseas workers

The FWO's experience indicates Harvest Trail workers from overseas are often young adults who have limited English language skills, face cultural barriers and commonly do not have a good understanding of workplace rights and entitlements - or where to get help when needed. When these factors are coupled with a strong desire to stay in Australia, overseas workers are more vulnerable to exploitation than Australian-born workers.

The FWO's Inquiry into wages and conditions of people working under the 417 Working Holiday Maker program⁶³ confirmed that visa holders engaged as employees in Australia are a vulnerable group, due to:

- cultural and language barriers
- suspicion of government
- little or no knowledge about Australian workplace rights and obligations
- lack of understanding about how to ensure their workplace rights are provided or where to find assistance.

Working Holiday visa holders have the same rights and protections under Australian workplace laws as any other employee. However, the FWO's experience shows that overseas workers, particularly those on 417 visas, are more vulnerable to exploitation. The incentive to obtain a second visa through completing three months (88 calendar days) of specified work means workers may be willing to accept substandard pay and conditions, and/or be unwilling to seek assistance from the FWO. Unscrupulous employers can use this as leverage to pay less, give notice periods that are outside award conditions and withhold pay.⁶⁴



Photo: Sign posted for Caboolture-based workers indicating employer will not sign-off on days worked if 7 days' notice not provided before they leave.

Given these risks, the FWO has been concerned that while some workers request the FWO's assistance once their employment has ceased and the 88-days have been signed-off, it is likely that many instances of exploitation are never reported.

⁶³ FWO Inquiry into the wages and conditions of people working under the 417 Working Holiday Maker Program <https://www.fairwork.gov.au/ArticleDocuments/763/417-visa-inquiry-report.docx.aspx>

⁶⁴ *Ibid*

To address these issues, the FWO launched an online anonymous reporting tool in 2016 (with an in-language version in 2017).⁶⁵ In 2017, the FWO also announced an arrangement with the Department of Home Affairs offering protections for workers to come forward and report issues without fear of visa cancellation.⁶⁶

During the Harvest Trail Inquiry, Fair Work Inspectors had mixed results engaging with visa workers. Some interactions elicited information Fair Work Inspectors could test in the course of investigations. At other times, workers were reluctant to engage with Fair Work Inspectors, given their status as government officials. The quality of the information provided by workers about potentially unlawful work practices sometimes was not sufficient to advance an investigation.

From 1 December 2015, changes made by the Australian Government to the subclass 417 visa require that work undertaken to obtain a second year extension must be paid work. Visa holders must provide pay slips to the Department of Home Affairs as evidence.⁶⁷

During the Inquiry, Fair Work Inspectors also met with a smaller cohort of 417 Working Holiday visa holders who were participating in a volunteering scheme known as Willing Workers On Organic Farms (WWOOF).⁶⁸ ‘WWOOFing’ involves volunteer work of between 4-6 hours a day in exchange for meals and accommodation. The work is carried out on registered organic farms and properties. This report notes that WWOOFing work is no longer eligible to be counted towards the 88 days’ work requirement for a second year extension of the working holiday visa.

⁶⁵ <https://www.fairwork.gov.au/how-we-will-help/how-we-help-you/report-a-workplace-issue-in-your-language>

⁶⁶ <https://www.fairwork.gov.au/find-help-for/visa-holders-and-migrants>

⁶⁷ <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:%22media/pressrel/3804276%22>

⁶⁸ <https://www.fairwork.gov.au/about-us/our-role/enforcing-the-legislation/enforceable-undertakings/2017-2018-enforceable-undertakings>

Finding 4 – Negative impact where labour hire arrangements are used

A critical element of a grower's enterprise is the availability of labour to pick, pack and dispatch produce in a tight 'harvest window'. A lack of workers can mean fruit and vegetables remain unpicked, unpacked and then spoil.

To secure a workforce at the times required, growers on the Harvest Trail source labour directly and indirectly, with labour hire contractors playing a significant role.

The Inquiry examined the labour procurement methods used by 638 growers. The FWO found that in around half of the 366 cases where it was able to establish the procurement arrangements in place, growers used labour hire contractors. The FWO identified that:

- 49% (180) of growers directly employed all their labour
- 39% (144) used a combination of direct employment and labour hire contractors
- 12% (42) sourced all labour via labour hire contractors.

A number of growers informed the Inquiry that there were challenges in sourcing labour due to a decline in 'professional picker gangs' over the past decade. Such 'gangs' were typically well-established workforce groups which would 'service' the same crop areas at the same times each year. The chief advantages of the 'gangs' were the growers knew the group organiser, the workers knew each other, and the workers knew the farm and the crop. The FWO concluded this may be one of the reasons some employers elect to source labour through the SWP.

The significance of the 'decline' in the availability of these 'professional' groups is supported in a recent report by Adelaide and Sydney Universities which suggested the issues at play on the Harvest Trail are not so much a 'labour shortage' but a 'recruitment difficulty'.⁶⁹ The Inquiry found a number of issues relating to the practices of labour hire contractors on the Harvest Trail which illustrate recruitment 'difficulties', as discussed below.⁷⁰

⁶⁹ 'Sustainable Solutions: The Future of Labour Supply in the Australian vegetable industry' – Joanna Howe, Alexander Reilly, Diane van den Broek & Chris F Wright, February 2017 <https://blogs.adelaide.edu.au/law/tag/sustainable-solutions-the-future-of-labour-supply-in-the-australian-vegetable-industry/>

⁷⁰ At the time of publishing, the Queensland Parliament, Victorian Parliament, and South Australian Parliament had passed legislation regulating the operation of labour hire contractors. The Queensland Labour Hire Licensing Act 2017 commenced operation on 16 April 2018 and the South Australian Labour Hire Licensing Act 2017 commenced operation from 1 March 2018. The Victorian Parliament passed the Labour Hire Licensing Act 2018 on 26 June 2018, with the licensing scheme expected to commence in the first half of 2019. The South Australian Government have subsequently announced their intention to introduce legislation to repeal their Act. Repeal legislation expected to be introduced into the SA Parliament by the end of 2018. The Commonwealth Government, through its Migrant Worker Taskforce, is also considering forms of regulating labour hire contractors

Overseas nationals and visa holders running labour hire contracting businesses

Regulators such as the FWO can find it difficult to commence legal proceedings against companies that have majority overseas-based directors and just one domestic resident with little assets.

Under the *Corporations Act 2001*, at least one director of a proprietary company established in Australia must ordinarily be an Australian resident.⁷¹ The same requirement applies if the company appoints a company secretary.⁷² In this respect, the Inquiry found some labour hire contractor companies that may have been operating in breach of the *Corporations Act 2001*.

Fair Work Inspectors interacted with 237 incorporated labour hire contractors and identified that 271 individuals had been appointed as directors of these entities. Of this number, 92 of the directors were visa holders, including the following visa subclasses:

- 22% (working holiday visa)
- 18% (student visa)
- 15% (returning resident visa)
- 13% (New Zealand citizens but not born in NZ).

Case study: Listed company director not involved in the business

Ten Caboolture strawberry farm workers visited the FWO Brisbane office to request assistance for recovering unpaid wages.

The grower in this matter had engaged a labour hire contractor to source workers. The labour hire contractor (now deregistered) had registered a company in Melbourne. The director was born overseas and living in Melbourne. He told Fair Work Inspectors that he had been approached by another member of the community about registering and co-running a labour hire contractor business, sourcing workers mostly from their country of origin. He had no experience running a company but agreed to the proposal.

Upon commencement of the business, the member of the community relocated to Queensland to run the business 'on the ground'. He did not communicate with the director in Melbourne and did not engage with the FWO during its investigations. At the end of the season he left Caboolture without paying 34 employees approximately \$96 000 in wages. In the meantime, the Melbourne-based director disassociated himself from the company.

The grower in this matter agreed to pay the employees' unpaid wages, despite not having been the employer of the workers and being able to produce evidence of previous payment to the labour hire contractor in question.

⁷¹ *Corporations Act 2001*, section 201A (1) and Part 1.5 Small business guide, section 1.5.5
http://www5.austlii.edu.au/au/legis/cth/num_act/ca2001172/s1.5.5.html. Separate requirements apply for public companies.

⁷² *Ibid*

Governance of labour supply chain contracts

The FWO's interest in the use of labour hire as an employment option extends as far as establishing whether a particular arrangement is lawful, and to its impact on compliance with workplace laws in the labour supply chain.

The FWO's experience is that multiple levels of subcontracting increases the risk of non-compliance. As additional subcontractors enter the labour contracting chain, the increasing pressure of multiple players taking their profit can result in the legal employer of workers having insufficient funds to cover their full entitlements.

The FWO's inquiries into labour supply chain contracts confirm the importance of lead firms having strong contract management and governance systems in place to help ensure that workers receive their lawful entitlements. By improving their visibility of supply chain arrangements, lead firms can also protect themselves from reputational damage that can arise from the potentially unlawful conduct of a labour supply contractor on whom they may rely.

Case study: Lack of clarity in the supply-chain

A joint operation between the FWO and the Department of Home Affairs⁷³ involved an established company that supplied fresh produce to major supermarkets and resulted in the detention of unlawful workers and a FWO investigation.

It was alleged workers were being paid \$13 per hour. When interviewed, workers were unable to identify who employed them or, at best, appeared only to know the employer's first name.

The FWO investigation found multi-level contracting arrangements and a complex web of financial transactions (see Figure 8 below). Fair Work Inspectors identified at least three sub-contractors, although it was unclear whether other individuals in the supply chain were employees, subcontractors, or performing both functions, and to whom payments were being made beyond these points.

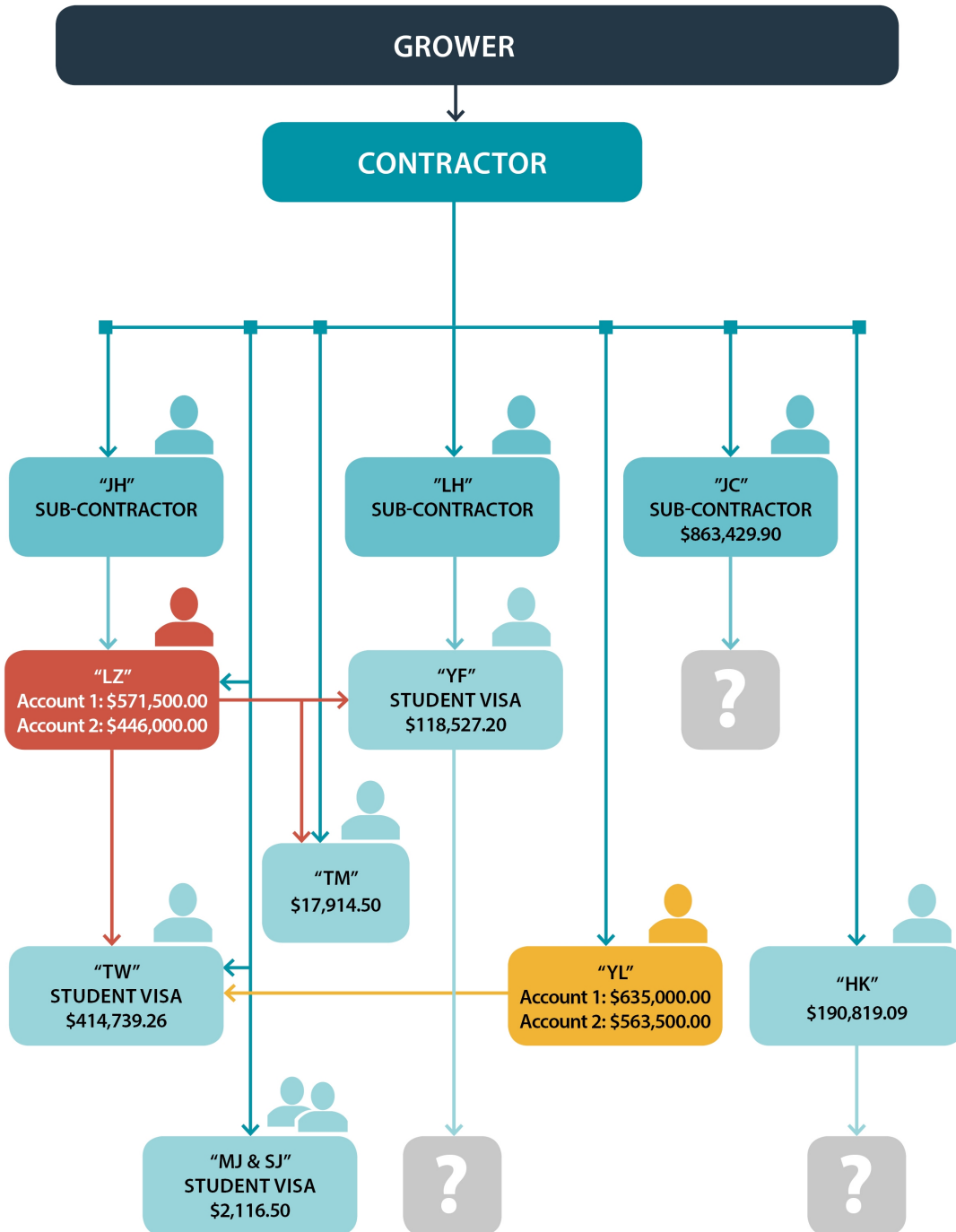
FWO found that the company lacked processes to track who was working on its farms or if workers were being paid correctly. As a result of the investigation, and with a view to mitigating reputational damage, the company sought to improve labour force governance by:

- implementing a process to assess labour hire service providers
- amending labour procurement agreements to ensure they provided for clear operating expectations, including restraints on the use of sub-contractors, scope of work, agreed pay rates and right-to-work compliance
- regular auditing of its contractors.

⁷³ The operation was conducted by *Operation Cloudburst* - a joint agency initiative between the FWO and the Department of Home Affairs led by its operational arm, the Australian Border Force (ABF). The Australian Government subsequently established Taskforce Cadena in June 2015 to target and disrupt criminals organising visa fraud, illegal work and the exploitation of foreign workers: <https://www.homeaffairs.gov.au/australian-border-force-abf/taskforce-cadena>

Figure 8: Example of supply chain identified during a FWO investigation into a major produce grower

The arrows in the graph refer to the payment arrangements between various individuals in the contractor’s network. Question marks denote the uncertain destination of payments.



Itinerant labour hire contractors

The Inquiry found a number of labour hire contractors regularly moved across state/territory borders, following the Harvest Trail as a season finished.

Labour hire contractors would approach growers at a time when they needed ‘to get the crop off’. The Inquiry heard of growers who, faced with tight timeframes, accepted quotes from labour hire contractors that were ‘too good to be true’. These were typically smaller growers.

The case study below illustrates how labour hire contractors operate across geographical areas and crop types as well as how locating and engaging with key personnel was challenging for Fair Work Inspectors.

Case study: Itinerant labour hire contractor

Fair Work Inspectors found one labour hire contractor director who repeatedly left crop areas shortly before the end of harvesting without paying employees who had been provided to growers at low cost. They sought to evade responsibility through a combination of measures:

- deregistration of the business
- constant changing of domiciles
- providing Fair Work Inspectors with a false address for the receipt of Compliance Notices and requests for production of documents.

Grower compliance

The Harvest Trail Inquiry and media attention on the issue of underpayments in the sector had a positive impact on culture in at least some parts of the industry.

The Inquiry heard from growers who had responded to ‘negative media’ about employment practices on the Harvest Trail by changing from using labour hire contractors to direct employment practices. These growers informed the Inquiry they were keen to employ capable staff and retain a ‘good name’ in the sector.

Others who continued to hire indirectly conveyed how they were careful to use recognised labour hire contractors with a reputation for ‘doing the right thing’, and conducted thorough ‘checks’ to ensure workers on their property had Australian work rights.

Case study: Switching to direct employment

During visits to apple and pear growers in the Goulburn Valley, one small grower informed Fair Work Inspectors that it was their first year employing labour directly because they had received too many complaints from pickers about not receiving payment from a labour hire contractor.

Advertising on Gumtree, the grower sourced seven-eight pickers directly and provided accommodation to the 'backpackers' on the property (\$10/night to pitch a tent, with bathroom and laundry facilities provided, rate discounted to \$5/night when there was no fruit to pick).

Case study: Best practice

A medium-sized grower in Victoria had previously used labour hire contractors to employ backpackers in their packing shed. Given they had been unable to confirm the workers' wages were being properly paid, the grower started employing directly in 2013.

As a major supplier to Coles and Woolworths, the business wanted to ensure it was compliant with all laws. They also stated that they had utilised the services of MADEC to conduct Visa Entitlement Verification Online (VEVO) checks, provide workers with a 'work entitlements card' (likened to a plastic membership card, issued by non-government organisations) and conduct an induction tailored for their business. MADEC provided these services for free.⁷⁴

The business also stated that it had been using Ironbark Software and a 'Bundy Clock' which employs a fingerprinting system for employees to clock on and off. These steps prevented unauthorised people from working on the farm.

Labour hire contractors and the Seasonal Worker Programme (SWP)

Under the SWP, seasonal workers benefit from the opportunity to earn Australian wages and gain valuable on-the-job learning opportunities. Many use the money earned in Australia to pay for their children's education, start a small business or build a house.⁷⁵

To participate in the SWP, an employer must apply to the Department of Jobs and Small Business to become an approved employer and must obtain the approval of the Department of Home Affairs to become an approved Temporary Activities sponsor.

During the Inquiry, 17 investigations were completed that involved SWP employees who were employed by approved employers. Of these, 11 investigations detected that the employer was non-compliant with Australian workplace laws. Four investigations involved monetary breaches only, two detected non-monetary breaches only and five investigations found that the employer had breached both their monetary and non-monetary obligations.

⁷⁴ The MADEC 'work entitlements card' is understood to be similar to a membership card (issued by non-government organisations) and includes a photo of the passport holder, personal details and VEVO details (downloaded from the VEVO system)

⁷⁵ Fact sheet: The horticulture industry and the Seasonal Worker programme:
https://docs.jobs.gov.au/system/files/doc/other/seasonal_worker_programme_horticulture_factsheet_updated_0.pdf

A total of \$150 356 was recovered for 96 employees as a result of investigations involving employees in Australia under the SWP.

The FWO issued:

- four (4) Formal Cautions
- six (6) Infringement Notices (penalties of \$12 850)
- one (1) Compliance Notice.

An Enforceable Undertaking was entered into with Seasonal Labour Hire Solutions Pty Ltd (\$14 720.38 in underpayments was recovered for 26 employees).⁷⁶

One instance of deliberate exploitation of seasonal workers under the SWP resulted in the FWO commencing legal proceedings as detailed in the below case study.

Case study: Maroochy Sunshine Pty Ltd

Following a referral from the Department of Jobs and Small Business, Fair Work Inspectors investigated the alleged underpayment of 22 workers from Vanuatu employed to pick fruit and vegetables by a labour hire contractor operating at sites in the Lockyer Valley, Sunshine Coast and Bundaberg.

In proceedings commenced by the FWO in the Federal Circuit Court, the Court found that the company and its director Mr Emmanuel Bani had breached the Act by failing to pay minimum wages and leave entitlements.

Some workers gave evidence that they had been subjected to very poor conditions during their employment, including:

- inadequate accommodation
- a lack of food and water
- the withholding of passports and personal belongings
- threats of deportation or police reports if they complained.

The Court imposed a total of \$227 300 in penalties on the company and Mr Bani and stated, “It is difficult to imagine more egregious conduct than that exhibited by Maroochy Sunshine and Mr Bani in this matter.”

During the FWO’s court case, the Department of Jobs and Small Business suspended Maroochy Sunshine Pty Ltd, meaning they were not able to recruit under the program. On 30 June 2016, the deed between the Department of Jobs and Small Business and Maroochy Sunshine Pty Ltd ended and accordingly the company was removed from the list of approved employers.

⁷⁶ <https://www.fairwork.gov.au/ArticleDocuments/971/seasonal-labour-solutions-eu-redacted.docx.aspx>

The role of accommodation, transport and job service providers

As well as underpayments, the FWO witnessed other exploitation including substandard accommodation, transport and extra charges.

Accommodation options and other service providers are limited in many of the crop areas of the Harvest Trail. The Inquiry found that labour hire contractors and ancillary service providers had entered into arrangements that were to their advantage but which disadvantaged workers, including:

- charging job finding/placement bonds
- restricting accommodation options to the use of specific labour hire contractors, which at times meant visa holders were without work while accruing accommodation debts
- offering over-crowded, sub-standard accommodation at above market rates
- requiring workers to use specific transport providers between accommodation and the work site.

One hostel in Gatton, Queensland was prohibited from providing accommodation as a consequence of legal action by the Queensland Fire and Emergency Services (QFES).⁷⁷ QFES Commissioner Katarina Carroll said:

"The threat to life at these premises was so serious that QFES officers decided to take action in the Supreme Court as a matter of urgency, to ensure the building owners did not continue to provide accommodation to any person ... If a fire started at this building, our officers were concerned the people inside would have had absolutely no chance of escape ... We're confident that the court action will prevent a serious tragedy and protect at risk persons like transient workers and international tourists working in the horticulture industry from serious risks such as injury or death."

The Inquiry found a number of accommodation providers charging visa holders a bond to find them work. Examples of these arrangements included a backpacker hostel in Bundaberg where the hostel charged backpackers a \$100 bond to find them work:

RENT MUST BE PAID BEFORE DUE DATE OTHERWISE YOU WILL BE EVICTED
YOU WILL BE REQUIRED TO PAY \$100 WORK DEPOSIT.
THAT WILL BE REFUNDED ON COMPLETION OF YOUR EMPLOYMENT TERMS.
YOU MUST PRESENT DEPOSIT RECEIPT WHEN YOU CHECK-OUT.
'NO RECEIPT, NO REFUND'

Image: Part of a notice posted on wall of hostel in Bundaberg

Similarly, an accommodation provider in regional Queensland charged backpackers a \$100 recruitment fee. The provider also had a small strawberry farm where visa holders were advised the following:

"Please bring \$150 for your rent to be paid in advance, please bring cash. There is a \$200 bond and \$150 of this will be returned when the accommodation is clean and tidy and your bedding clean and

⁷⁷ Brisbane Times coverage: <https://www.brisbanetimes.com.au/national/queensland/fire-chief-shuts-down-lockyer-valley-fire-trap-20150708-gi7qfu.html>

when you have stayed until the planting has finished, which can be the end of April or sometimes the beginning of May. Please be sure you want to stay for this time.

You are required to stay in accommodation that I provide in the area. The rent is \$150 a week per person. The bond is \$200. The partial bond of \$100 is returned to you at the end of the planting season. When you are on my team when the last plant is planted (and the accommodation you live in is clean and undamaged) I will return your bond. If you do not have a car then there will be a small fee for transport about \$5 a day. You are required to have this in cash when I meet you and place you in accommodation. I can meet you at [the] Train Station.

I do not want to keep your accommodation bond, but I will if you leave my team. It is very hard for me to recruit and train people when we are in the middle of planting. Also if you leave I will not sign your days that you have worked towards your second visa. I prefer people who need a 2nd visa."



Image: Receipt for a cash bond provided by a regional Queensland strawberry worker

One farm in Queensland charged a 417 visa holder a \$300 job bond that would not be refunded if the worker was 'sacked' or if they failed to complete a minimum of two months' work.

The Inquiry noted that Queensland is currently the only state that has legislation that makes it unlawful for a third party to seek the payment of monies by a prospective employee in exchange for finding that person a job.⁷⁸ The Inquiry referred six instances of 'job bonds' being paid by potential employees to the Queensland Office of Industrial Relations for action.

⁷⁸ Private Employment Agents Act 2005 (Qld) – statute is administered by the Queensland Office of Industrial Relations

Case study: Employment finder

The FWO received information from backpackers who had responded to advertisements for farm work through Facebook, Gumtree and other social media channels posted by an individual operating in regional Victoria. The FWO's investigation made a number of findings, including that he collected workers from bus and train stations and took them straight to bank teller machines to withdraw money to cover job finding fees and accommodation deposits to be paid to him up front. He then took them to substandard, over-crowded accommodation.

The operator was alleged to have organised jobs at local farms, transported them to the farms to work, but then failed to pay them monies that he had collected from growers. If the backpackers complained and requested to leave, he told them that the job finding fee and deposit were not refundable.

The FWO was unable to definitively confirm an employment relationship with the individual because the backpackers had been asked to sign contracts stating that he was not their employer. They were also unable to advise the FWO what farms they had worked on, which prevented Fair Work Inspectors from gathering evidence from growers.

Social media as a deterrent to exploitation

The Inquiry found strong social networks within the backpacking community, particularly among groups of workers from the same country and those working in remote areas.

The Inquiry observed a number of posts on social media containing accounts of work experiences with particular employers and/or regions. These posts regarding conditions of employment or accommodation were often negative and on some occasions would name growers/farms, even if they were not the employer. Posts would also feature commentary on accommodation providers linked to particular industries.

Acknowledging that posts on social media channels are generally unregulated, these posts can pose ongoing reputational risk to employers in the industry, proximate communities, regions and, in some cases, Australia.

Examples of social media posts describing negative experiences and offering warnings to others about pay, conditions, accommodation and potential discrimination are provided below.


Figure 9. Post describing negative experience on social media


Promised 38 hours of work and After 3 HOURS of work (in the space of 4days) we were fired & screamed at.. after driving up from 

Everyone in the farm was intimidated by  She is not someone who you can approach & her mood can change easily. Everyone on the farm is living in fear that they will get fired. 5 people were fired in one day. Everyone we spoke to said they hadn't saved a cent due to the fact there rent was so high with little hours. - basically all the money they should of been paid was going back into the farm for accomodation.
She threatened to call the police because we said we would stay until Monday as we had already PAID the accomodation. So we had to leave on Friday morning.
We paid \$180 EACH to stay in a barn. Infested with flies & ants. Filthy living conditions. (got no money back when we were made leave). She only paid us today (2weeks later) as we reported her to fair work.
I Did make a joke about the whole situation, left & got over it because I chose not to ruin my experience in Australia. I had money to find new accomodation but for backpackers who don't have money to WAISTE id avoid this area.
There are people there who got their sign offs from her but I'm putting MY experience out there to so backpackers who are running low on money dont get fooled like I did.
Share your experience & report these farmers we are doing back breaking work for these people & deserve some dignity, respect & fair treatment.

wish everyone so much luck with their 88 days big RESPECT for those who have already done it as its tough work


Figure 10. Posts describing negative experience on horticulture jobs website



Job advertisement: (pay attention to the "Asian Only")

Farm #1: Job picking and packing [redacted] Contract pay. Live on farm \$80 a week + bond returnable end of season. Asian girls only

Farm #2: Job picking and packing [redacted] Contract pay. Accommodation near farm \$120 per week + bond returnable end of season. Walk to farm. Europeans and Asians


Farm #3: Job picking and packing [redacted] Contract pay. Accommodation in the town [redacted] \$140 per week including transport to work + bond returnable end of season. Asians only.

This lady hires people based on their race. She is quite rude and will place you in very unfavorable working conditions. When I questioned her about why she has written "Asian Only" in her job advertisement she responded with this:

"Asian only, yep, we do have Asians in Australia that are citizens. And they are Australians!! More right to be here in Australia than you two! I need Asian Australia/Asian backpackers who can speak Chinese or Vietnamese? And what if I got an Asian Canadian or Asian Norwegian that can speak Chinese on a working holiday visa? Report it mate, remember you are the bloody foreigner here....."

I of course have reported this to fair work Australia as it clearly states that in this country you can not hire someone based on their race or ethnicity. We can only hope angry people like this will not ruin your experience in this country. BEWARE

Reply



I can only confirm the facts of the previous review. [redacted] is a horrible person to deal and communicate with. She asked me to pay a 200\$ Bond that is related to me staying until the end of the season [redacted]. If the farmer she hired me for would decide to fire me before that time of course she would keep that money. I am pretty sure that already is illegal. But it only started to get interesting after that...

I was supposed to meet [redacted] in a parking lot in [redacted] with my passport and visa information handy and of course with the bond and first week of rent (130\$ on top of the 200\$) cash. As I asked if I could see the room and maybe talk to the farmer before paying anything, [redacted] started to send me insulting and pressuring text messages and also accused me of harassing her – which I obviously did not do.

I kind of understand that deal with having to rent a certain type of accommodation that come with these jobs (in this case a room shared with 4 people). What I do not understand is why someone would have to accept the fact to pay money for a room that can not even be inspected before moving in.

Obviously this woman makes use of the desperate job situation in Australia that Backpackers currently find themselves in. Sad and simply unfair.

People if you can find another place to work.

Reply

Finding 5 – Consumers can play a role in addressing exploitation

As the Harvest Trail Inquiry progressed and the underpayment of workers became apparent, the FWO considered it important to commission research regarding consumer behaviours and awareness. The objective of the research was to assess whether consumer behaviour had any role in the Harvest Trail's non-compliance rates.

Drawing upon interactions with Harvest Trail participants, the research study investigated:

- fresh produce buying behaviours and motivations of consumers
- the extent to which ethical considerations affect consumer willingness to pay more for a product
- whether knowledge about worker conditions and treatment might impact shopping decisions.

Consumers and fresh produce vendors (supermarkets, independent grocery stores, green grocers and farmers' market sellers) were included in the research study.

The project used a mixed methodology comprising:

- an environmental scan and review of secondary data
- 20 in-depth interviews with vendors, including large supermarkets, independent grocery stores, green grocers, wholesalers and farmers participating at farmers' markets
- 280 intercept interviews of shoppers at large shopping centres in five different locations
- a 10-minute national online survey and choice model experiment (sample of 1000 consumers)
- an online discussion forum with 12 consumers over seven days.

A number of key findings from the research are highlighted below. Of particular note, is the propensity of a segment of consumers to pay more for 'domestic fair trade' produce.

- 91% of consumers sampled buy some fresh produce at supermarkets, and 75% buy most of their fresh produce at supermarkets.
- Most consumers (85%) believe prices for fresh produce have increased in the last 5-10 years.
- A majority of consumers believe the government should ensure farm workers are paid correctly (72%) and many (63%) expect supermarkets to take responsibility for ensuring this too.
- Most consumers believe that workers do receive fair conditions (72%) and that they are paid the minimum wage (60%).
- 40% of the 1025 consumers surveyed were concerned that farm workers might not be paid correctly or have fair working conditions. Of these, a large majority (81%) said they would avoid buying produce if they knew workers had not been paid fairly or given fair work conditions. Over a third (36%) of those who were unconcerned, did not believe farm workers would be unfairly treated.
- Three-quarters of consumers say they would choose produce marked as being produced fairly, including 11% who would even pay more for 'domestic fair trade' produce, 25% who'd pay more for

produce of the same quality and 49% who would choose the ethically produce product if the price was the same.

- Many consumers are prepared to pay up to \$0.50 per kilo more and some would pay up to \$1 more for 'fairly produced' fruit and vegetables. This was assessed on a sliding scale with 9% stating they were prepared to pay \$0.05 per kilo more, through to 12% who would pay \$0.90-\$1 extra per kilo.
- Choice modelling reveals the top five drivers to choose ethically sourced produce would be: information and education about conditions for farm workers (22%); advertising messages supporting the need to buy fairly produced products (18%); location of the shop (17%); perceived quality (13%); and, locally grown signage (8%).

The research recommendations for increasing engagement in ethical consumption of fresh produce were to:

- educate the public through an information campaign about the Harvest Trail and how prices are set, including the role of supermarkets
- provide a vocabulary e.g. ethical sourcing, 'domestic fair trade'
- present ethical sourcing as a marketing opportunity to producers and vendors
- build trust through a verification system.

The research findings revealed a lack of consumer awareness about the treatment of workers on the Harvest Trail. The full report containing the research methodology and the complete findings and recommendations is available at fairwork.gov.au.⁷⁹

⁷⁹ Research report – see Appendix B

Next steps

During the Inquiry, Fair Work Inspectors engaged extensively with key Harvest Trail stakeholders and conducted numerous workplace interviews. These interactions enhanced the FWO's understanding of both the nature and market dynamics of the Harvest Trail.

Informed by this knowledge as well as the detailed research undertaken during the Inquiry, the FWO has formulated the following action plan in order to address the key findings of this report:

1. Establish a Harvest Trail Working Group

The FWO will establish a Harvest Trail Working Group within the FWO, to coordinate and prioritise the next phase of education, engagement and compliance activities for the Harvest Trail.

The Harvest Trail Working Group will consult with stakeholders as appropriate to inform its work. This will include the referral of this report and the consumer research report to the Migrant Workers' Taskforce.

2. Enhance compliance through information, education, and support

The Harvest Trail Working Group will help growers achieve enduring compliance with workplace laws by partnering with key intermediaries including horticulture industry bodies, such as Growcom⁸⁰, and community organisations. They will work with these groups to educate growers and their employees on their workplace rights and obligations, including the rules around contracting labour, record-keeping and pay slips and piecework arrangements. This will involve working with the sector regarding the drivers of non-compliance and co-designing solutions that drive behavioural change.

The Harvest Trail Working Group will also take forward the findings of the consumer research, by working with key government and non-government partners to develop a coordinated and sustainable communications campaign, informing consumers of how they can play a role in addressing exploitation in the horticulture sector through greater awareness of the 'true cost' of fruit and vegetables.

3. Enhance the regulatory framework

The Harvest Trail Working Group will work closely with government departments and agencies⁸¹ to enhance the regulatory framework that governs the rights and obligations of all Harvest Trail workplace participants, by collaborating on a range of initiatives, including:

⁸⁰ Peak representative body for Queensland horticulture and organisation responsible for the Fair Farms Initiative: <https://www.growcom.com.au/category/media/>

⁸¹ Stakeholders include the Department of Jobs, Department of Home Affairs, Australian Taxation Office, Migrant Workers Taskforce AUSTRAC, Australian Securities and Investments Commission, Australian Consumer and Competition Commission, Department of Foreign Affairs and Trade, other key state and local government workplace regulators

- Operationalising recommendations of the Commonwealth Government’s Migrant Workers’ Taskforce relating to the employment of labour on the Harvest Trail.
- Operationalising recommendations of the Black Economy Taskforce as they relate to record-keeping and pay slip provisions on the Harvest Trail. This includes establishing communication channels to exchange information with AUSTRAC on suspicious money transfers and persons of interest.
- Subject to the passage of the legislation, monitoring the impact of the Commonwealth Parliament’s *Modern Slavery Bill 2018* as it relates to major fruit and vegetable retailers.⁸²

4. Build a culture of compliance on the Harvest Trail

The Harvest Trail Working Group will prioritise operational activities on the Harvest Trail and collaborate with a range of key stakeholders to reach as many industry participants and consumers as possible.⁸³ Specifically, the FWO will seek to:

- include the Harvest Trail in the FWO’s priority areas for proactive compliance and enforcement activities, ensuring that results are well publicised
- leverage the record-keeping provisions detailed in the ‘Protecting Vulnerable Workers’ legislation to target seriously non-compliant businesses
- ensure clarity around the understanding and application of various labour hire licensing schemes
- explore the opportunity for compliance partnerships with leading horticulture sector businesses
- leverage recommendations and outcomes from the Migrant Worker Taskforce as they relate to the Harvest Trail.

5. Report to government and stakeholders

The FWO will provide this report to:

- the Commonwealth Minister for Jobs and Industrial Relations
- Professor Alan Fels, Chair - Migrant Workers Taskforce
- key stakeholders associated with the Harvest Trail.

⁸² http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fbills%2Fr6148_first-reps%2F0000%22;rec=0

⁸³ Stakeholders including Recruitment, Consulting and Staffing Association Australia and New Zealand, National Union of Workers, State and Local government workplace regulators responsible for Labour Hire Licensing, , major retailers, including Coles, Woolworths, IGA and Aldi, Australian Workers Union, Horticulture Workers Interagency Group (Queensland), Horticulture Innovation Australia, Mildura Council , Lockyer Valley Regional Council Southern Downs Regional Council, Bundaberg Regional Council

Conclusions

The Inquiry undertaken by the FWO uncovered widespread and concerning non-compliance with workplace laws in the horticulture industry.

The FWO will continue to maintain a key focus on this sector due to:

- the high proportion of vulnerable workers employed, including seasonal and young workers
- ongoing uncertainty concerning certain matters at law regarding the application of provisions within industrial instruments, for example, the application of piece rates
- ongoing issues relating to Harvest Trail labour supply and demand that can drive non-compliance, such as the availability and standard of accommodation and transport services
- the need to empower consumers with more information about pay and work conditions for workers involved in picking, packing and processing fresh food produce.

The Inquiry findings detailed in this report only include instances of non-compliance that could be supported by evidence.

The Inquiry found a combination of factors that contribute to an environment where breaches of workplace laws are more likely.

The Inquiry highlights the need to build a culture of compliance and accountability amongst beneficiaries of labour, in particular, those at the top of the labour supply chain. The research indicates consumers require confidence in businesses that supply food and the recommendations in this report will build confidence.

The five key findings of this Inquiry, in part reflect the difficulties the FWO encounters when seeking to enforce workplace laws on the Harvest Trail. For instance, the geographical isolation and remoteness of several parts of the Harvest Trail makes it difficult for the FWO to maintain a constant and visible presence for each harvest season, even during an extended Inquiry.

The FWO cannot be present in all locations along the Harvest Trail at all times. However, the passage of the *Fair Work Amendment (Protecting Vulnerable Workers) Bill 2017* enables the FWO to address the most serious and deliberate cases of non-compliance through targeted interventions and strategic litigations.

Employers who provide Fair Work Inspectors with false and misleading information, or who choose not to keep employment records now face significant penalties, and employers will hold responsibility to demonstrate their compliance. These provisions will significantly affect cash-based businesses.

The FWO will work with key stakeholders and workforce participants in implementing the recommendations contained in the report.

Appendix A – Stakeholder list

Community groups

Queensland Police Service Ethnic Advisory Group

Taiwan Cultural Office

Sunraysia Mallee Ethnic Communities Council

Swan Hill Community Issues Group

Uniting Church of Australia

Local government

Southern Downs Regional Council

Bundaberg Regional Council

Gascoyne Development Commission

Gascoyne Small Business Centre

Mildura Rural City Council

Loxton Waikerie Council

Members of Parliament

Leanne Donaldson MP (ALP-Bundaberg)

Peter Crisp MP (NAT-Mildura)

Andrew Broad MP (NAT-Mallee)

Sharman Stone MP (Liberal - Murray)

Darren Chester MP (NAT-Gippsland)

Keith Pitt MP (Liberal - Hinkler)

Senator Barry O'Sullivan (Liberal - Qld)

Craig Laundy MP (Liberal-Reid)

Senator Michaelia Cash (Liberal-WA)

Unions

National Union of Workers (NUW)

Australian Worker Union (AWU)

Government

Anti-discrimination Commission Queensland

Workcover Queensland

Department of Agriculture, Forestry & Fisheries (Qld)

Bundaberg & District Chamber of Commerce

Department of State Development, Infrastructure & Planning (Qld)

Horticulture Workers Interagency Group (HWIG)

Queensland Office of Industrial Relations

Queensland Police

Queensland Fire and Emergency Services (QFES)

Australian Border Force (ABF)

Department of Jobs and Small Business - Seasonal Worker Programme

Mildura Police

WorkSafe Victoria

Department of Agriculture, Fisheries and Forestry (DAFF)

NSW Department of Primary Industries

Western Australia Department of Agriculture & Food

Industry associations

National Farmers' Federation

Growcom

Ausveg

Voice of Horticulture

Horticulture Innovation Australia Limited (HIA Ltd) (previously Horticulture Australia Limited - HAL)

Fruit Growers Victoria Ltd

Vegetables Western Australia (Potato Growers Association of WA Inc)

Western Australia Fruit Growers Association (Fruit West Co-operative Limited)

AusVeg VIC (Vegetables Victoria)

Victorian Farmers Federation (VFFIA)

Fruit Growers Tasmania

Tasmanian Farmers and Graziers Association

Primary Employers Tasmania

Wine Industry Tasmania Inc

Raspberries and Blackberries Australia Inc

Hunter Valley Wine and Tourism Association (previously Hunter Valley Wine Industry Association)

Batlow Fruit Co-Operative Ltd

Chestnuts Australia Inc

Apple and Pear Australia Ltd (APAL)

Cherry Growers Australia Inc.

New South Wales Cherry Growers

Lockyer Valley Growers Association

Bundaberg Fruit and Vegetable Growers Association

Victorian Strawberry Industry Development Committee

Queensland Strawberry Growers Association

Nursery & Garden Industry Queensland

Wines of Western Australia

Margaret River Wine Industry Association

Great Southern Wine Producers Industry Association

Swan Valley and Regional Winemakers Association

Donnybrook Orchard Improvement Group

Strawberry Growers Association of Western Australia

Sweeter Bananas Cooperative

Carnarvon Growers Association

Wine Victoria

Yarra Valley Wine Growers Association Inc

South Australian Wine Industry Association

Wine Geelong

Onions Australia

Wine Victoria

Wines of Eastern Gippsland

Australian Asparagus Council

Coonawarra Grape and Wine Incorporated

Apple and Pear Growers Association of South Australia

Cherry Growers Association of South Australia

Berry Growers of South Australia

Oz Group Co-Op Pty Ltd

Australian Blueberry Growers Association Inc

Australian Mushrooms Growers Association Inc (AMGA)

Heathcote Wine Growers Association

Stanthorpe Growers Association

Citrus Australia

New South Wales Farmers Association

Other - Industry

Costa Group

Coles Group Limited

Woolworths Group

Appendix B – Consumer Research

[Download Instinct and Reason – Harvest Trail Consumer Behaviour Research Report September 2017](#)



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reason

Harvest Trail – consumer behaviour

Fair Work Ombudsman

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1. Introduction

The Harvest Trail project was established in 2013 by the Fair Work Ombudsman to ensure workers in fruit and vegetable picking jobs received their correct minimum employment entitlements. The three-year project comprised education and compliance activities in a variety of seasonal crop sectors followed by a series of strategic compliance and enforcement interventions to influence the supply and management of labour and reinforce both specific and general deterrence messages.

Through the project the Fair Work Ombudsman has acquired a better understanding of the sub-sector and the key drivers of deterrence. A report is now being prepared detailing:

- how the sub-sector operates
- the drivers of non-compliance
- the interventions of the Fair Work Ombudsman
- the strategies employed to influence behavioural change at the ‘top of industry’ level, and
- new monitoring arrangements.

The Fair Work Ombudsman aims to promote policies for the subsector that will produce ‘entire industry’ or system-wide compliance (as opposed to the traditional employer-by-employer compliance approach). The final report will be a benchmark report for the sub-sector and a useful reflection on what monitoring arrangements are required in the future.

This research has been designed to provide another layer to the Fair Work Ombudsman’s consideration of the sector by looking at the attitudes of consumers and whether by increasing their knowledge and understanding of pay and work conditions within the sector, the community could bring pressure on fruit and vegetable retailers to ensure produce is ethically sourced.

The past few years have seen growing media coverage and public awareness in Australia around questions of food provenance and animal welfare while supermarkets have come under considerable public and political pressure over their treatment of Australian farmers and perceived uncompetitive pricing practices.

The mainstreaming of ethical concerns cannot be understood simply as a consumer movement or indeed purely as an extension of market logics; rather it is articulated to and implicated in broader changes in relation to the political and social role and status of corporate players, non-state actors and questions of lifestyle politics in shaping the future of food systems, policy and regulation.

2. Background, objectives and methodology

Background

In August 2013 the Fair Work Ombudsman began an inquiry that sought to affect behavioural change in the horticultural and viticultural industries to help address known and perceived systemic non-compliance with Commonwealth workplace relations laws. The agency recognises the need to better appreciate consumer attitudes and buying practices in order to understand why there are systemic non-compliance issues in these sectors, because consumers' purchase price has potential flow on effects to growers.

Objectives

The research objectives were to:

- analyse current research into consumer behaviour to determine buying practices, reasons and motivations underlying these buying practices as well as what circumstances or issues may/would alter the same.
- explore why consumers choose to buy their fresh produce where they do and whether they would change their practices if they knew that workers on farms supplying their produce were being underpaid/exploited.
- explore the factors which have the greatest influence on consumer buying practices, and the reasons and motivations that underlie these buying practices and what circumstances or issues may/would alter the same.

Methodology

The project used a mixed methodology.

Stage 1 was an environmental scan looking at existing reports, grey literature from the National Library of Australia and the Australian Bureau of Statistics databases and Google Scholar, and industry and associated organisation websites.

The search was restricted to English language publications from Australia, NZ, USA, UK, and Canada.

Stage 2 involved in-depth interviews with 20 vendors comprising large supermarkets, independent grocery stores and green grocers, wholesalers and farmers participating in farmers' markets.

Stage 3 involved 280 short intercept interviews with shoppers in large shopping centres in Sydney, Central Coast, Brisbane, Caboolture and Burleigh Heads.

Stage 4 was a 10 minute national online survey and choice model experiment (n=1000)

Stage 5 was a national online discussion forum with 12 active participants held over seven days. Participants were drawn from a variety of shopping location preferences.

3. Executive summary

In summary, the research shows that Australian consumers are:

- Driven by convenience when it comes to fruit and vegetable shopping, followed by quality and price. Consumers tended to believe they were getting the best value for money regardless of where they shopped
- Unaware of some farm workers being paid below minimum wage or having unfair working conditions, and don't believe this should happen
- Willing to purchase ethically-sourced produce over other produce and some would pay more.

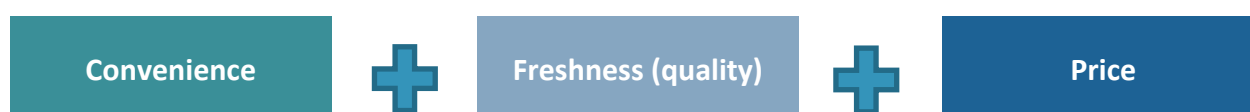
However, the research also suggests that consumers will assume produce has been ethically sourced unless told otherwise, and supermarket research indicates that consumers pay little attention to stickers, labels and signs. Vendors didn't believe consumers thought about farm conditions and when it came to 'ethics' were more concerned that produce was Australian-grown and sold without excess packaging.

Supermarkets set the prices with other vendors using that as a benchmark. All vendors regularly checked supermarket prices. All agreed (including supermarkets) that produce was sometimes sold at below cost to maintain market share—something which supermarkets could afford to do but other vendors could not.

All retailers (not farmers) agreed that if they were to assure consumers that produce had been ethically sourced, they would require an independent auditing and certification system.

Behaviour and attitudes towards shopping

Supermarkets are clearly the most popular venue for fresh fruit and vegetable shopping in Australia with almost everyone interviewed (more than 90% of respondents) having purchased fresh produce from a supermarket in the previous two weeks, compared with 34% who had purchased from greengrocers and 14% from farmers' markets.



People's shopping behaviour is driven by their goals of convenience, freshness (or quality), and price, followed by produce being Australian and/or locally grown. People have different ideas about where they can buy the freshest and cheapest produce, but for those who consider themselves time-poor, the supermarket is usually considered the most convenient. Retailer representatives interviewed believed consumers were driven primarily by price. Internal research by some supermarkets indicated that Australian-grown is often equated with 'quality' by consumers and the research also suggested this.

People who shopped at supermarkets said it was for two main reasons—convenience and price. It's difficult to separate the two because most supermarket shoppers believed they were getting their produce at the cheapest prices. Those who shopped at greengrocers and farmers' market did so because of the freshness of the produce with many saying the prices were also the lowest. Greengrocers in

shopping centres were also seen as convenient, and having a social outing to a farmers' market was also viewed as convenient by some.

Convenience

When it comes to convenience, supermarkets are incontestable as most people regularly shop there for other products. As a consequence, leading supermarkets—Woolworths, Coles and Aldi—promote their credentials on the other two drivers, freshness and price.

Freshness

Freshness was a clear driver with two-thirds of respondents saying they had paid more in the past to get what looked like the freshest produce. Around half said they had paid more to buy Australian-grown produce and a similar number because they knew something had been freshly picked. Quality/freshness is a key driver for everyone—it's the most often cited reason for shopping where they do and also for deciding NOT to buy something. **Rarely does poor quality but cheaper prices appeal to anyone.**

Prices

Prices of fresh fruit and vegetables fluctuate largely because of weather and seasonal factors although media reports suggest prices have regularly increased. Most respondents thought similarly. Although around two-thirds of intercept survey respondents thought that prices had increased over the last 5–10 years, 85% in the survey thought so. Intercept respondents were more likely to think prices had stayed the same (20%) compared with just 12% of respondents in the online survey.

Busy lives

The survey results highlight a significant difference between where people shop and where they would like to shop. While the supermarket is significantly more popular as the actual venue, it is rivalled by greengrocers and farmers' markets as where people would shop if they had the time. When asked where people would shop if time wasn't an issue, every shopping venue increased apart from supermarkets which fell from 91% to 64%. Greengrocers increased from 34% to 58% and farmers' markets from 14% to 57%! **This strongly suggests that the prevalence of supermarket shopping is driven mostly by convenience.**

Australian grown

Australian-grown was also a driver although most people presumed produce was Australian-grown unless signed otherwise. Part of the motivation for buying Australian was to support farmers, but the greater motivation was around freshness and safety—there were strong opinions about food from overseas, regardless of origin, having been produced under less stringent safety regimes. Supermarkets pointed to the 2015 frozen berries recall as having triggered greater concern about this.

Locally grown

While locally grown and Australian grown were seen as similarly important, 'food miles' was rarely raised as an issue. Those for whom locally-grown was a prime driver cited freshness and support for local farmers and their local community. Regional/rural retailers claimed that 'locally grown' was usually supported over produced not signed locally-grown.

Pay and conditions for farm workers

Most people were surprised that unfair pay and/or conditions were possible on Australian farms because they believed our laws prevented this. Perhaps surprisingly, the issue of backpackers, refugees and immigrants, and those working under the seasonal worker program was rarely raised despite it being

topical at the time the research was in the field. Retailers interviewed suggested the public's understanding and awareness of labour issues was low due to day-to-day concerns, for example the cost of living, taking priority. This was supported in the qualitative research.

The majority wanted the situation fixed and thought this was the responsibility of government (72%), supermarkets (63%), farmers (74%) or the workers themselves. People living in regional Australia however were more likely to think it was a matter between the farmer and the worker.

People were keen to know how prices were determined so they could have an informed approach to what they were prepared to purchase. Most were prepared to pay a little more to ensure workers received fair treatment. Trust was not high (29%) in supermarkets and most people wanted some type of authentication/verification system to ensure they knew what they were buying and in the case of greengrocers and independent stores, they also knew what they were buying from produce markets.



Recommendations

Educate

The public needs information and education about the harvest trail and how prices are determined. They suspect but need more information about the role and power of supermarkets in this process. Their ability to influence ethical sourcing is dependent on this.

Vocabulary

At present, the community does not have the language to talk about these issues. 'Ethical sourcing' or 'domestic fairtrade' or similar terms need to be introduced through education and public discussion.

Marketing opportunity

Promoting produce for sale as having been ethically sourced could be a marketing opportunity (or unique selling point) at this early stage. If the concept of ethical sourcing becomes understood and appreciated, not being able to demonstrate ethical sourcing will detract from a vendor's branding over time. However it is a concern that supermarkets are in a far better position to promote ethical sourcing than independent grocers or greengrocers, giving them an advantage should ethical sourcing become a consumer expectation.

Build trust

There needs to be a system to identify that produce has been ethically sourced. Suggestions include stickers on fruit and vegetables (although supermarkets claim this would be unlikely to be effective), and fruit and vegetable boxes stamped as having been verified. A verification system would require independent auditing and while supermarkets could afford this, other retailers are unlikely to be able to.

4. Views from the vendors

Supermarkets	Greengrocers and independents	Farmers
<ul style="list-style-type: none"> ✓ Awareness of ethical sourcing ✓ Interest in ethical sourcing ✓ Ability and intention to act to ensure and promote their ethical sourcing ✓ Perceived benefits to the vendor in ethical sourcing ? Will increase prices for ethical sourcing 	<ul style="list-style-type: none"> ? Awareness of ethical sourcing ? Interest in ethical sourcing ✗ Ability and intention to act to ensure and promote their ethical sourcing ? Perceived benefits to the vendor in ethical sourcing ? Will increase prices for ethical sourcing 	<ul style="list-style-type: none"> ✓ Awareness of ethical sourcing ? Interest in ethical sourcing ✗ Ability and intention to act to ensure and promote their ethical sourcing ? Perceived benefits to the vendor in ethical sourcing ? Will increase prices for ethical sourcing

Supermarkets are more advanced in looking at and planning to incorporate ethical sourcing into their purchasing than any other vendor. Farmers are aware of the issue but are not convinced that consumers are interested in working conditions on the farm. Greengrocers and independent grocery stores appeared less aware but believed they could not afford an auditing system to ensure ethical sourcing and were also not convinced that consumers cared.

Supermarkets

In-depth interviews were held with the marketing manager/ethical sourcing managers of four large, publicly-listed fruit and vegetable retailers.

What do they think about ethical sourcing?

Ethical sourcing is clearly on the agenda of the large supermarkets and specialist retailers and this group understands the impact of ethical sourcing, and possibly more importantly the impact of not ethically sourcing, more than any other vendor group.

These retailers all claimed that ‘they were doing all they could’ to ensure ethical sourcing in terms of environmental issues and labour, and cited ‘responsible sourcing targets’ as evidence of this. ‘Ethical sourcing’ however has become a ‘catch-all’ and for most included other issues as well as labour such as habitat destruction and excessive plastic packaging.

Retailers appeared to be approaching ethical sourcing from a risk-management perspective. They saw a risk to their brand in being found to be sourcing produce from farms where workers were being exploited and so saw their ethical sourcing as a risk mitigation strategy, as opposed to something they could promote to their advantage.

What are they doing about ethical sourcing

The retailers all had broad policies in place for ethical sourcing and internal audit systems to check compliance. One retailer spoke of having producers categorised on a tiered system, marking those they were working with to bring them to an appropriate standard.

As mentioned before, ethical sourcing was more than just labour. Internal supermarket research suggested that consumers were more concerned about their produce being Australian-grown and that 'ethics' were low on the list.

Retailers were looking at ethical sourcing across the whole business, from their stock through to the people who manage the trolleys. Their sustainability and ethics policies were also looking to enhance traceability of manufacturing and growing. All retailers were looking to each other to determine best practice.

"We have a five year strategy in place to ensure everything stocked in our stores is ethically sourced."

Do they see benefits in it for themselves and or for consumers?

Overall, supermarkets believed there was a very low interest in issues related to labour and had no plans to promote it.

"While all the information is made publicly available, we don't want to make a song and dance about it, because it's not a problem we can solve on our own. We are just quietly doing what we can and hope to lead by example."

"It's something that isn't a big selling point, but if overlooked it becomes a big issue."

"Broadly speaking, Australian consumers' understanding of sustainability and ethics is not that sophisticated... most people are just focused on getting food on the table for their families."

"When something receives media coverage, you notice a shift in consumers...then it goes back to the way it was."

"We will usually get about 2000 calls a day to customer inquiries, roughly. When the berries with hepatitis issue occurred, we received thousands of calls on our customer inquiry line. When the report came out on backpackers on farms, we received maybe ten calls about that issue."

Supermarkets felt that consumers didn't take a lot of notices of labels because there are so many and because most people don't actually understand what the label was saying, resulting in fairly low levels of trust.

"There's a lot of 'label fatigue' – not everyone knows the full story behind all the labels out there, there are so many."

Supermarkets claimed that ethical sourcing was built into their business—rather than singling out any specific product, they wanted their customers to feel confident that everything in their stores was ethically sourced.

"If individual retailers were accredited, and it was a transparent and trusted accreditation; this would work better than labels, for example."

Do they think it would impact on price to consumers

Retailers were uncertain about the premise of a price increase for ethical sourcing and raised the perennial issue of what consumers would like to do and actually do being totally different.

“I imagine for some it would impact on price, but you’d like to think this was already in place.”

“Price speaks loudest to customers. Everyone has aspirational, ideal behaviour... but most are budget-conscious.”

“Consumers shouldn’t have to ‘choose’ between ethical or not, it should be a given.”

Greengrocers, independent mixed grocers

Greengrocers and the small independents seemed to be caught between the size and immense buying power of the supermarkets and the local relationships offered at the farmers’ markets.

What do they think about ethical sourcing?

Ethical sourcing may be on the agenda of greengrocer industry groups but it was not apparent at the local shop level. Most greengrocers saw the pay and conditions on the farms from which they purchased to be either completely out of their hands or something they had little control over.

“My buyer goes to the market in Sydney and I trust him to buy the best produce at the best prices but he wouldn’t know anything about the working conditions on the farm. How could he?”

“I try to buy local wherever I can but I don’t know that I could ask what they paid their workers...and how would I know if they were telling the truth? It’s like asking if someone cheats on their taxes...”

The greengrocers and small independents pride themselves on a loyal customer base and keeping up with their needs. Many greengrocers now sell related produce (pasta, sauces, condiments) offering the customer a one-stop-shop for a meal.

These retailers are keenly aware of what prices the supermarkets are selling for and try to match them if at all possible.

“Sometimes you just can’t. They’re selling for less than what I can buy for. Sometimes they’re even selling for less than what they buy for!”

Greengrocers and independents were more open to the idea of promoting produce grown with fair wages/conditions but varied in their opinion of whether or not it would attract customers—it depended on their locality and customer base.

These retailers were supportive of farmers paying workers fair wages and providing fair conditions and if there was an independent verification system would support it. They couldn’t afford to take responsibility for auditing, whereas they believe the supermarkets can and probably do, and therefore there is potential for an unfair playing field if supermarkets advertised this.

Farmers

What do they think about ethical sourcing

Farmers were much more likely to speak about sustainability than ethical sourcing and saw wages and conditions as a very real part of the sustainability issue the industry was facing. No-one we spoke with admitted to paying below minimum wages with most saying it just wasn't worth it.

"If you want someone to do a fair day's work, and that's what I expect, then you have to pay them a fair day's wage."

"I pay my staff minimum wage, I have to. But it's a struggle, do you know how much it costs to run a farm?!"

Some farmers said they sourced their workers through an agency and while they knew they paid the agency more than the award wage, they couldn't be sure what was paid to the workers. Some said they relied on family to help during the picking season, but this was becoming more difficult to do with fewer young people interested in continuing with family farms. Over the years, smaller families and children moving off the family farm has affected the costs and economic sustainability of the farm. Some spoke of their reliance on backpackers for labour.

"We really rely on backpackers—Australians don't want to do this work. So we treat our workers well, because we couldn't survive without them."

Would they promote ethical sourcing to their customers?

Like supermarkets, farmers were not convinced that consumers cared about pay and working conditions on the farm. They thought that consumers were becoming more interested in where the food came from in terms of the climate, the soil, fertilisers, pesticides and herbicides, but not about labour that contributed to the produce being brought to market. They pointed to the prices consumers wanted to pay for produce as an example.

Farmers selling at farmers' markets were convinced that it was the freshness of the produce that brought customers to them. They said consumers liked to be engaged with issues of where their produce came from but they didn't think this included issues of labour.

If asked whether consumers would pay a little more if their stall was signed as 'all farm workers paid minimum wage' they said no, "customers would just go to the next stall". It was unclear whether this reaction is because few consumers know that some workers have unfair pay and conditions, or because they just don't care.

Some farmers did consider that their commitment to the industry, as shown by their offering fair wages and conditions, could be an advantage if they were shown some recognition for this; however, they hastened to add that they would prefer subsidies, tax concessions, etc. to assist with running their businesses and sustaining the industry.

"If I see 200-300 customers in a day, maybe 3 or 4 will ask questions that are about the farm."

"You have to educate consumers about the reality of where their food comes from first. They have no idea."

Farmers were very aware of what supermarkets were charging and tried to align their prices to those whenever they could. This sometimes gave them a good profit but sometimes didn't.

"If I charged according to what it costs to produce this... for example, in bad weather a lettuce would cost \$10 a head."

"If we can charge \$45 for an 8kg box of broccoli, that's ok for us. We start making a loss when it gets to \$30 a box."

Ability and intention to act	Perceived benefits
<p>All supermarkets appeared to have undertaken considerable work in this area. It was unclear whether their pricing would change but the expectation was that it wouldn't and shouldn't.</p> <p>As raised by greengrocers, independents and some farmers, it was much easier for supermarkets to do this because of the business relationship they have with their suppliers.</p> <p>For greengrocers and independents, the relationship with the supplier is different or is through an agent. To be assured they were sourcing ethically would require an auditing system which they could not afford to implement.</p>	<p>Supermarkets clearly perceive benefits to themselves, largely in terms of avoiding the risks associated with being seen to source produce from farms with poor working conditions or production systems. It is unclear to them whether there would be a marketing advantage. Green grocers and independents are also unclear about this.</p> <p>The research indicates it would provide some advantage if there was no price increase. This suggests that supermarkets will receive the advantage but greengrocers and independents would require independent auditing to be able to compete.</p>

5. Consumer shopping behaviours

Where do people purchase and why?

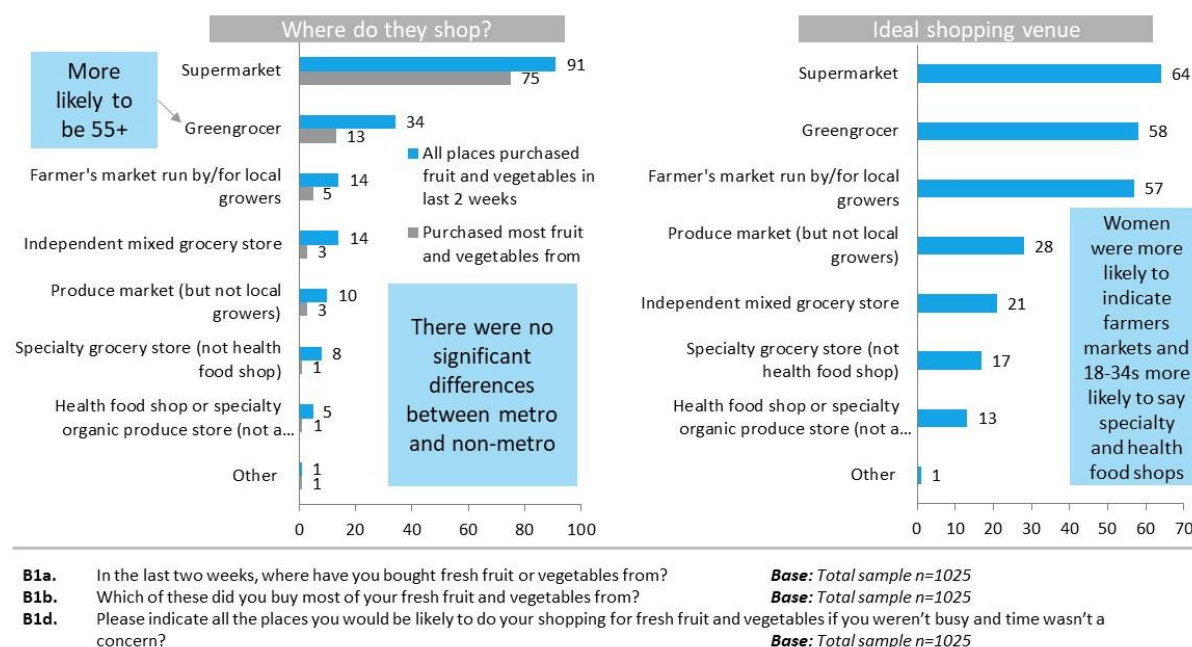
The online survey showed clearly that supermarkets were the most popular place to purchase fresh fruit and vegetables. As can be seen in figure one below, almost everyone (91%) had purchased fresh produce from supermarkets in the last two weeks compared with 34% from greengrocers and 14% from farmers markets, although fewer (75%) claimed the supermarket was where they bought most of their fruit and vegetables.

This figure fell even lower when respondents were asked where they would shop for their fruit and vegetables if time wasn't a concern for them. In this case, 64% said that supermarkets would be one of the places where they'd shop for fruit and vegetables, but 58% said greengrocers and 57% said from farmers' markets.

This suggests that convenience is the most significant driver for why people shop for fresh fruit and vegetables at supermarkets.

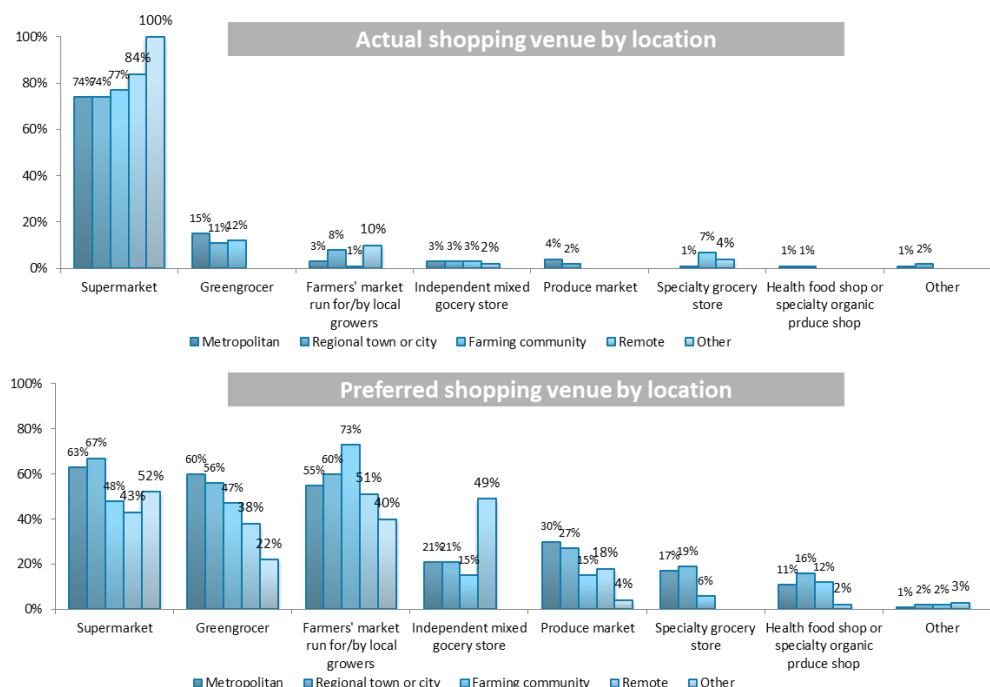
It appears supermarkets are used for convenience because if people 'weren't so busy' almost as many would purchase from greengrocers or farmers markets.

Figure 1 Where people shop for fresh fruit and vegetables



The figure shows actual place of shopping and ideal place of shopping broken down by metropolitan, regional, farming community and remote locations.

Figure 2 Where people shop by location



B1b. Which of these did you buy most of your fresh fruit and vegetables from?

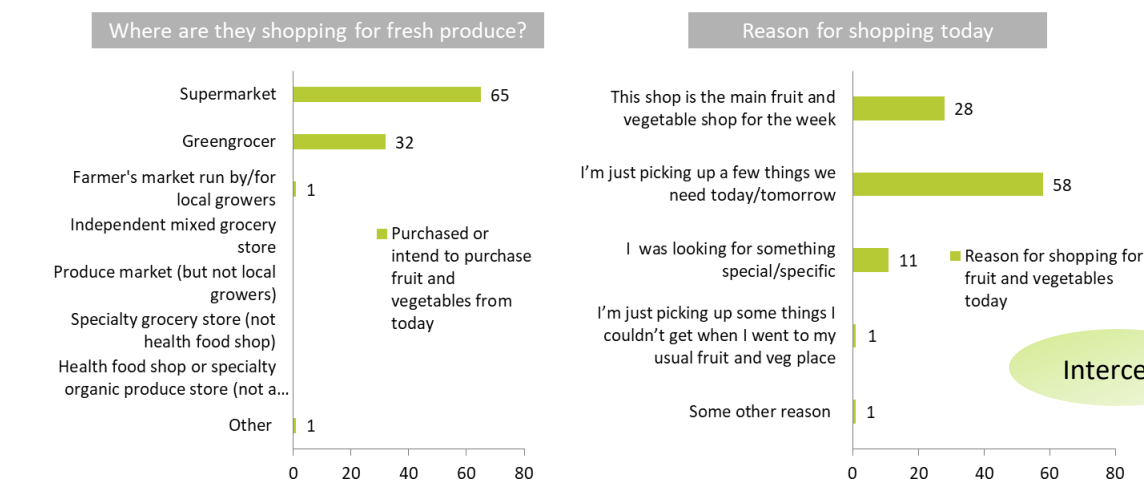
Base: Total sample n=1025

B1d. Please indicate all the places you would be likely to do your shopping for fresh fruit and vegetables if you weren't busy and time wasn't a concern?

Base: Total sample n=1025

As might be expected, intercept interviewing in shopping centres identified fewer people who shopped for fresh produce at places other than supermarkets (65%) and greengrocers (32%). Today's shopping patterns (fewer people doing weekly shops) were reflected in the majority (58%) picking up what was needed for a couple of days and 28% doing their main shop for the week.

Figure 3 Shopping patterns



Q4. Where have you bought your fruit and vegetables from today, or where do you intend to buy these from?

Base: n=280

Q5. Which of the following statements best describes the purpose of your fruit and vegetables shopping today?

Base: n=280

Convenience was the main reason people shopped where they did with 63% citing this reason. There was a drop to 25% and 23% respectively for low prices and best quality and a drop again to 7% for variety and choice.

Table 1 Reasons for shopping where they do

Reason	n=	%
Convenient, close to home, where I usually shop, all shopping in one place	647	63%
Cheapest, good prices,	257	25%
Freshest, best quality, reliable	240	23%
Variety, wide range, choice, has organic	73	7%
Locally grown, know the farmer, support local business, help our farmers, markets fresh food	55	5%
Specific venue (no reason given)	28	3%
No particular reason	22	2%
Online	10	1%
Loyalty points	7	1%
Australian grown	4	0%
Health- healthy, supermarkets feed GMO	2	0%
Home delivery from supermarket	1	0%
Seconds fruit and vegies available	1	0%
Other	2	0%
Don't know	8	1%

Very busy shop so I know produce is fresher

Because everything was freshest. They taste good and the farm looks really nice and they sell really good products

It was where I was doing the rest of my grocery shopping

We live in the country. Too far away from fresh food stores

B1c. Why did you buy most of your fresh fruit and vegetables from this place? **Base:** Total sample n=1025

Asking people to spread 100 points across their reasons for shopping where they did showed that price was the key driver (mean score of 19.66%), followed by quality (17.34%, a statistically significant drop), and location (14.38%, another statistically significant drop). Knowing a product was ethically produced received a score of just 2.65%.

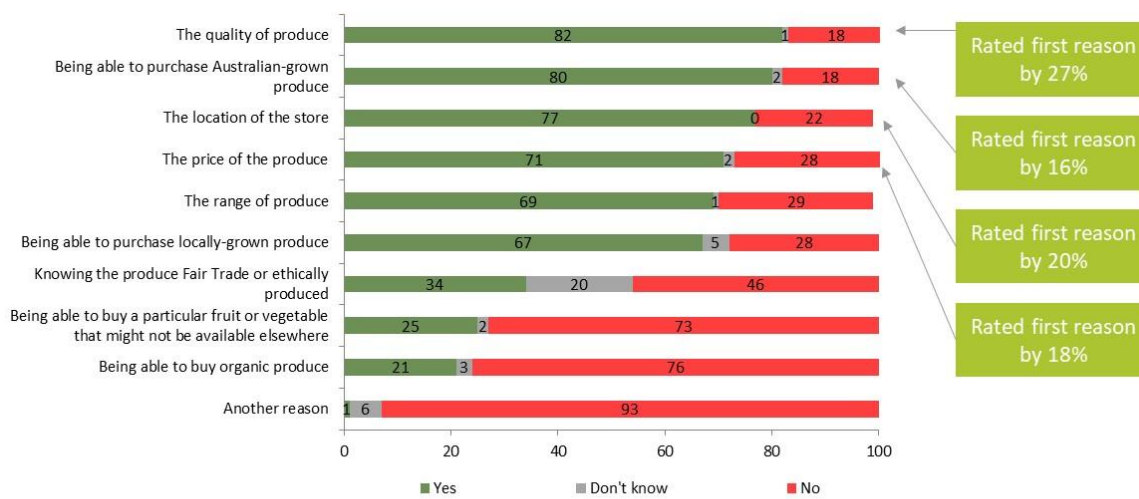
Figure 4 Drivers of shopping location choices



B4. Thinking about the place where you usually shop for fresh fruit and vegetables, we'd like to know, out of a score of 100, how important each of these issues is to your decision to shop there.

Base: Total sample n=1025

The intercept interviews show quality, Australian-grown and the location of the store being the main drivers for people shopping where they do. Knowing something was ethically produced was rated first by just 2% of respondents, second by another 2% and third by 4%. It was, however, considered more important than organically produced fruit and vegetables.



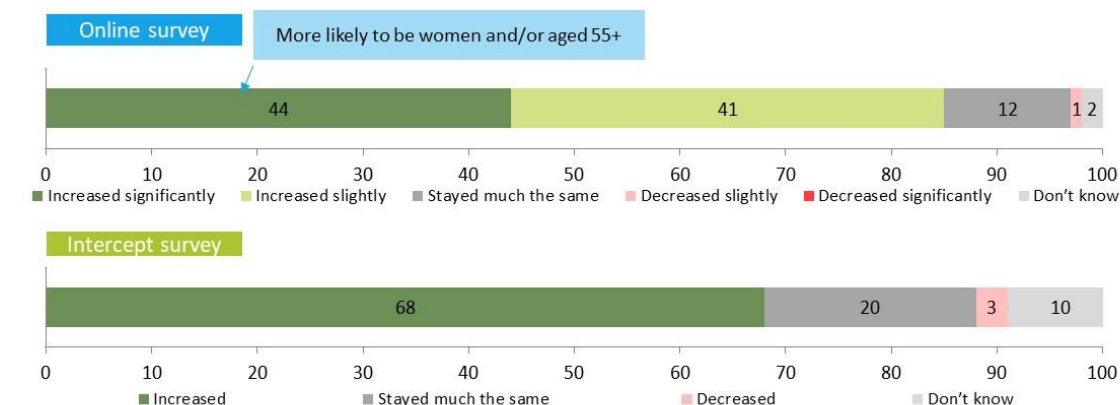
Q8a I am going to ask you a few questions about why you shopped for your fruit and vegetables where you did (or are going to) today. Was it because of... Base: n=280

Perception of the cost of and fruit and vegetables

Prices of fresh fruit and vegetables fluctuate largely because of weather and seasonal factors although looking at media coverage, commentary suggests prices have regularly increased. Most respondents thought similarly.

Although around two-thirds of intercept survey respondents thought that prices had increased over the last 5-10 years, 85% of survey respondents thought this. Intercept respondents were more likely to think prices had stayed the same (20%) compared with 12% of respondents in the online survey. Farmer stallholders interviewed believe that supermarkets set price expectations of consumers, leaving them little room to move when it comes to weather events, for example.

Figure 5 Price of fruit and vegetable over last 5-10 years



B2. Thinking about prices over the last 5-10 years, do you think the cost of fresh fruit and vegetables has ... **Base:** Total sample n=1025
Q6. Generally speaking, do you think the cost of fruit and vegetables... **Base:** n=288

What consumers look for

Around one quarter of respondents said that freshness was the first thing they looked for—22% rated it second and 15% third. Locally-grown was first for 19%, second for 11% and third for 10%. Price was ranked first by 18% but with high scores for second (17%) and third (19%). Australian-grown and seasonality were also ranked highly. This is shown in the figure below.

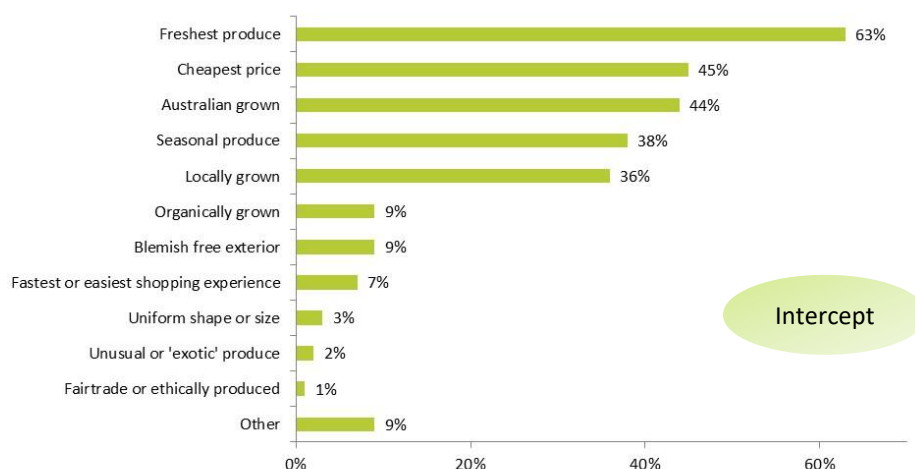
Figure 6 What consumers look for in fresh fruit and vegetables



B3. When you are buying fresh fruit and vegetables, what is the first thing you look for? What is the second? What is the third?
Base: Total sample n=1025

Those interviewed in the intercept survey were asked for the three most important things they looked for. Almost two-thirds in the intercept survey said freshest produce, 45% said price and 44% said Australian-grown. Seasonal produce at 38% and locally grown at 36% were the next most cited reasons. There was a drop down to organically grown and other attributes at 9% or less.

Figure 7 What people look for in fresh fruit and vegetables - intercept

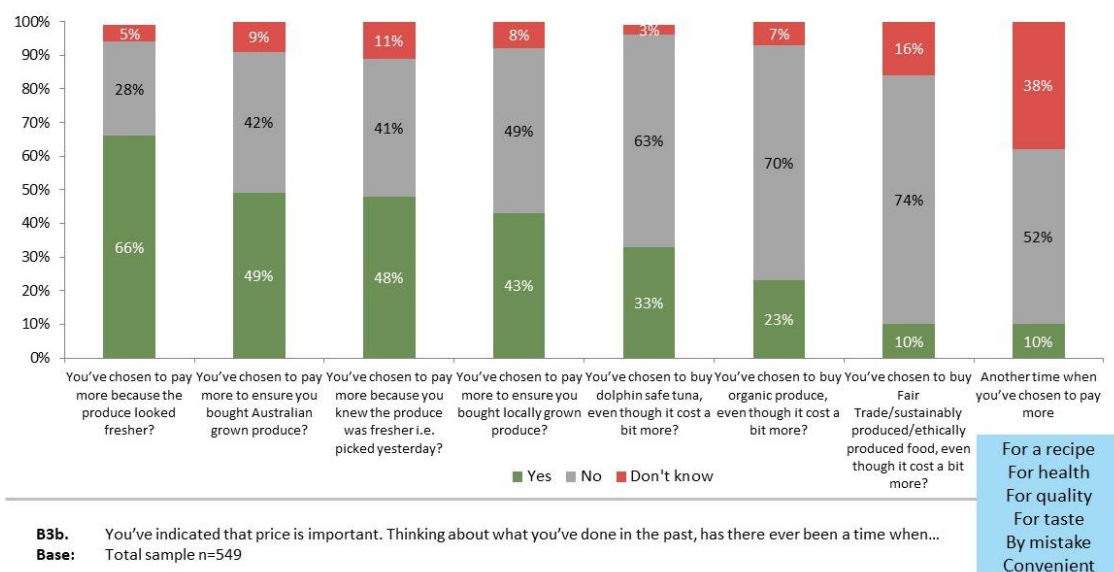


Q7. When you are buying fresh fruit and vegetables, what do you usually look for? Please select up to three things that are important to you.
Base: n=280

When do consumers choose to pay more?

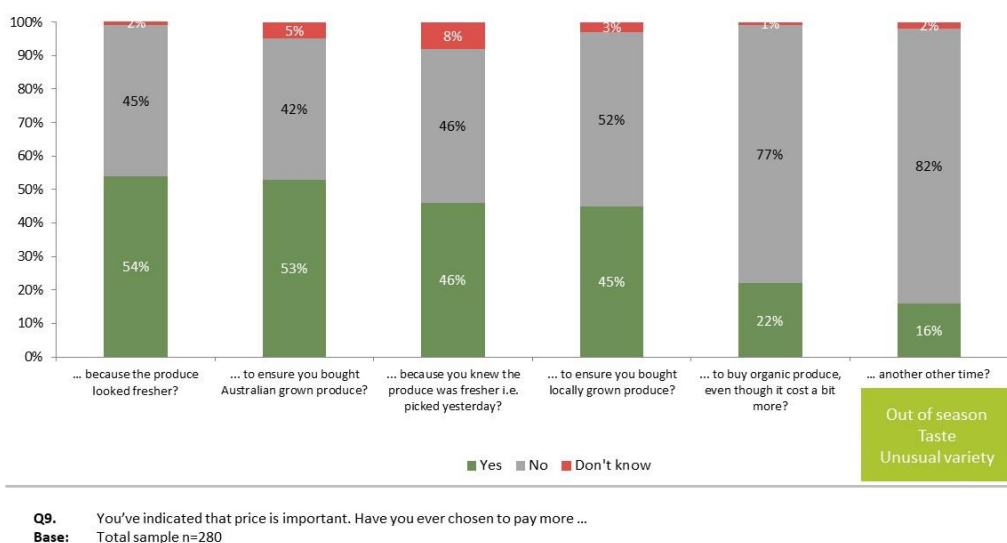
Freshness continues to be the main driver with two-thirds of respondents saying they have paid more to get what looked like the freshest produce. Around half said they had paid more to buy Australian-grown produce and a similar number because they knew something had been freshly picked.

Figure 8 Reasons consumers have chosen to pay more



Freshness was also the most commonly given reason for paying more by those interviewed in the intercept survey (54%) although buying Australian produce was almost equal (53%) and locally grown at 45%. While offered fewer possible reasons for choosing to pay more than the cheapest price, responses from the intercept survey followed the same pattern as those from the online survey. Freshness, Australian-grown and locally grown were clear drivers for paying more.

Figure 9 Reasons for paying more for fruit and vegetables - Intercept



6. Consumer attitudes towards produce

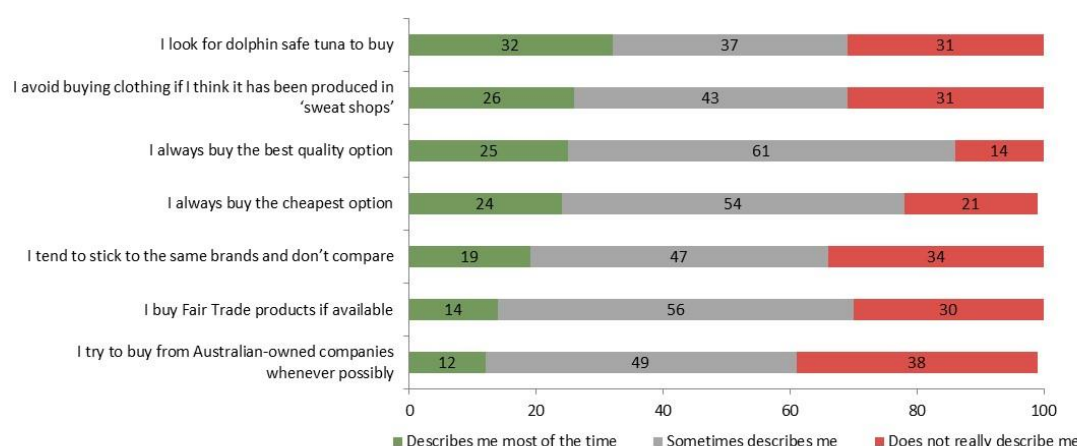
Food production and purchasing influences

Buying habits

Looking at general buying attitudes and behaviours, the desire to buy dolphin-safe tuna was important to a third of respondents. Around one quarter of respondents said they avoided buying clothing produced in ‘sweat shops’, always try to buy quality but also buy the cheapest options. Only 12% said buying from Australian companies was important to them, although when it comes to fresh fruit and vegetables, many more people say this is important.

People aged 55+ were more likely to buy dolphin-safe tuna, buy from Australian companies and avoid buying from ‘sweat-shops’. People living in regional areas were more likely to say they buy from Australian companies and women were more likely to buy dolphin-safe tuna. 18-34 year olds were more likely to say they always bought the cheapest options, and 55+ the best quality.

Figure 10 Consumer attitudes



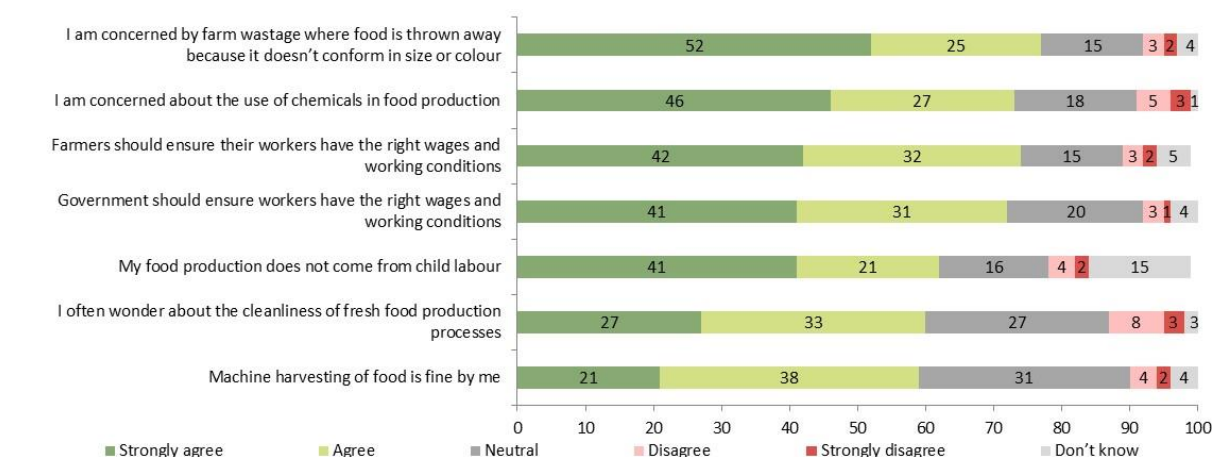
C1. Thinking about your buying habits in general, how strongly do you believe the following statements describe you?
Base: Total sample n=1025

Food production

When it comes to food production people have quite strong opinions—77% are concerned about farm wastage and 73% are concerned about chemical sprays. 74% believe farmers should ensure their workers receive fair pay and conditions (5% don't) and 72% believe the government should ensure fair pay and conditions (4% don't).

Those aged 55+ have strong opinions—they were more likely to strongly agree that child labour was not used in their food production, that they were concerned about food miles and reports of wastage, and that farmers were responsible for ensuring fair pay and conditions, and more likely to strongly disagree that overseas farm workers were paid fairly. People from regional areas were also more likely to be concerned by reports on food wastage and believe that farmers were responsible for ensuring fair wages and conditions.

Figure 11 Attitudes towards food production

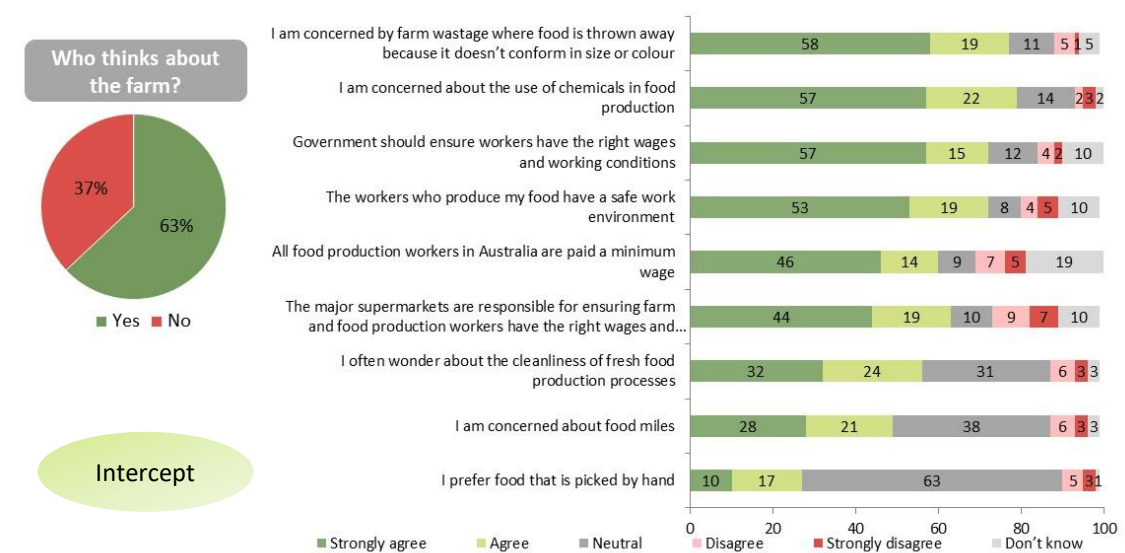


C2a. Please read the following statements and indicate how strongly you agree or disagree...
Base: Total sample n=1025

The intercept survey found that while 72% believed the Government should ensure that farm workers had fair pay and conditions, 72% also believed that workers had fair conditions and 60% believed they received minimum wage. Interestingly, 63% believed supermarkets were responsible for ensuring farm workers had fair pay and conditions.

Almost two-thirds of intercept respondents said that they did think about the farms where their fruit and vegetables were grown and harvested.

Figure 12 Attitudes towards food production - intercept



Q10a. I'd like to talk a bit about the farms that grow and harvest our fruit and vegetables. Do you ever think about the farm and how the food got to you?
Base: n=280

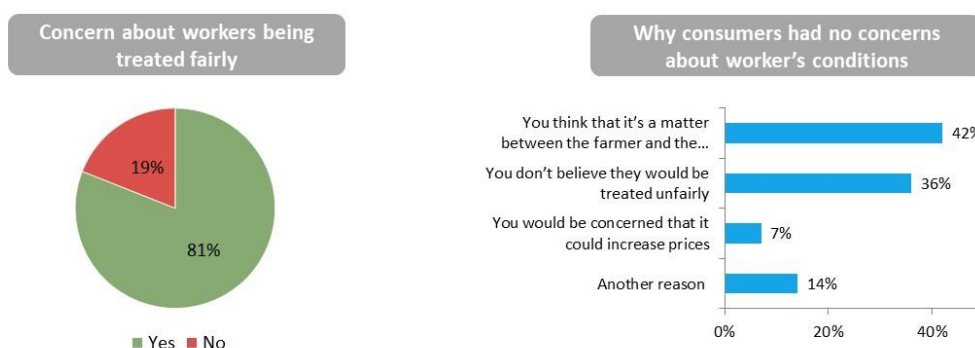
Q11. Please read the following statements and indicate how strongly you agree or disagree... **Base:** Total sample n=288

Produce purchasing influences

Of the 1025 people who completed the survey, 40% were concerned that farm workers might not be paid minimum wage or have fair working conditions and 81% of those people said they would avoid buying fruit and vegetables if they knew the workers had not been paid fairly or given fair working conditions.

Importantly, however, of those who were NOT concerned, 36% didn't believe it possible that farm workers would be paid below minimum wage or given unfair working conditions, and 42% said they thought it was a matter between the farmer and the worker (these people were significantly more likely to be from regional areas). Only 7% feared it could lead to price increases and these were more likely to be aged 18-34 years and/or live in metro areas.

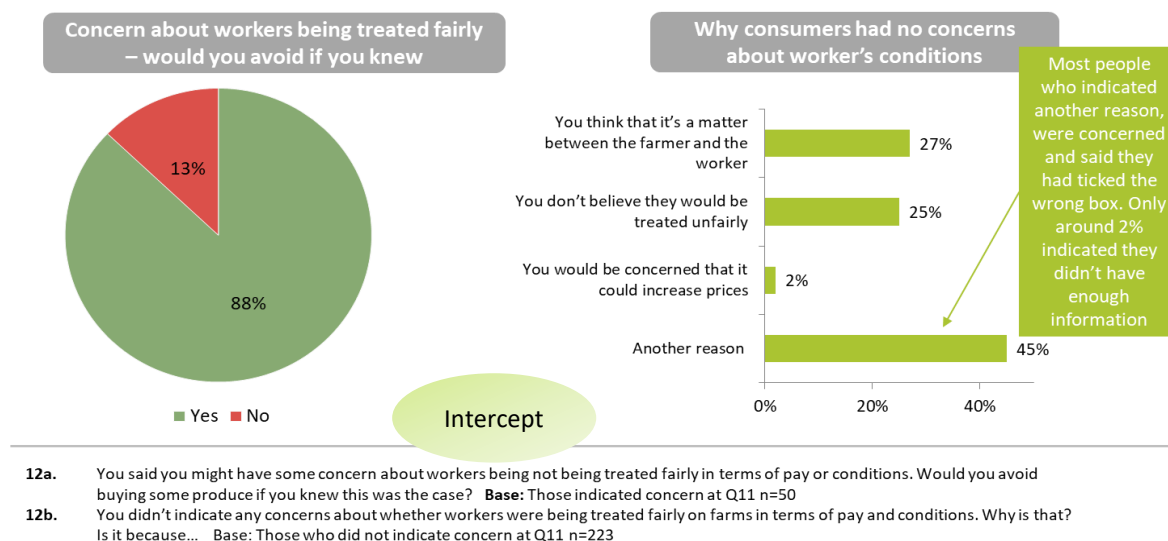
Figure 13 Concern for farm workers' conditions



- C2b.** You said you might have some concern about workers not being treated fairly in terms of pay or conditions. Would you avoid buying some produce if you knew this was the case? **Base:** Those who indicated options 3 or 4 in C2b n=408
- C2c.** You said you had no concerns about workers being treated fairly on farms in terms of pay and conditions. Why is that? Is it because... **Base:** Total sample n=539

Of those who indicated some concern about wages and working conditions on farms, almost nine in ten people said they would avoid purchasing the produce if they knew this was the case. Of those who didn't indicate any concerns, 27% said it was a matter between the farmer and the worker and 25% didn't believe unfair conditions existed on our farms. Only 2% feared it would lead to price increases.

Figure 14 Concern about worker conditions - intercept

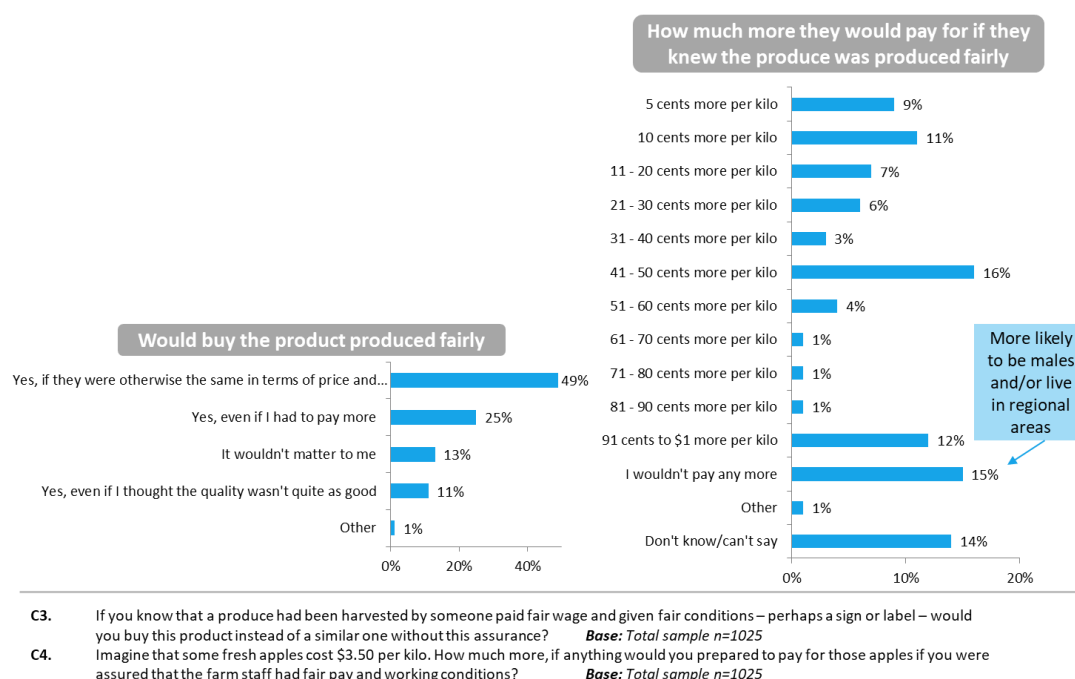


Consumer's spending choices

Three quarters of respondents would buy the product produced under fair conditions. Almost half (49%) would do so if the products were otherwise similar (more likely to be women) and one quarter would be prepared to pay more for this; 11% were even prepared to accept a reduction in quality.

Most people indicated they would pay up to 50c more a kilo and some were prepared to pay around \$1 more. 15% said they would not pay more. 14% indicated that they didn't know, suggesting the need for more communication and education on the subject.

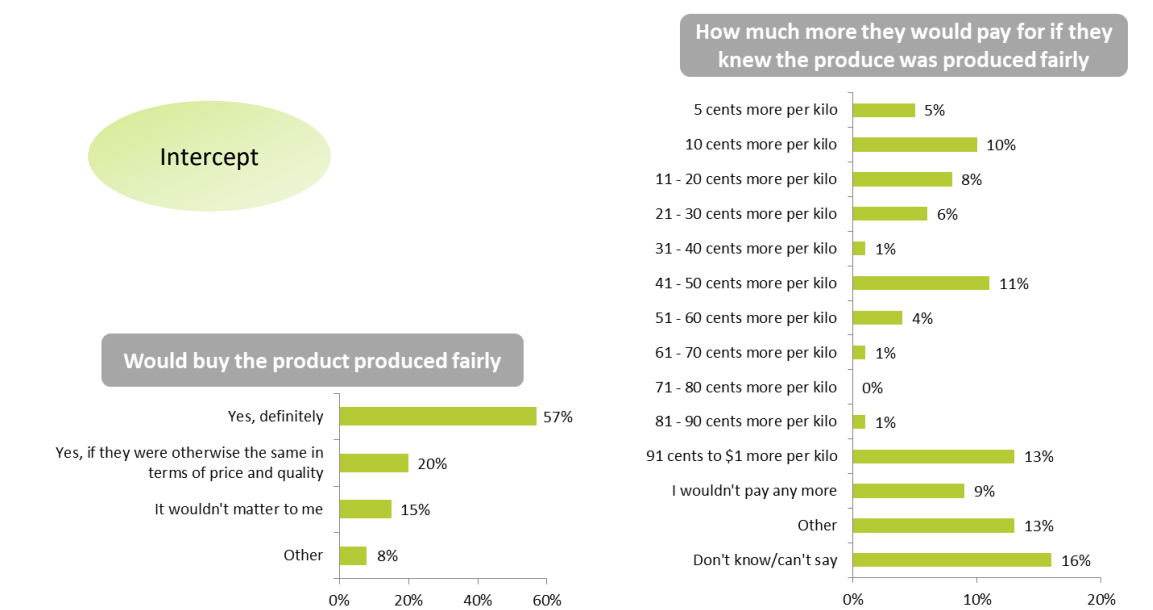
Figure 15 Willingness to pay – online survey



Around three-quarters of respondents would buy 'domestic fair trade' produce if it was signed as such, although 20% of these would hesitate if the product was more expensive. Some people are clearly prepared to pay around \$1 more per kilo to ensure workers had fair conditions. Only 9% said they would not pay more. 16% indicated that they didn't know, again suggesting the need for more communication and education on the subject.

Retailers interviewed were concerned about 'label fatigue' and a lack of awareness of what different (existing) labels represent would add to confusion.

Figure 16 Willingness to pay – intercept



Q13. If you knew for sure that a produce had been harvested by someone paid a fair wage and given fair conditions – perhaps there was a sign or label – would you buy this product instead of a similar one without this assurance? **Base: Total sample n=280**

C14. Some farmers say they can't afford to pay their casual staff the minimum wage because they can't sell their produce for high enough prices. If a product cost a little bit more but you were assured that the farm staff had fair pay and working conditions **Base: Total sample n=280**

Concern and trust

The two figures below show that 60% of respondents were extremely or moderately concerned about reports of some workers on Australian farms are being paid below minimum wage or given unfair working conditions—regional people and those aged 55+ were more likely to be extremely concerned. A further 23% indicated they were somewhat concerned and 11% slightly concerned. Only 3% said they were not at all concerned. Trust in providing accurate information about pay and conditions on the farm was highest in farmers and growers (65%) and lowest in supermarkets (29%). Greengrocers were ranked trustworthy behind farmers and growers at 49%. Distrust followed a similar pattern. Women were more likely to trust farmers markets; 35-54 year olds and regional people the greengrocer; and metro people the supermarket

Figure 17 Concern about reports of some farm workers not having fair pay or conditions

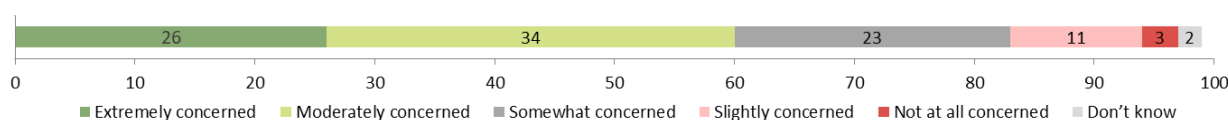
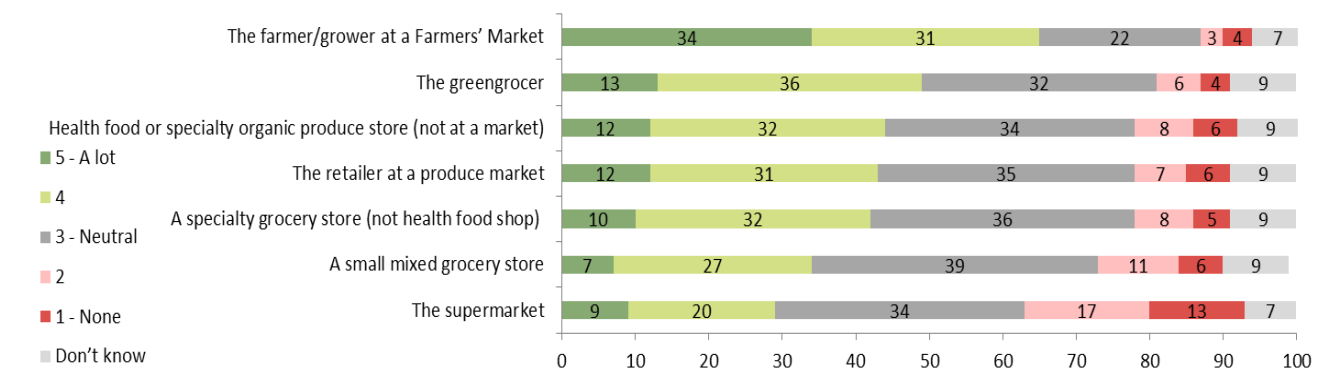


Figure 18 Trust in fresh produce retailers



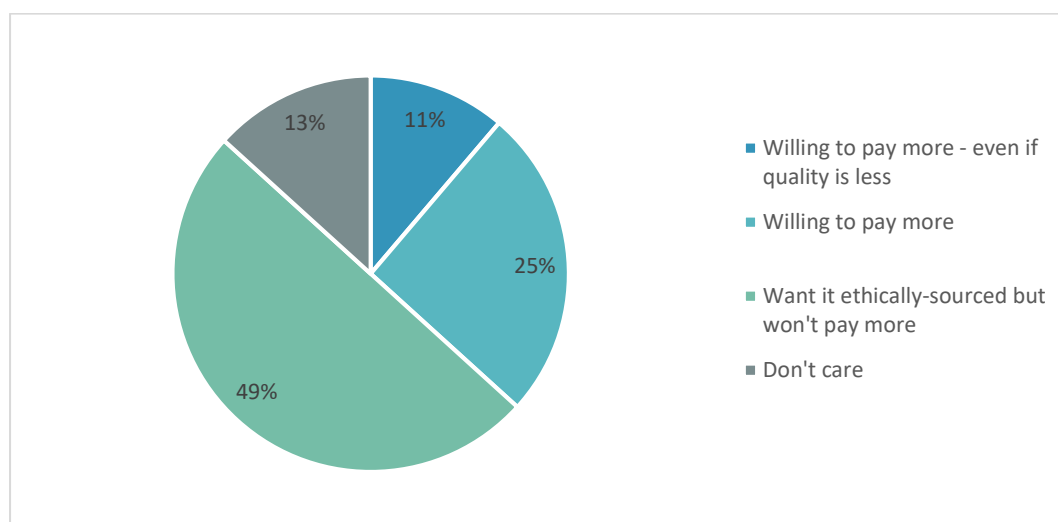
- D1.** On a scale of 1 to 5 where 1 is 'not at all concerned' and 5 is 'extremely concerned', how concerned are you by reports that some workers on Australian farms are being paid below minimum wage or given unfair working conditions? **Base:** Total sample n=1025
- C5.** On a scale of 1 to 5 where 1 is 'none' and 5 is 'a lot', how much trust would you place in the following retailers providing you with accurate information about the pay and conditions of workers on the farms supplying their fresh fruit and vegetables? **Base:** Total sample n=1025

7. Segmentation

Intended behaviour - aspirational

Survey respondents were segmented based on their intended behaviour if they had a choice between fresh produce which had been ethically-sourced and was signed accordingly, and produce that wasn't. The segmentation is those who indicated they were willing to pay more, even if the produce appeared to be of less quality (11%), those who said they were willing to pay more for ethically produced produce of the same quality (25%), those who would choose the ethically sourced produce over that that wasn't if all other factors were the same (49%) and lastly those who said it just wouldn't matter to them (13%). This is seen in the figure below.

Figure 19 Intended behaviour



The four aspirational segments range from those who would pay more and are concerned about workers' conditions, to those who are unconcerned and would not pay more.

Those concerned and willing to pay even for lesser quality (11%) were willing to pay from 61-70 cents/kg more for ethical sourcing. Their preparedness to accept lower quality appears to be particularly aspirational as they were also swayed by an assurance of quality and characteristics such as 'uniform shape and size'.

Those concerned and willing to pay (25%) were extremely concerned about workers' environments and wages and likely to prioritise fair trade and ethical production over perceptions of quality. They were likely to be highly educated. They said they were willing to pay from 91 cents to \$1 extra/kg.

Those who were concerned about quality and health (49%) were likely to look for information about the chemical treatment of the produce they purchase, and only moderately concerned about farm workers' conditions and wages. The results indicated that there was no specific price range they would be willing to pay.

The final segment of 13% just didn't care about the issue. They were particularly price sensitive considering it more important than any other factor.

The four tables below provide a breakdown of the characteristics of each of these four groups based on the survey question C3 (figure 15). The first figure in brackets show the percentage of those in this segment who responded in a certain way where this was significantly different from the survey mean. The second figure shows the number of percentage point above the mean.

Ethics over quality: Would pay more for ethically-sourced produce, even if the quality was less (11%)

- Shop at produce markets (22%, +12%), health food shops (12%, +7%) and independent grocery stores (20%, +6%)
- Have paid more for Australian produce (75%, +26%)

Ethics appreciated: Prepared to pay more to ensure their fresh produce is ethically sourced (25%)

- Look for Australian grown produce (21%, +6%)
- Have paid more for dolphin safe tuna (47%, +14%)
- Have paid more because they knew produce was just picked (66%, +28%)
- Claim price is not a driver for purchase decisions (34%, +8%)
- Try to buy from Australian-owned companies (53%, +15%)
- Buy fair trade where possible (25%, +11%)
- Avoid buying clothes from 'sweat shops' (43%, +17%)
- Look for dolphin safe tuna (45%, +13%)
- Generally don't look for the cheapest option when shopping (32%, +11%)
- Generally look for best quality when shopping (39%, +14%)
- Believe workers in developing countries are not paid fairly (20%, +5%)
- Believe supermarkets responsible for ensuring farm workers are paid fair wages (36%, +10%)
- Are concerned about chemicals in food (55%, +9%)
- Are strongly concerned by reports of food waste (60%, +8%)
- Would avoid buying food if they knew workers had unfair conditions (91%, +10%)
- Have high trust in farmers (44%, +10%), produce markets (19%, +7%), greengrocers (19%, +6%)
- Extremely concerned by reports of unfair working conditions (42%, +16%)

Budget-conscious ethics: Want their produce ethically sourced but won't pay more (49%)

- Shop at supermarkets (94%, +3%)
- Say freshness is most important to them (29%, +5%)
- Have paid more for the freshest produce (72%, +6%)

Don't care (13%)

- Male (30%, +10%)
- Would shop at supermarkets even if they had time to shop around (76%, +12%)
- Consider price as the main driver of their fresh produce purchase decisions (32%, +14%)
- Do not consider Australian grown as a driver in their purchase decisions (62%, +17%)
- Usually look for the cheapest products (39%, +15%)
- Have no concerns about 'food miles' (9%, +5%)
- Would not pay more to ensure their produce was harvested by people with fair working conditions (82%, +63%)
- Would not trust a farmer at the farmers' market (9%, +5%)
- Are not concerned (18%, +15%) or slightly concerned (22%, +11%) about reports of unfair working conditions on farms
- Unemployed (11%, +6%)

The table below provides a summary of the four segments by key characteristics.

Table 2 Four segments by key characteristics

	What is important?	Who do they trust?	Where do they shop?	What would they pay?	What concerns them?
Ethics appreciated (25%)	Australian-grown; fair trade/ethically produced; organic	Farmers market farmers, retailer at produce market, greengrocer	-	91 cents to \$1/kg	Working conditions for produce pickers
Ethics over quality (11%)	Uniform shape/size; fair trade/ethically produced	The supermarket, small mixed grocery store	Produce market, health food shop or specialty store	61-70 cents/kg	Increased prices of produce
Budget conscious ethics (49%)	Freshest produce; blemish-free exterior	Health food or specialty organic produce store	Supermarket	No specific range; price accounts for 21-40% of the decision-making process	Chemically treated produce
Don't care (13%)	Cheapest price	-	Supermarket	Would not pay extra	Unlikely to be concerned about any issues

C3. If you knew for sure that a produce had been harvested by someone paid a fair wage and given fair conditions – perhaps there was a sign or label – would you buy this product instead of a similar one without this assurance?

Base: Total sample n=1025

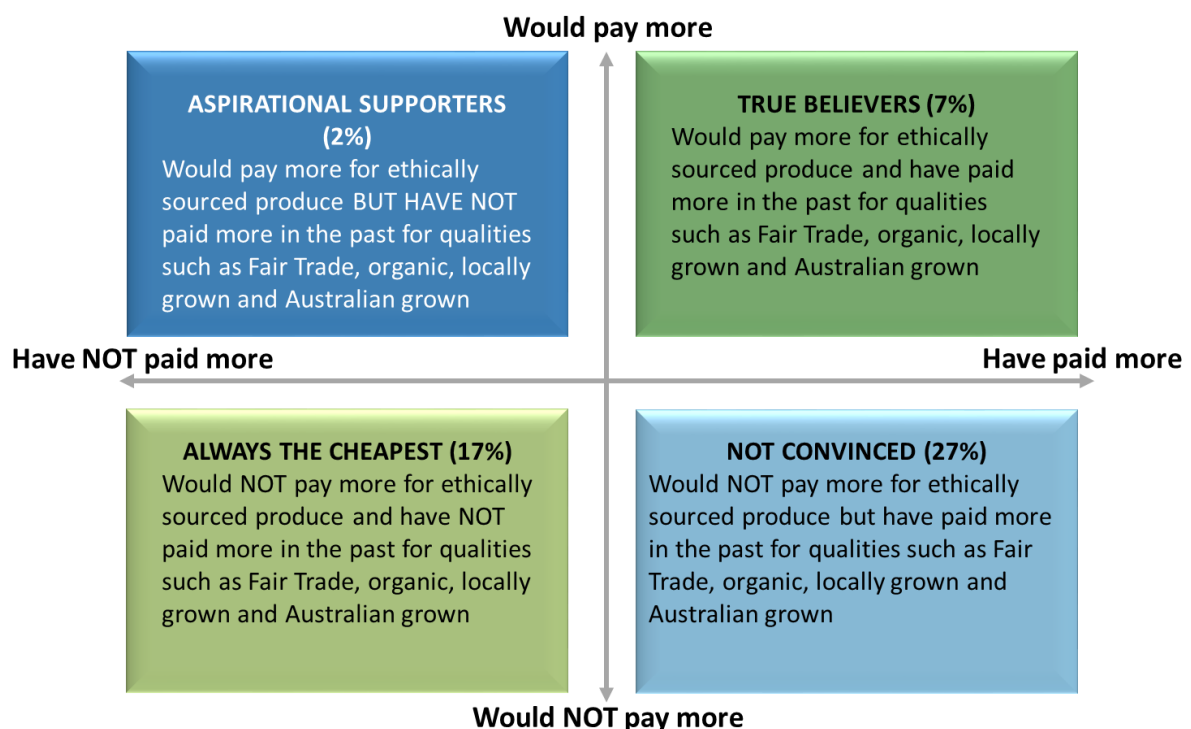
Attitude by behaviour

Another segmentation looked at willingness to pay (as shown above) by past experience of paying more for certain qualities in their food, that is Fairtrade or other 'ethically-produced' food, organics food, Australian grown and locally grown food. (The segments do not add up to 100% because the remainder were unsure or had paid more but not because of a food's quality, e.g. because of convenience.)

This segmentation paints a clearer and more conservative picture because it considers those who have **ACTUALLY** paid more in the past rather than just those who believe they would pay more.

Seventeen per cent are unlikely to be persuaded to make a deliberate choice of ethically-sourced produce over another, although their driver is usually price. So if there was no price difference **AND** there was some education about farm worker pay and conditions, they might choose the ethically sourced. Just over one quarter of the sample (27%) had a record of paying more for certain food qualities but did not appear convinced that ethical sourcing was something they would pay more for. As very few people were aware that this was an issue, it is not surprising that some would reserve their judgement in a survey. A small 7% would always choose the ethically sourced produce, probably going out of their way to do so, if they were aware of the situation and could choose. A very small 2% said they would pay more although had never paid more than the cheapest price in the past. The remaining 53% of the sample did not fit into these segments and their attitudes and behaviours were not as consistent (or homogenous) as the 47% outlined below.

Figure 20 Attitude by behaviour



ASPIRATIONAL SUPPORTERS (2%)

Are more likely to:

- rate price as the third most important thing they look for (44%, +25%)
- be willing to pay 31–40 cents more a kilo to ensure their produce was ethically sourced (18%, +15%)

TRUE BELIEVERS (7%)

Are more likely to:

- consider price to be the second (32%, +15%) or third (55%, +31%) most important thing they look for
- have paid more for organic produce (43%, +20%), dolphin-safe tuna (57%, +24%), Fairtrade produce (19%, +9%), local produce (74%, +31%), Australian-grown produce (82%, +33%), fresher looking produce (78%, +12%)
- rate the range of produce as one of the most important factors for shopping where they do (mean=9.5, +1.6)
- be willing to pay 91 cents–\$1 more a kilo to ensure their produce was ethically sourced (24%, +12%)
- be extremely concerned by reports of farm workers receiving below minimum wage and/or poor working conditions (45%, +19%)
- be from a farming community (9%, +6%)

NOT CONVINCED (27%)

Are more likely to:

- shop for less than 10% of the household produce (8%, +5%)
- rate price as the first (27%, +9%), second (34%, +17%) or third (40%, +21%) thing they look for in fresh produce
- have paid more for organic produce (35%, +12%), dolphin-safe tuna (41%, +8%), Fairtrade produce (15%, +5%), fresher looking produce (74%, +8%), local produce (67%, +24%), Australian grown produce (76%, +27%), produce they knew was fresher (56%, +8%)

ALWAYS THE CHEAPEST (17%)

Are more likely to:

- be aged 35–44 years (29%, +8%)
- shop in supermarkets (97%, +6%)
- shop in supermarkets even if they had time to shop elsewhere (79%, +15%)
- rate price as the most important thing they look for when buying fruit and vegetables (53%, +35%)
- rate price of produce as the reason they shop where they do (mean=38.3, +18.6)
- believe that “I always buy the cheapest option” as describing them most of the time (50%, +26%)
- not pay any more to ensure their produce was ethically sourced (33%, +18%)
- be slightly concerned by reports of farm workers being paid below minimum wage (15%, +4%)
- unemployed (11%, +6%)

8. Choice model – would you buy the produce being offered?

The study used discrete choice modelling to model the behaviour of consumers in different scenarios where ethically-produced fruit and vegetables were available. Discrete choice models (effectively marketing experiments) have become an essential tool to model individual behavior. The technique is often used in the social sciences, health economics, medical research, marketing research, transport research, and in many other disciplines.

The choice modelling involved showing respondents three hypothetical scenarios and simply asking if they would buy the ethically sourced produce in each scenario. By varying the offers through a process of experimental design, we then modelled what drives choice. In this way we can determine likely future behaviour for the different mix of activity and communications. The predictive model is housed in an interactive tool allowing Fair Work Ombudsman users to pose ‘what if’ questions and receive a prediction of likely effectiveness and reach for the target audiences.

The model used eleven attributes with six levels of each. The survey sample was n=1025 of the adult Australian community.

Choice modelling	Respondents were shown 3 hypothetical offers and simply asked if the combination of offer would make them buy the produce. By varying the offers through a process of experimental design, we then model what drives choice.
The task	The task on the next page details what respondents were shown and the choice they were asked to make.
The design	The design shows all the attributes of offers tested and, for each attribute, the different ‘levels’ that were used in the hypothetical offers.
Many possibilities	The choice model estimates the demand for every possibility from the design matrix. The ‘base case’ is just one of these, as is the ‘optimal solution’

The eleven different attributes each had six different levels. In each of the three ‘scenarios’ presented to respondents, only one level for each attribute was shown. The attributes tested and the various levels are shown in the table below. Cells highlighted in yellow indicate the base case that represents the current situation as closely as possible. This ‘base case’ is used for comparison purposes with alternative configurations.

Table 3 Attributes and attribute levels shown in the choice model

Attributes	Level 1	Level 2	Level 3	Level 4	Level 5	Level 6
1. The produce	The produce looks OK	The produce looks fresh and of good quality	The produce looks irregularly shaped but otherwise fresh	The produce doesn't look very fresh		
2. Shopping location	Supermarket	Green grocer	Farmers' Market from a grower	Specialty produce shop	Health food/organic shop	Produce market (not a farmers' market)
3. Distance from where you do most of your shopping	Where you usually shop	Close to where you usually shop	About 5 minutes away from where you usually shop	About 10 minutes away from where you usually shop	About 15 minutes away from where you usually shop	About 20 minutes away from where you usually shop
4. Sign on produce: Australian Grown	Yes	No				
5. Sign on produce: Locally Grown	Yes	No				
6. Sign on produce: Organically Grown	Yes	No				
7. Sign on produce: Grown under fair wage and working conditions	Yes	No				
8. Sign on produce showing name and location of farm	Yes	No				
9. Price	The produce is the cheapest available	The produce is 5c per kg more than the cheapest	The produce is 10c per kg more than the cheapest	The produce is 15c per kg more than the cheapest	The produce is 20c per kg more than the cheapest	The produce is 30c per kg more than the cheapest
10. Information about conditions for some farm workers	Media attention given to low prices paid to farmers	Media attention given to low wages and poor working conditions of some farm workers	Information at shop saying produce which has been harvested by workers with fair wages and working conditions is signed as such	Website where farmers found by FWO to have not paid fair wages/conditions are 'outed'	Education on how prices are determined at the shop level	No information
11. There is an advertisement saying ...	Be fair to our farmers	Every worker deserves a fair wage	Fair wages starts with us	I'm fair, are you?	No advertising messages	

For each scenario respondents were asked: **In this scenario would you buy the produce being offered?**

The design outlined above meant that there were multiple different ways in which information could be communicated and made available. The model makes a prediction of the likely effectiveness for each of them. The model can answer many questions including which combinations will engage the most people and which elements will have the greatest impact.

The report details a couple of these combinations. As an example the choice model results indicate that with quality looking produce, education, signage and no price increase, 97% of people would choose to purchase the ethically sourced produce. Without these factors only 27% were likely to choose to buy ethically sourced fresh produce.

Key drivers of choice

The key driver of choice (i.e. the factor are most important in encouraging people to purchase ethically sourced fruit and vegetables) was information about the pay and conditions of some farm workers and education about the harvest trail and how fruit and vegetable prices are determined, particularly by supermarkets.

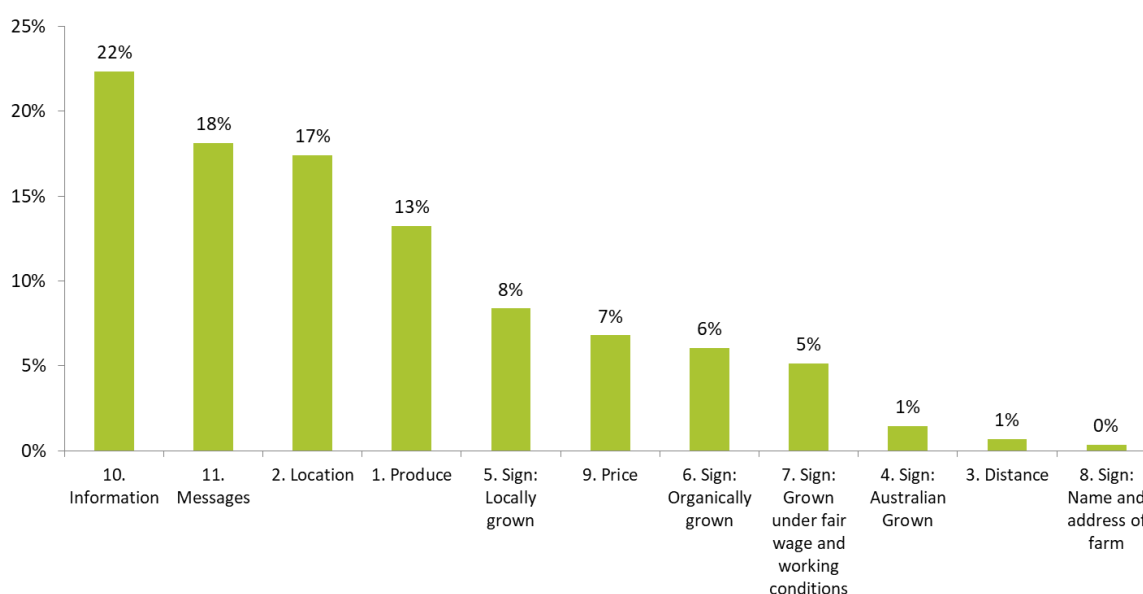
While knowing and understanding farm worker conditions and how prices are determined would be the major influence on a person's decision to buy, this was followed by promotional messages and the location of the shop. Price was sixth most influential motivation when information, messages, location, quality of produce and being locally grown are taken into account. The top five drivers of choice are shown in the image below, along with their power in influencing choice.

Image 1 Key drivers of choice



The figure below shows the power of each of the attributes tested. Signage for Australian grown is very low but the qualitative research suggests this is because people presume that their fresh produce is Australian grown unless signed otherwise.

Figure 21



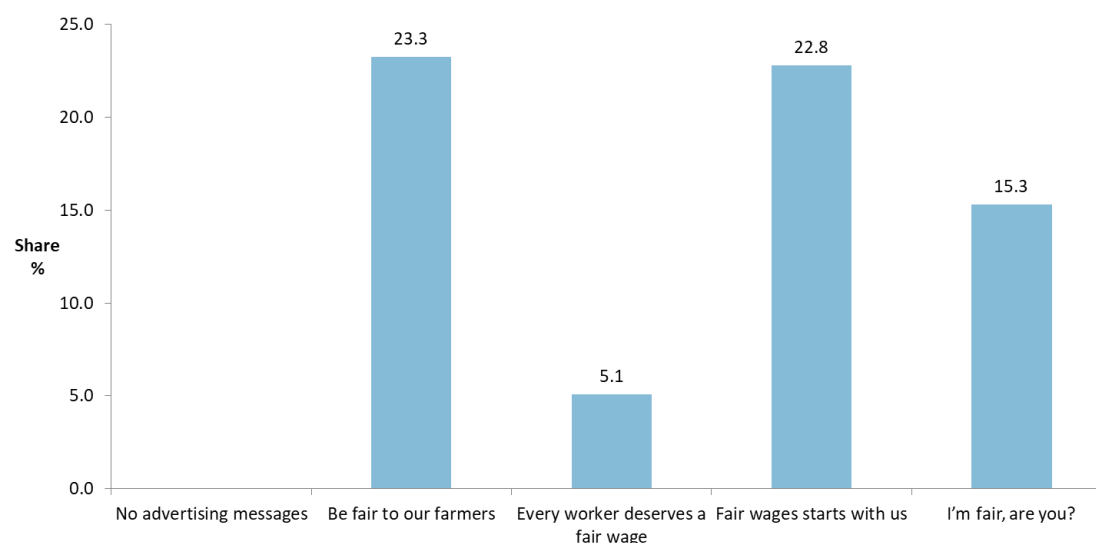
The figure below shows the impact of the different information and education approaches. Understanding how prices are determined had the most power to influence choice. The qualitative research suggests that this education encompasses the whole harvest trail, ending with the price of the retailer. This also suggests that people's desire to understand why they are paying what they pay and how fair that is along the supply chain is a reflection of their need to be in the driver's seat and make informed decisions. Of interest also is that consumers believe media attention about the low prices received by farmers would have slightly more influence on them than media attention about low wages and poor conditions of some farm workers.

Figure 22 The influence of information and education

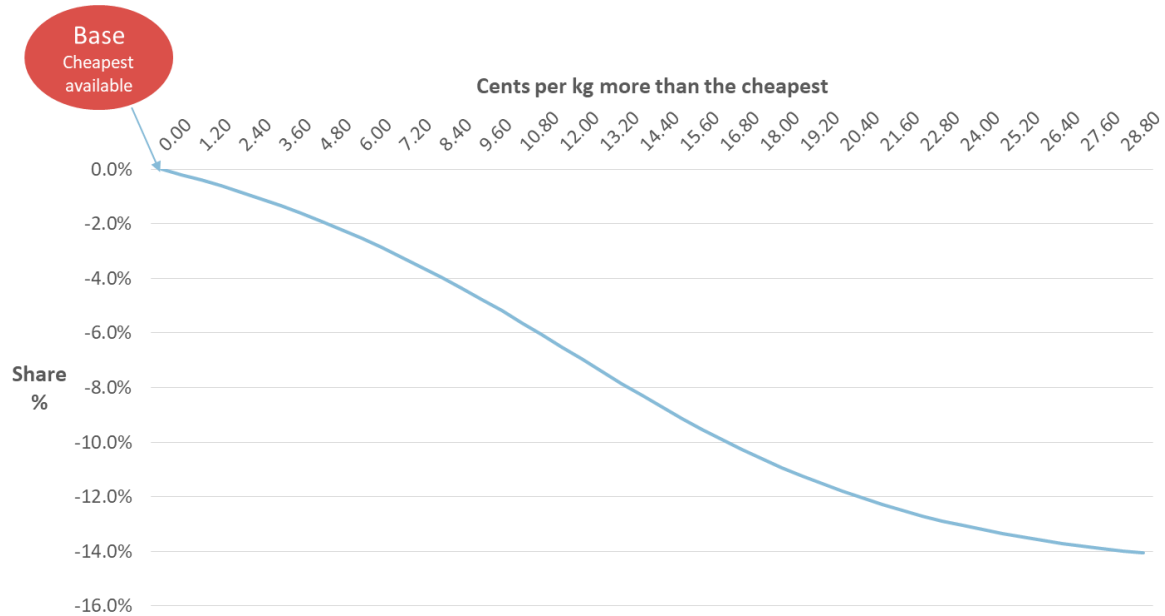


The figure below shows the strength of various promotional messages. These were included to test sentiment rather than the effectiveness of actual taglines. Of note here is that 'Fair wages start with us' is only just behind the message about being fair to farmers.

Figure 23 Promotional messages



The figure below illustrates how support for purchasing fresh fruit and vegetables falls as prices increase. This is a very typical pricing pattern.



9. Conclusions and recommendations

Retailers - responding to their customers

- Prices are a constant topic of conversation among vendors and retailers, with all claiming that their customers wanted the cheapest produce possible. This in itself is not different from other purchasing environments.
- What does make it different is that supermarkets, with their significant market share, are able to offer produce at lower prices than other vendors. Even farmers selling at markets say that supermarket prices are sometimes lower than what they think is a reasonable return on their investment. Greengrocers and independent stores say they often can't buy for the prices supermarkets sell for.
- Supermarkets regularly survey their customers and have sales data that allows them to accurately predict the price points at which sales will decline, i.e. the highest price people are prepared to pay. They will sometimes choose to lose money to keep prices below the 'tipping point'. Other retailers say they can't afford to take such losses very often.
- Supermarkets balance their brand attributes of cheap prices and convenience with other brand attributes—usually freshness, range and variety, and reliability.
- For other retailers the balance is between their unique selling proposition (USP) and supermarket prices—how much over supermarket prices will customers pay for the USP? USPs are usually around freshness, locally-produced or Australian-produced, a relationship with the farmer and sometimes convenience such as home delivery.

Consumers - what they look for

- Almost all customers are price sensitive, whether because of their budget or because they don't want to be 'taken advantage of'. Respondents rated price second or third in what they looked for, behind freshness and sometimes convenience.
- Most people believe that where they shop—supermarket, greengrocer, farmer market or other—gives them the best price or at the very least, the best price for good quality.
- Some people argue that the supermarket is cheapest and has a high turnover of produce making it fresher; some believe the greengrocer is just as cheap and the produce is local and freshest; and others believe the farmers market gives them the cheapest and freshest (cutting out the middleman).
- No-one was prepared to buy produce that was of inferior quality or freshness in exchange for cheaper prices.

- Despite claims of price and freshness, convenience is a significant determinant of where people shop. Supermarkets are generally most convenient because people go there for other products; greengrocers are convenient when located in a shopping centre that the consumer uses. Farmers markets, while less convenient in terms of location and access, are often seen in the context of a social outing and convenient in that context. For others, convenience was about a delivery service.

Consumers - what they know about farm workers

- There was a widely-held assumption that Australia has laws in place to ensure every worker has fair conditions and is paid at least the minimum wage. That some might not have fair pay or conditions was a surprise to many.
- Farmers market vendors interviewed claimed that no-one had ever asked them about them about wages and conditions on the farm, but had asked about the location of the farm, pest management (particularly for organic producers), weather conditions, seasonality and availability.
- Greengrocers and independent stores claimed that people asked about whether produce was locally-grown or Australian-grown, and in some cases organic. No-one asked about the farms or conditions on the farms.
- Most people were in favour of minimum wage and fair working conditions being enforced on farmers; however, attitudes vary as to whose responsibility it was—government, farmers or supermarkets.
- People living in regional Australia, however, were more likely to believe that wages and conditions were a matter between the farmer and the worker.
- For most people, knowing that produce had been harvested by people not paid a fair wage or given fair working conditions was reason to avoid the produce *if* a reasonable alternative was available.

Consumers - Understanding the issues

- Generally speaking, people are prepared to support fair pay and conditions but they need to understand more about the issues at play, particularly how prices are set and the role of supermarkets in particular.
- While people are likely to avoid buying produce harvested by workers with unfair pay and/or conditions, they will only do so if it's easy for them to know, trust the information, and alternatives are readily available.

How would I know?

People indicated that they would respond to signage. The choice model suggests however that knowing more about the supply chain and pricing structures is more important. People are unlikely to look up information on a website to find out the details or how produce has been sourced.

Do I trust the information?

Trust in providing accurate information about ethical sourcing was highest in farmers and growers (65%) and lowest in supermarkets (29%). Greengrocers were ranked trustworthy behind farmers and growers at 49%. Women were more likely to trust farmers markets, 35-54 year olds and regional people the greengrocer, and metro people the supermarket. Trust in supermarkets would likely increase in ethical sourcing was advertised.

The alternative must be convenient

People will only choose the ethically sourced produce if it is equally convenient i.e. within the same shopping centre.

Recommendations - for increasing engagement in ethical sourcing

Educate

The public needs information and education about the harvest trail and how prices are set. They suspect but need more information about the role and power of supermarkets in this process.

Provide a vocabulary

At present, the community does not have the language to talk about these issues. 'Ethical sourcing' or 'domestic fairtrade' or similar terms need to be introduced and clearly contextualised through education and public discussion.

Marketing opportunity

Promoting produce for sale as having been ethically sourced could be a marketing opportunity (or unique selling point) at this early stage.

If the concept of ethical sourcing becomes understood and appreciated, not being able to demonstrate ethical sourcing will detract from a vendor's branding over time.

Build trust

There will need to a system to identify that produce has been ethically sourced. Suggestions include stickers on fruit and veg and boxes stamped as verified. A verification system would require independent auditing and while supermarkets could afford this, other retailers are unlikely to be able to.

Appendix 1 – sample profiles

Online sample structure/profile - unweighted

Role in shopping for fruit and vegetables	n=	%	Highest level of education	n=	%
Total Sample	1025	100	Total Sample	1025	100
The main fresh fruit and vegetables shopper in your household	773	75	No formal schooling	3	0
One of the fresh fruit and vegetables shoppers in your household	252	25	Primary school	7	1
Do not shop for fresh fruit and vegetables	0	0	Secondary school	286	28
Don't know	0	0	Technical school, commercial college or TAFE	247	24
			University degree or diploma (undergraduate)	332	32
			Postgraduate degree or diploma	141	14
			Other	9	1
Percentage of fresh fruit and vegetables shopping they do	n=	%	Employment	n=	%
Total Sample	252	100	Total Sample	1025	100
Less than 10%	8	3	Employed full time	350	34
Between 10% and 24%	40	16	Employed part time	191	19
Between 25% and 49%	66	26	Retired or Pensioner	241	24
Between 50% and 74%	102	40	Home duties	95	9
75% or more	34	13	School or secondary student	4	0
Don't know	2	1	TAFE or university student	43	4
			Unemployed	59	6
			Other	36	4
			Prefer not to say	6	1

Main residence	n=	%
Total Sample	1025	100
Sydney	184	18
Other New South Wales	116	11
Melbourne	182	18
Other Victoria	59	6
Brisbane	95	9
Other Queensland	96	9
Adelaide	61	6
Other South Australia	24	2
Perth	82	8
Other Western Australia	34	3
Hobart	14	1
Other Tasmania	17	2
Canberra/ACT	31	3
Darwin	21	2
Other Northern Territory	9	1

Location of main residence	n=	%
Total Sample	1025	100
Metropolitan	623	61
Regional town or city	344	34
Farming community	37	4
Remote	14	1
Other	7	1

Age	n=	%
Total Sample	1025	100
17 or under	0	0
18 – 24 years	84	8
25 – 34 years	158	15
35 – 44 years	229	22
45 – 54 years	178	17
55 – 64 years	191	19
65 years or over	185	18
Prefer not to say	0	0

Gender	n=	%
Total Sample	1025	100
Male	513	50
Female	512	50

Aboriginal or Torres Strait Islander	n=	%
Total Sample	1025	100
Yes	27	3
No	998	97

Children under 10 living in household	n=	%
Total Sample	1025	100
Yes	246	24
No	779	76

Aboriginal or Torres Strait Islander	n=	%
Total Sample	1025	100
Yes	131	13
No, English only	894	87

Intercept sample structure/profile

Main residence	n=	%
Total Sample	280	100
Sydney 1	42	15
Sydney 2	29	10
Gosford	11	4
Tuggerah	31	11
Indooroopilly	45	16
Cleveland	52	19
Burleigh Heads	36	13
Morayfield	33	12

How many people in household	n=	%
Total Sample	280	100
One	65	23
Two	124	44
Three	30	11
Four	37	13
Five	15	5
Six	2	1
More	7	3

Gender	n=	%
Total Sample	280	100
Male	99	35
Female	181	65

Age	n=	%
Total Sample	280	100
17 or under	1	0
18 – 24 years	19	7
25 – 34 years	29	10
35 – 49 years	47	17
50 – 64 years	66	24
65 years or over	117	42
Prefer not to say	1	0

Appendix 2 – combined transcripts

Transcripts have been abridged and combined to ensure the privacy and anonymity of those interviewed.

Supermarkets

- We have guidelines we follow for ethical sourcing and also guidelines on how to evaluate. We make sure all suppliers are audited and evaluated and put into three categories. We work closely with those in the bottom category to bring them up to the next category.
- Most farms we deal with use labour suppliers.
- There's so much labelling these days – RSPCA approved, free range etc – consumers don't pay a lot of attention. How much is just ticking the box?
- Price is the most important thing (many customers are just getting by), but ethical sourcing is becoming the minimum standard. Ethical sourcing isn't consumer-driven, it's more about the brand's fear of being exposed for buying from sub-standard farms.
- We do 2500 surveys a week with our consumers. We know what they want and how much they'll pay.
- Australian-grown is most important, e.g. recent issue with frozen berries and hepatitis emphasised the importance of local. The priorities are affordability and quality.
- When 4 Corners did a story on labour on farms, we received 10 phone calls about it. When the berry incident happened, we received thousands of calls. Consumers care when it affects them.
- Customers pay for quality – if it looks good and fresh
- Based on our customer research, 40% of customers identify as 'sustainability enthusiasts' but this relates more to environmental sustainability
- We hear about consumer sentiment via reactions to media coverage of fashion labour, e.g. Rana Plaza and Bangladeshi workers.
- We don't think that the average consumer is 'sophisticated' in thinking about labour practices and conditions. Consumers take it as a given that everything is picked in decent conditions and workers treated fairly
- Research has found that globally, treatment of workers appears on list of customer concerns, but not in Australia.
- Price of produce is driven by supply and market forces, e.g. prices set by supermarkets
- We have systems to monitor supply chain – it is part of the brand. We take a collaborative approach and see auditing as a punitive approach. We want the opportunity to say we understand there can be issues and we want to help you get it right - we believe our customers should rest assured that anything purchased from our stores is ethical to the extent that workers are paid fairly

- [Company] is expanding its food halls but fresh produce is a relatively small part of this. Their buyers go to the markets each morning to buy for the four food halls. Shoppers go to DJs for specialty products and having fresh produce available is almost like a bonus convenience
- As awareness increases about food supply chains, consumers are realising there may be misconceptions about and assumptions about labour on farms, but this is driven and hidden by the duopoly.
- A label would be interesting, but there are so many labels, and so many are misleading. Consumers already deal with too many labels, perhaps there is another way, like an app or accreditation process. But it would have to be credible – how will you ensure consumers know the details behind it? Maybe a code of conduct, signatory to an agreement, etc
- For a lot of customers, knowing the sustainability behind the process is a cherry on top. If you have two products exactly the same, and one is pricier, consumers will choose the cheap option
- There seems to have been a lot of back and forth about taking action on this topic but no one is taking the lead.

Farmers' markets

Farmers' markets as we know them began in Victoria in 1999 following a similar model gaining popularity in the USA. There are now at least 180 'genuine' farmers markets around Australia and more 'less' genuine. To be genuine the market has to have predominantly genuine, local farmers and their family selling their own produce. They know they can't do a lot about 'back-selling' but do what they can.

The original motivation for farmers' markets was about that link between the farmer and the consumer without the middle-man. In the 2000s the markets got a boost from the national conversation around climate change, food miles and environmental footprints.

At present the AFMA estimates 14% of fresh and vegetable consumers shop in farmers' markets. They see a lot of potential for growth and point to the supermarkets that have changed their displays to look more 'farm-like'.

An inhibitor to growth is the need for more producers. But as the next generation takes over this might change. There also need to be changes in many local government regulations to accommodate such growth and consumer expectations. Another issue is that the time it takes for farmers to attend markets is time taken away from the farm and producing the food.

Farmers markets are gradually becoming more professional with farmers beginning to understand marketing and how to stand out from the others.

Consumers are beginning to understand seasonality and more people are learning not to expect to get anything and everything from the market. This has been a slow process. In general people expect to pay similar prices to what they pay in supermarkets and will pay more for organics or after floods (because the farmer talks to them about how it affected the farm). People expect honest pricing and weights, no or limited packaging, and fresh produce that is what it says it is.

Would consumers respond to knowing whether or not a farm paid fair wages? They might if they were told about it but it isn't something they seem to think about or ever ask about. Committed shoppers are issue-alert and any sign would start a discussion between farmers and consumers. The AAFM ran a successful Boots for Change campaign (with very little funding) which was supported by around half of their markets.

Who or what drives the price of fresh fruit and vegetables? Farmers set the price in the farmers' markets but the supermarkets drive the prices overall.

I've had to change the things I farm to be more competitive. I grow a whole mix of certified organic vegies with the main crops being garlic and tomatoes. I also grow herbs, berries and stone fruit, as well as organic certified seedlings.

I choose to sell at the farmers' market to cut out the middle man. Basically my farm is too small to wholesale, and I would only get a minimum return for my produce, whereas I can make a good living selling direct at the markets. Quite frankly the organic foodstore can't sell it at that price. I also sell to 30 restaurants and cafes as well as caterers and organic food stores.

Prices can vary depending on where you sell. For my garlic I get as much money if I sell it to a store as I do to sell directly to my customers at market. But when it comes to tomatoes in the wholesale market, I'd be lucky to get \$4 a kilo and I can sell them at farmer's markets for \$9 to \$11.

If I sell my herbs, I get twice as much money than if I went wholesale. It depends on the arrangements and relationships. I sell to a local green grocer and the owner gives me wholesale price. Because I grow a lot of herbs, I can sell it to them cheaper so if I sell 150 bunches it still works out.

We also exchange goods between us. For example, [x] is warmer than where I am so we are growing different things during the same season. I supply him with produce and then he would exchange back for things I don't grow, rather than invoicing each other. But we still sell the product so we can meet demand.

I basically double my prices by selling direct. The way the wholesale market operates means if I took a ton of tomatoes to them on a Monday I won't find out until Wednesday how much they're worth. It's risky. The wholesaler will give me a rough indication of what they are worth but if lots of organic farmers flood the market, the price goes down. If there is a shortage, you can make good money but my set up is small so I hedge my bets by growing a huge variety because some crops will fail due to weather.

I'm not selling more expensively than supermarkets. I keep prices low even though my produce is organic because if I charged what [city] farmers' markets charged, my locals couldn't afford it and it would defeat the purpose of being there. I want to sell everything on a Sunday, not take half of it home unsold. [City] people say its dirt cheap because the cost of organic produce in the city is expensive. Organic garlic there is around \$70 a kilo and I'm selling mine for \$30 a kilo.

Prices haven't changed much over the last 10 years but I hope and think I've got better at doing it. I charge restaurants the same price I always have and I haven't increased my prices in 5 years. They need to make a living too and I was a chef for many years and know both sides of that coin. Restaurants can't keep putting prices up so you need to find a happy medium.

Everything goes up, particularly seeds. I'm lucky I'm on solar because electricity is a real issue, so my costs there have not gone up much and I don't use my van much because I'm selling and delivering locally. My

bore pumps also run off solar. Like I said, I do find when I order seed it goes up by 5-10% each year and ditto packaging.

In terms of labour, I have a friend who comes in and he invoices as a sub-contractor but most of it I do myself. I pay him \$20 an hour but I think \$17 is the farm workers rate.

Wages would be the real killer because of the risk of what I'm doing. I can't employ people full-time. One of the other organic businesses around here employs around 30 people, and if the weather doesn't comply he still has to pay his workers. Some I know have full timers who work full time and then local people who help seasonally. And if there's a lot of weeding they will get crews of Vietnamese people but they use a contractor for that. They get picked up and catered for and might pick 4 hectares of strawberries. But if my mate had had to use locals, he would have gone broke. They are not quick enough.

I do put prices up a bit sometimes but only if I have to. I try to get better at what I do and more efficiently and swallow some of the price increase by doing it quicker.

I have a friend who is one of the biggest organic businesses in [state] and I'm one of the smallest but weather is one of the biggest issues when it comes to the business and labour costs. I go out there and they are loading up organics to take to [city] and I'm buying two bags for the market. I have one person and he's got 30. It's very stressful when you are subject to the weather. You still have to pay them.

There's a shift in this industry. A lot of people are still using woofers, (workers on organic farms) and there's a lot of controversy about the tax and visa changes. My mate relies 100% on them. He houses, feeds and pays them for 30 hours a week. The organic industry is a very individual thing. Whereas a sheep farmer will have just one way of doing things, we all have very different business models. I'm in it to earn an income but the money isn't the main reason. It's the amazement of growth.

My farm is just 7 hectares (about 17 acres). I do most of the work myself with the help of the extended family. Selling at farmers' markets and at our road-side stall is the only way we can make the farm pay. I think I'm about the only farm left in this area now. Most agents only want to buy from Queensland (long warm season) or further south so we're of little interest to them. But even if they were interested in my farm I couldn't live on the prices they pay. There seems to be a lot of corruption – they're only meant to take 15% but they take more – they just lie to you about what they can sell it on for. It was much more honest in the 1980s but much has changed since then.

The large producers are putting the little guys out of business. They can afford to sell cheaper to the agents because of volume.

People want fresh fruit and vegetables, some will pay more for it but not everyone. There's a big difference between the road stall and the market. At the road stall people expect a real bargain and are sensitive to any price rise. At the market they just expect to pay similar to what they'd pay at a supermarket but know that the produce is fresh and will last longer.

At the market, position is everything. If you're at the end of a line of producers you may as well go home.

You have to be careful about the markets. I go to those that are genuine farmers' markets – there are lots around that that aren't and the produce isn't necessarily fresh. It gives genuine growers a bad name. I heavily promote our local angle – I have a Facebook page and really work on the personal relationship with people.

No-one likes to waste food or money and buying local is one way to do this. If you buy fresh your produce lasts a lot longer and that's a saving. People are starting to realise this but for many money is still the driver.

The cost of producing the food has increased but not necessarily the prices – or certainly not to the same degree - and I've had to change my business model to make the same money I used to.

Tolerance towards seasonality is increasing but isn't always great. There's still people who are annoyed with you if you don't have the produce they want, especially if you had it last week.

The real markets actually come and check out your farm so they can be sure you are a genuine local grower.

My mother makes pickles and chutney and jams etc to extend our range, especially for the road-side stall. We get good prices for these – people are prepared to pay much more than supermarket prices for these.

I think consumers care about where their food comes from – it's the main reason I can do what I do. And you can have that connection with the people who buy from you. Most of my customers wouldn't go near a supermarket for fruit and vegetables unless they had to. They prefer to buy from independents and a high % of my buyers have also been to the farm. Same with the local restaurants - there is a strong local grown, local produce trend. When I started off it was a bit hard going to get people to use my produce but now they see the advantages – it's local, picked in the morning and on their kitchen bench in 3 hours plus it keeps longer because it's super fresh. Now I'm inundated - they want to buy my stuff so I can be selective. I have four businesses in [towns] who travel to pick up from the farm.

I think my customers like to buy local. Great majority though are still 'sheep' – I'm on the fringe, the size of my farm and output is enough for the people who appreciate it. At the market I can say the food has travelled just 10km. I have a number of regulars and also sell food boxes and they get it 30% cheaper but it's my choice of what goes in for that \$35.

People like to have some association with me and the farm. Some people don't care but at the Sunday market, 80% of my trade is with regulars who I know by name. I don't have to do a whole spiel when they come. They know what I charge and what I get for it. It is highly competitive but the produce is good so they come back.

I would think they care about fair pay and conditions because most of my customers are all lefties. Could I promote this as a marketing advantage? In a small community definitely. Adrian's been helping me for 5 years and if conditions were bad he wouldn't have hung around. You have to look after people—that's my approach. Staff turnover is the biggest poison.

What do people care about? That it's fresh, and looks decent. The other thing that really matters is that you are there consistently unlike some stall holders who if they don't like the weather they don't come - but if people come in and you aren't there they say 'stuff it' I'll go to the green grocers.

Good shape? Unblemished? Organic? Locally grown? Farm workers' conditions? All these factors are important – and also you have to make people laugh because at a market, it's personal. It's a shopping experience, you get to know your customers and vice versa. Some spend big and some small but it's a social thing as well, it's not like a shopping centre.

What drives the price of fresh fruit and vegetables? Supply and demand drives it to a degree but the supermarkets are key drivers because they are a duopoly in this country. They lock farmers into certain prices so they have control. They might pay \$1 kilo for carrots and I'll sell mine at market \$2.50. They have 80% of the food retail market which is shocking. Wholesales drive the price but again that's supply and demand. The main thing is the weather – and the consumers to a degree. I'm on the front line selling my goods so the prices work themselves out. If you hit them too hard they can't afford your prices, you find a medium because you want them to get good value. Someone asked me how I do prices and its testing the market really. You might sell beetroot at \$5 a bunch but you are better off selling a bunch half the size for \$3 because it's too much for people and they can't use it all.

We have been in business since 1995 and grow vegetables of all sorts including beetroots, carrots, silverbeet, fennel celeriac, cauliflowers, potatos, bok choy, brocolli, brussel sprouts etc. There are a number of reasons I sell at the farmers' market. Firstly you get your cash straight away whereas if you go through a wholesaler you can wait 4-6 weeks to get your money. You also get a real price instead of a wholesale price and you also get to deal direct with the public so you know what they want, what they don't want as well as getting feedback on your produce and how good it is.

We do supply a catering company occasionally, particularly things like heirloom or coloured carrots and beetroots. We don't bother with restaurants because it's a pain in the bum and its more work and effort than what we get out of it. We also supply each weekend to one of the local attractions cafés, the chef comes through on the weekend and buys direct from our farm and we also supply a big order once a month to a provedore in [town]. As far as the different Farmers markets go we cover [12 towns].

We did start discussions with a local greengrocer and IGA but that fell through although I'm not sure why.

The prices are much better for us at the markets. Wholesalers will give you half the price. In some cases that's not true - like cabbages at the moment our price is the same as retail and wholesale - but essentially we can make double by selling our own produce at farmers' markets. The price I charge is about the same as supermarkets but my produce is organic and that's a big incentive for people. Time and time again people say it's so fresh and keeps much longer than the supermarkets.

We've been doing farmers' markets for 8 years now and our prices have stayed the same for most of that time. However we did put up prices a bit in the last year because we had to. Wages have been going up every year and that's now starting to bite into our bottom line. And other costs like fuel, electricity, fertilizer, water and seeds have all gone up. Our labour costs depend on the time of the year and that's a given expense that always goes up, particularly components like Worksafe costs and superannuation.

Fuel is another one. Diesel has been going up and down for a bit and electricity is also going up. My fertilizer has been same price for 5 years but I reckon that will go up. I was looking at another organic fertilizer and it's a bit dearer than what I've been getting but it's probably reflecting the real price. The price of water has been pretty stable for the last year but again I'm expecting we will probably have a hike soon due. Seed depends on the variety as some seeds are more expensive than others. Sometimes I got a bargain like I did recently. The seed guy was having an end of financial year sale so I got discounts.

We have had to pass costs on, and it's why we have recently put our prices up. Having said that we have had no negative feedback. If anything people are saying it's still too cheap. I don't want to go ballistic on prices because it will turn customers away so it's better to do in on an incremental basis each year until we are on par.

[Re labour costs] I tend to watch my fellows now and look to see if I can cut a day if there is no work available for them. Every day I monitor them to make sure there are jobs for them for the full day rather than half days. Otherwise I find that if it's a half-day they will try and stretch it out to a full day's work, especially my casuals. So it's really managing time and work to maximise full time labour.

We were going through [labour contractor] and have gone through around 10-15 people. I have a couple that are okay but they aren't flash. I use to advertise but then your phone runs hot so I don't do that now and the problem is too many people don't want to work, they just want me to sign their paper for the dole. I told them I don't do that. They either work or they go.

Sometimes I employ 5 people who work 2-3 days a week and other days it will be 2 people working. All up on average we have 3-4 people employed as casuals and two full time staff. At our busiest time, through summer and spring, we employ more so maybe we have a total of 7 people, and that can be up to 40 hours a week. I don't employ backpackers or woofers because those people are just out for a good time. It seems like a good idea to work on a farm but it is hard work and the novelty soon wears off. I know people who have had bad experience with them. I just employ people with a tax file number and who are residents of Australia as it's much easier.

I spoke to one of my mates who did piece rates and he said it wasn't worth it so I pay an hourly rate. We pay the minimum wage which is \$23 an hour I think - my wife knows the exact amount because she does the pays. Each 1 July it goes up another 50c so maybe now around \$23.50 for casual and our full timers gets \$24-25 plus super etc and we pay work cover.

We pay the minimum wage and apart from that being fair, it means you have control over how they work and they are expected to work for a fair day's pay. If you pay food and board, and I don't believe in that, you have less ability to manage work requirements.

Do you think consumers care about where the produce they buy comes from? Most definitely. I always get 'where do you grow this', 'is it organic,' 'does it come from your farm' and if they know it does they buy more produce. Because we mainly do the farmers market, we find people are really hungry for knowledge about where their produce comes from – and that's across the board including cheese and meat. They want to talk to the farmers directly. *Do you think they prefer to buy local?* Yes, they do and even in [city], [regional town] is local to them. They want to know where it comes and they also like to look after local farmers.

Do you think they like to know where the farm is, or feel that they know something about you? Very much so. People are really switched on around the use of pesticides and want to know is it certified organic and to make sure there is no crap in it. They really want to know and they are looking at it while they are talking to you. You can't pull the wool over people's eyes. If I don't sell something this week and bring it back the next week, the fresh produce always goes first so we try to pick per weekend because they are keen on freshness, that's for sure.

What about other things that happen on the farm? Do you think they care about who harvests their produce and whether these people are paid a fair wage and/or work under fair conditions? I don't think

it's on their radar. Usually people ask about how you produce such good food and want to know about soil nutrition but not a question you would get – i.e. wages.

Promoting it could work but I think the most important thing is people want to know they are eating healthy food. They never ask about the workers or their conditions or pay, so I don't know if that would be a great advantage. They're interested in production but it's more about freshness and quality than the employees and that sort of thing. If you ask them the question they may be interested, they probably haven't thought about it. I know I hadn't.

Freshness and how long the produce keeps and how it tastes is what they care about. That's what they are eyeballing and that's as far they go. They buy from us and it keeps for 3 weeks, they buy from supermarkets and it lasts 2 days.

Who drives the prices? I'd say supermarkets drive the price as a whole but for me there's a saying about price takers and price makers. I use to be a price taker and now I'm a price marker - I make my own price and you get a feel for it. If I put lettuce up a bit and customers get mental and won't pay that price, you get the message. The big thing was when supermarkets were charging \$5-6 for cauliflowers so I was able to sell them for \$5 and sold as many as I could get. Supermarkets play a bit in this scenario - so if their prices go right up, people look elsewhere. With customers it's a three-way thing, there's me who sells direct, supermarkets that govern the whole industry and customers who make the ultimate choice. I think it's a bit of everyone.

- Have been a vendor here since it opened (1999). There are a lot more vendors now than before. I don't think everyone here is a producer though
- Farmers sell at farmers' markets for a viable margin
- Industrial output is not as high quality as what we can provide
- There is a growth in farmers' markets but a decline in farmer numbers – in this sense it is not sustainable. E.g. it's not worthwhile to come all the way out to sell 3 boxes
- 50% of my customers want quality produce and a relationship with the farmer
- Many are naturally suspicious that you are not really the farmer
- Customers ask about seasonality and the produce
- Customers want to pay 3rd world prices for 1st world produce – minimum wage is all I can afford to pay my workers
- USA gets bigger subsidies, Aus gets 3% for diesel
- Farms are businesses but very different – you buy land and can wait 3 months (beetroot) or 3 years (e.g. orange) to get anything out of it
- If I offer a customer two lettuces and one is cheaper than the other, they take the cheaper one. If the world was fair I would be charging \$10 for a head of lettuce
- I don't think it ever crosses customers' minds who picks their food. No one has ever asked me about this. They'll ask about the vegetables themselves
- People boycotted \$1 milk for a while because they were roting farmers but that blew over, because people just want their milk

- Prices depend on availability, quality, weather. I look at market prices and price accordingly
- We've been here since it started.
- Awareness of organic produce is growing
- Authenticity (of organic) is important to our customers, and freshness, and quality, locally grown. We make sure we are honest with our customers about the produce
- Our customers are 'foodies' and locals. They know our produce will last a lot longer than anything from supermarket, that's why they keep coming back.
- We think people care about their produce, we've seen our customer base grow and they keep coming back. It's good for farmers to have that relationship with their customers
- This market is pretty strict about who they let sell here – they check in on the farms, and the farmer has to attend at least twice a month
- Customers ask what sprays we use, the taste, the colours of the produce
- We wouldn't be able to survive without Working Holiday Visa workers – Australians don't want to do the work. Our WHV workers keep coming back to us because we treat them well
- Customers haven't asked about who picks the veg – I guess they assume we do it all?? We once showed a video about the farm, and had footage of workers, that was fascinating for our customers, we should do it again
- Costs aren't just in labour, it's packaging and our sprays, which are organic too, and seeds, fuel, transport
- Price driven by market, availability. On a good day I can sell an 8kg box of broccoli for \$30, making a loss under that. Customers have no idea what it costs to produce their food, they think it comes up out of the ground and that's it.
- Some customers might think veg is cheaper from a farmers' market because it's 'direct', but supermarkets keep things in storage for years
- Supermarkets are ruthless, I've heard stories about good produce being rejected. We don't deal with supermarkets directly
- A label might be a good idea if the info behind it is very clear – in terms of labour I have heard more horror stories from up north than anywhere around here
- Not sure if customers would pay more – but we know they would pay for scarcity, e.g. bananas
- If the label was in supermarkets it wouldn't work, there is a growing distrust of them in this topic I think. But who will monitor farmers to ensure the label is always accurate
- We've been here since the market started, I was born into the farm, it's a family business.
- This is a better way to sell direct, we can set our own prices, but we lose a whole day from the farm
- I have one full time worker and it's me my brother and my dad working on the farm, so we can sell at slightly lower prices than others here

- Farmers markets were more of a novelty a few years ago, now pretty normal. There are a lot around, maybe too many, so people lose some appreciation for what it really is
- I sell here and send produce to main markets (city) (so partly wholesaler).
- My customers are generally younger, and they ask questions about the produce like seasonality and about sizes and flavour
- We're here because we want to stay in the industry. A lot of supermarkets are sourcing from overseas more
- Price looks at availability, time and cost taken to grow, weather, cost of seeds, transport, electricity
- At my stall it's 70% our own produce and the rest from other growers I know.
- Not sure about a label, it's just going to be extra work for us? I would hope customers would pay more, they just have no idea how much work goes into it. Once they know they might consider paying more
- I used to sell to [wholesaler] but they are very arrogant to deal with, very picky about stock. I sell less to them now and go through an agent rather than direct.
- In a day of 300 customers, maybe 3 or 4 will actually ask about the farm itself.

Greengrocers

Yes, we have grown quite a bit and part of that is we have increased our product range, it's not only fruit and veg but also other grocery lines which include deli items such as cheese as well as pasta and condiments. It will potentially change when a new IGA opens sooner or later and there will be more competitors. At the moment, it's just Coles here. Having said that, we have a good following.

Who are your suppliers (farmers / wholesalers)? All of the above, and some general public bring in produce because we have quite a few local growers. Grocery wise, reps come in and show us what they have and if we like it we will put in the shop. As for our fruit and veg we have dealt with the same people for 27 years. We buy local where possible but mainly we draw on the wholesale market around [state], with the bulk of it from one wholesale market in [state].

What are your criteria in selecting a supplier? Quality and price, but it's mainly about the quality. *Do you pay a set price or is it negotiated with the farmer/wholesaler?* It depends. Some things go up and down. For example salad mix stays same price all year round whereas cauliflower can go from \$1 to \$6 due to seasonality and scarcity, they plant with the full moon and harvested with the full moon. *How has the price you pay for the product varied over the past 10 years? Has this been passed on to your buyers? If not, why not?* Some things have. What I've noticed is bags of potatoes and carrots have reduced. People aren't picking up more than 15 kilos from a physical perspective so while the price has stayed the same but the amounts in boxes has reduced. Same with apples. When we started 27 years ago a 20 kilo bag was \$5, now you pay the same for less. I spoke to a farmer recently who said 50 years ago you could buy a new suit when you sold a bag of onions. Now it's the

same price but everything is so expensive. So what he's saying is that 70 years ago a farmer would grow 100 bags and 25 years ago 2000 bags, still getting the amount but he has produce more.

We have to pass the cost on, if we pay \$20 we have to sell it for more than that.

We sell to restaurants, locals, wholesalers and the tourist trade. We have weekenders and people who come from Melbourne to shop with us. The profile doesn't really change. If anything it's increased but it's about good quality and that quite a bit of what we buy is fresh and organic.

We focus on providing friendliness, freshness, and mix of produce. We offer organics and variety as well as quality and plenty of local produce. It's what people want. Coles here in Australia is called a supermarket, in America it's a convenience store. And that's the real point that sets us apart. People go to Coles for convenience, not quality. The farmer's markets are competition because many of the sellers there are our suppliers and people know if they can't get to the markets, they can still get their local produce from us. It's a close relationship.

I'd say, 50% would really care about food miles, other not so much.

What we buy locally is pretty much all organic and there are no growers in this area that aren't dealing with us. Food miles are big - people prefer it is grown here rather than miles away because they think it is fresher, and it is.

I think they care about farm workers in a sense but it wouldn't cross their minds that this was picked by a group of Asian pickers. It could be a selling point but I have never thought about it. The problem is I find that to get an Australian in to a paddock to harvest produce is really hard - 90% wouldn't do it so hence they bring in families from overseas. It's not about the wages or price, it's that it is too hard. We are too lazy, we don't want to work.

If you were to promote the fact that you sourced produce only from farmers who paid minimum wage to their staff, do you think people would respond to this? Could it give you an edge over others?
I reckon some people would like that factor. It could be a selling point in the mix.

I think people think about most of those things (shape, unblemished etc) but I don't think they pay much attention to farm worker conditions. We wouldn't know who does the right thing anyway. One farm I know of in [State] employs a family to do their farm work but I think they pay a contractor and that head honcho pays the family. They may not be getting paid properly though because the agency who brings them over may not be paying them the right amount and may be just making money on the side. I think the farmers are doing the right thing, it's the person who pays the workers you need to look at.

The reason my prices go up is because of scarcity in market therefore I have to put my price up. But other things that cause that are weather, freak storms, we only import things when we haven't got enough of ours. I haven't been able to buy Australian oranges for 3 weeks now so have started importing.

Fresh box delivery

- Fresh produce direct from farms we have relationships with, state-based to reduce amount of travel, only Aus produce used (fruit and veg). We have key relationships with supplier. Mutual approaching re farmers, some growers will approach us vice versa
- Price depends on product. Dairy is a set price for example. Fruit and veg depend on market forces and seasonality and availability/yield. Really depends on product and market supplied to.
- As retailer it is hard to compete with large supermarkets, we don't even know how they are selling it for what they are selling for – buying power based on volume. We have a good idea of what it costs to grow product. Sometimes we are gobsmacked at prices, we are buying at higher price than supermarket is selling for. At the end of it there is still a baseline that needs to be met. E.g. strawberries - we were buying \$1, supermarket was selling for \$1. It's difficult sometimes being a premium product and doing right by farmers. Sometimes there is a question mark about the supply chain. We are a bit more expensive but we make it up in different ways like through delivery. We try to balance that out but overall we will be more expensive, partly due to quality, higher standards. All hard to convey online.
- We are proactive in trying to communicate our produce and we do get inquiries. We profile our farmers etc. Our customers tend to be a bit more than your regular grocery shopper - typically busy family double income, young kids to teens, time poor but want to do the right thing, higher income.
- General population would just expect that it was fair wage, but also some would think it shouldn't inflate prices. Aus consumer is a bit conditioned of what prices they want to pay because of the supermarket price wars, who is taking the hit? When a price is set and held in the market it's hard and bad but it shouldn't be taken out on us. We should be allowed to continue paying what we pay. Some would pay more like customers who shop with us or farmers markets.
- Supermarkets set the prices on shelves, but other things that allow supermarkets = importation of product from countries with lower costs of doing business. Aus farmers are being squeezed on making a dollar.
- If product can come from overseas for cheaper, then this causes issues in cost structure here.
- There is going to be a point in time where we need to understand what the cost is to continue our ag industry, or it needs to move towards being specialist rather than commodity, or we need tariffs to help own industry. Ultimately wages are too high, especially sectors like farming esp. in what they are harvesting doesn't stack up to what is being paid.