

25 November 2020

Committee Secretary  
Joint Standing Committee on Foreign Affairs, Defence and Trade  
PO Box 6021  
Parliament House  
CANBERRA ACT 2600

Dear Committee Secretary,

UNSW LAW SOCIETY SUBMISSION REGARDING THE INQUIRY INTO  
STRENGTHENING AUSTRALIA'S RELATIONSHIPS WITH COUNTRIES IN THE  
PACIFIC REGION

The University of New South Wales Law Society Inc. welcomes the opportunity to provide a submission to the Joint Standing Committee on Foreign Affairs, Defence and Trade Inquiry into strengthening Australia's relationships with countries in the Pacific region.

The UNSW Law Society Inc. is the representative body for all students in the UNSW Faculty of Law.

Nationally, we are one of the most respected student-run law organisations, attracting sponsorship from prominent national and international firms. Our primary objective is to develop UNSW Law students academically, professionally and personally.

The enclosed submission reflects the opinions of the contributors, with the UNSW Law Society Inc. proud to facilitate these submissions.

We thank you for considering our submission. Please do not hesitate to contact us should you require any further assistance.

Yours sincerely,

Sarah Lu  
Policy Submissions Director

Isobel Patmore  
Policy Submissions Director

## **Authors**

### **POLICY SUBMISSION DIRECTORS**

Sarah Lu and Isobel Patmore

### **STUDENT CONTRIBUTORS**

Archie Shrotriya

Hayden Clift

Karthik Pande

Mursal Rahimi

Tina Sharma

## **Acknowledgements**

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### **UNSW LAW SOCIETY CO-PRESIDENTS**

Sophie Berton and Justin Song

### **UNSW LAW SOCIETY VICE-PRESIDENT (SOCIAL JUSTICE)**

Sanjay Alapakkam

## I BACKGROUND AND POLICY APPROACHES

This submission recognises that support for Australia's Pacific neighbours is one of Australia's highest foreign policy priorities, with a commitment of \$1.4 billion of overseas development aid for the region between 2019-20.<sup>1</sup> Underlying this commitment is Australia's interest in strengthening Pacific partnerships to achieve mutual prosperity and stability.<sup>2</sup> This submission will address the effectiveness of prioritisation and participatory policy approaches in developing and implementing Step Up initiatives, which aim through strengthen support networks across issues relating to economic development and growth, climate sustainability and education.<sup>3</sup>

### A *Priority Needs*

This submission recommends that Australia identifies priority needs in the Pacific region, with diversity at the forefront of decision making. In light of this, the key challenges that both Australia and its Pacific neighbour counterparts broadly face include climate change and economic recovery of key industry sectors, such as tourism, following the COVID-19 pandemic.

This submission notes that the Pacific Islands are a vulnerable group of nations. Their small sizes, geographically remote locations, and relatively small economies that are heavily dependent on a few sectors leaves them economically vulnerable.<sup>4</sup> In addition, the Pacific Islands face significant risks to development posed by climate change, including worsened food security, more severe and injurious weather events and at worst, the potential destruction of whole islands through rising sea levels.<sup>5</sup> This submission recommends that these vulnerabilities be considered in determining priority needs when developing policy.

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<sup>1</sup> 'Stepping Up Australia's Engagement with our Pacific Family', *Department of Foreign Affairs and Trade* (Web Page) <<https://www.dfat.gov.au/geo/pacific/engagement/Pages/stepping-up-australias-pacific-engagement>>.

<sup>2</sup> Department of Foreign Affairs and Trade, *2017 Foreign Policy White Paper* (White Paper, November 2017) 7 <<https://www.dfat.gov.au/publications/minisite/2017-foreign-policy-white-paper/fpwhitepaper/pdf/2017-foreign-policy-white-paper.pdf>> ('White Paper').

<sup>3</sup> *Ibid.*

<sup>4</sup> 'Pacific Islands Overview', *World Bank* (Web Page, 6 October 2020) <<https://www.worldbank.org/en/country/pacificislands/overview>>.

<sup>5</sup> World Health Organisation Western Pacific Division, *Human Health and Climate change in Pacific Island Countries* (Report, 2015) 18 <<https://www.who.int/globalchange/publications/human-health-and-climate-change-in-Pacific-Island-countries/en/>>.

Historically, nations in ‘the Pacific’ have been treated as a relatively homogenous bloc in discussions about those nations. The Foreign Policy White Paper refers to ‘engag[ing] with the Pacific’<sup>6</sup>, and largely focuses on setting general foreign policy goals for the region at large.<sup>7</sup> This submission acknowledges that Pacific Island nations do share certain challenges, and that resolving such challenges, particularly climate change related ones, will require a unified effort. For example, the Forum Leaders’ communique from the most recent Pacific Islands Forum explicitly focused on securing ‘our Pacific’<sup>8</sup>, and highlighted the fact there were many shared threats. The recent pandemic is another example, with COVID-19 severely contracting the tourism industry, many nations in the region have faced similarly significant economic downturns given their common dependence on tourism for income<sup>9</sup>. Recently, the Cook Islands’ Prime Minister stressed the importance of unity on climate change.<sup>10</sup> The National Public Radio also commented specifically on the greater unity Pacific Islands officials showed at the UN in 2019.<sup>11</sup> This submission recognises that the Pacific Step-Up must ensure unified responses to common problems of climate change, COVID-19 and tourism.

This submission also notes that these nations are diverse, with diverse histories, and resultantly, diverse cultures and social structures that must be considered in the formulation and delivery of policy as part of the Pacific Step Up. Hassall in 2012 remarked how those in Pacific Island nations ‘identify more with their place of birth and ethnic group than with their nation or with Oceania as a whole’.<sup>12</sup> Henningham further outlined the great diversity that characterises the Pacific Islands, including in culture, identities, governance and politics, and foreign relations.<sup>13</sup> Individual interviews conducted with Pacific Islanders by the Whitlam Institute also demonstrated a strong adversity to “distilling or essentialising the ‘Pacific Culture’” in policy actions.<sup>14</sup> This submission notes that these diverse interests will influence responses to shared problems such as climate change, through recognising the need to tailor policy according to regional interests.

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<sup>6</sup> White Paper (n 2) 101.

<sup>7</sup> Ibid 101-5.

<sup>8</sup> Fiftieth Pacific Islands Forum, *Forum Communique* (Statement PIF(19)14, 16 August 2019) 12-13 [1], [9]-[10] <<https://www.forumsec.org/wp-content/uploads/2019/08/50th-Pacific-Islands-Forum-Communique.pdf>>.

<sup>9</sup> ‘Pacific Islands Threatened by COVID-19’, *International Monetary Fund*, (Online, 27 May 2020) <<https://www.imf.org/en/News/Articles/2020/05/27/na-05272020-pacific-islands-threatened-by-covid-19>>.

<sup>10</sup> ‘Cook Islands Call for Strengthened Regional Unity and Innovative Financing Mechanisms in the Face of Unprecedented Challenges’, *Island Times* (online, 16 October 2020) <<https://islandtimes.org/cook-islands-call-for-strengthened-regional-unity-and-innovative-financing-mechanisms-in-the-face-of-unprecedented-challenges/>>.

<sup>11</sup> Ashley Westerman, ‘We Need Support’: Pacific Islands Seek Help and Unity to Fight Climate Change’, *NPR* (news article, 5 October 2019) <<https://www.npr.org/2019/10/05/764570478/we-need-support-pacific-islands-seek-help-and-unity-to-fight-climate-change>>.

<sup>12</sup> Graham Hassall, ‘Who is Leading the Pacific Islands as a Region?’ (2012) 18 *Canterbury Law Review* 5, 5.

<sup>13</sup> Stephen Henningham, ‘No Easy Answers: Australia and the Pacific Islands region’ (Research Paper, Parliament of Australia, 31 August 1995) 5-8.

<sup>14</sup> Peacifica, *Pacific Perspectives on the World* (Whitlam Institute Research Project, February 2020) 32.

This submission recommends that as part of Pacific Step-Up, the responsible agencies pay proper attention to the unique circumstances of each nation, and ensure the diverse needs of Pacific Island nations are considered alongside unified responses.

## **B** *Participatory Frameworks*

This submission recommends that, to successfully identify and address the priority needs of the Pacific Island countries, Pacific voices must be centred within Step Up initiatives.<sup>15</sup> This submission further recommends that the Australian Government may achieve this prioritisation through a participatory framework that actively incorporates Pacific Island governments and peoples in the design, implementation and evaluation of Step-up initiatives.

A participatory framework of consultation with the peoples and governments of Pacific Island countries requires the Australian Government to host focus groups and workshops with political representatives and local communities. The value of a participatory framework is in how it positions Pacific voices as active co-producers of knowledge and recognises their agency in shaping the initiatives that will be applied within their communities.<sup>16</sup> Given that research warns of the Pacific perception of Step Up as an 'external initiative',<sup>17</sup> using a participatory framework of consultation instead fosters an authentic partnership founded on a balance of power and mutual respect.<sup>18</sup> This submission also notes that a participatory framework provides a useful opportunity to engage with actors beyond the local elites within Pacific Island countries by incorporating Indigenous and female participants in consultations. This submission argues that this is of particular importance, given The Whitlam Institute, in collaboration with Peacifica, have found that Pacific participants are concerned with how the Australian Government has engaged with its own Indigenous population, and question how these attitudes will translate into Step-up initiatives.<sup>19</sup> Specifically, Pacific Islander research participants generally wanted to see that "Indigenous Australians are visible and active throughout Australian society", before engaging in further international initiatives.<sup>20</sup>

While employing this participatory framework, this submission recommends that the Australian Government pursues a discussion of needs that are not strictly limited to security or economic growth

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<sup>15</sup> Tess Newton Cain, James Cox and Geir Henning Presterudsteun, 'Pacific Perspectives on the World: Listening to Australia's Island Neighbours in Order to Build Strong, Respectful and Sustainable Relationships' (Research Paper, Whitlam Institute, 2020) 6 <<https://www.whitlam.org/publications/2020/2/13/pacific-perspectives-on-the-world>>.

<sup>16</sup> Chasca Tyman, Daniel Hammett and Mark Graham, *Research and Fieldwork in Development* (Routledge, 2015) 180.

<sup>17</sup> Cain, Cox and Presterudsteun (n 15) 5.

<sup>18</sup> Tyman, Hammett and Graham (n 16) 185.

<sup>19</sup> Cain, Cox and Presterudsteun (n 15) 25.

<sup>20</sup> Peacifica (n 14) 6.

within the region. At the Fiftieth Pacific Islands Forum in 2019, Pacific leaders demonstrated a consensus that climate change 'is the single greatest threat to the livelihoods, security and wellbeing of the peoples of the Pacific'.<sup>21</sup> Gender-based violence, food security, and internally displaced persons have further been identified as priority needs.<sup>22</sup> This submission notes that acknowledging these diverse needs is vital in demonstrating a genuine commitment to supporting development within the region, while ensuring that Step-up initiatives specifically reflect the priorities of the governments and peoples of Pacific Island countries.

## II EDUCATION

The New Colombo Plan ('NCP') is an initiative developed by the Australian government, aiming to increase knowledge and awareness of the Indo Pacific in Australia by supporting Australian undergraduates to study and undertake internships in the region.<sup>23</sup> The NCP involves a scholarship program for study of up to one year and internships or mentorships, and a flexible mobility grants program for both short and longer-term study, internships, mentorships, practicums and research.<sup>24</sup>

This submission recommends that Australia continue to utilise NCP scholarships to increase cultural and diplomatic ties within the region. In sending academically-driven students who are enthusiastic about the region to live and study in the Pacific for a prolonged period of time, Australia is gaining a valuable insight into the machinations of Pacific culture and governance, attaining a greater understanding of the issues affecting the region.<sup>25</sup> This may be achieved through increasing the capacity of scholarship places within the Pacific. This is especially critical as we navigate the COVID-19 pandemic. With international travel to much of Asia being restricted, the focus of the 2021 and 2022 NCP placements should be Pacific nations which are currently much safer than Asia at the present time.<sup>26</sup> This submission notes that by increasing the number of NCP places in the Pacific, Australia will broaden its cultural and diplomatic network, with many NCP scholars taking work

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<sup>21</sup> Forum Communique (n 8) 4.

<sup>22</sup> Tess Newton Cain, 'Walking the Talk: Is Australia's Engagement with the Pacific a 'Step Up' or a Stumble?' (Policy Paper, The Cairns Institute Policy Paper Series, 2018) 7 <[https://researchonline.jcu.edu.au/55672/1/Walking\\_the\\_Talk.pdf](https://researchonline.jcu.edu.au/55672/1/Walking_the_Talk.pdf)>.

<sup>23</sup> Australian Government Department of Foreign Affairs and Trade, 'New Colombo Plan' (Webpage, 2020) <<https://www.dfat.gov.au/people-to-people/new-colombo-plan/pages/new-colombo-plan>>.

<sup>24</sup> Ibid.

<sup>25</sup> Caitlin Byrne, 'Australia's New Colombo Plan: Enhancing regional soft power through student mobility' (2016) 71(1) *International Journal* 107, 108.

<sup>26</sup> 'COVID-19 is Reaching the Last Coronavirus-free Nations on Earth', *Time Magazine* (online, 13 November 2020) <<https://time.com/5910456/pacific-islands-covid-19-vanuatu/>>

placements within embassies, governmental agencies, international organisations and local business outposts while studying.<sup>27</sup>

### III CULTURAL AWARENESS

This submission notes that increasing cultural awareness in both governmental and societal precincts would allow Australia to not only become better accustomed with the Pacific region, but would also ameliorate Australia's knowledge of Pacific's core values and morals. Importantly, enhanced cultural literacy allows Australia to contextualise the issues faced by Pacific governments and their peoples. The adequate contextualisation of the issues faced by the Pacific is pivotal in avoiding an imperialistic or colonialist approach.<sup>28</sup> Evidently, it is important that Australia remains respectful of the sovereignty of Pacific nations.<sup>29</sup> This submission therefore recommends that Australia's Pacific Step-up implements initiatives that promote the benefits of a multicultural society, and mobilise diasporic Pacific communities with local councils to host events that promote Pacific Island culture to the broader Australian society.

### IV MIGRATION AND SEASONAL WORK

Pacific Island nations face unique development challenges due to their youthful population, limited exportable commodities and physically distant markets creating high unemployment rates.<sup>30</sup> Remittance inflows, private income transfers from family members living and working abroad, have therefore become an important source of foreign exchange earnings. Remittance inflows contribute to increased income and consumption in households, reducing poverty and providing contingency funds. They are often invested in education and health in local communities, creating positive flow-on effects for the development of human capital.<sup>31</sup>

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<sup>27</sup> Bradley McConachie, 'Australia's use of international education as public diplomacy in China: foreign policy or domestic agenda?' (2019) 73(2) *Australian Journal of International Affairs* 198, 201.

<sup>28</sup> Phillipa Louey, 'A Pacific Overstep: Australia's Flawed Focus on Integration', *Australian Foreign Affairs* (Online, September 2019) <<https://www.australianforeignaffairs.com/articles/next-voices/2019/09/a-pacific-overstep/philippa-louey>>.

<sup>29</sup> Peter O'Neill, 'Address by the Hon Peter O'Neill CMG MP, Prime Minister Papua New Guinea' (Speech, Lowy Institute 14 May 2015).

<sup>30</sup> John Connell and Richard Brown, 'Remittances in the Pacific: An Overview' (Report, Asian Development Bank Pacific Studies Series, 2005) 7.

<sup>31</sup> *Ibid* 30.

Two main drivers of remittances are the duration of absence from a migrant's home country and household income. Overall trends show that Pacific diaspora permanently settled abroad remit only a portion of their income due to high levels of consumption and low household incomes. Conversely, seasonal migrants generally remit most, if not all, of their net income.<sup>32</sup>

There are currently two schemes through which seasonal workers from Pacific Island nations may work in Australia: the Seasonal Worker Programme ('SWP') and the targeted Pacific Labour Scheme ('PLS').

#### **A *Seasonal Worker Programme (SWP)***

Commenced on 1 July 2012, the SWP is an Australian Government initiative which provides approved employers with workers from Pacific Island nations and Timor-Leste. It is designed to meet labour demands for unskilled and low-skilled workers for a duration of up to 9 months.<sup>33</sup>

Experienced workers may return for further seasons following their initial placement, providing access to a reliable workforce to employers. Since 2012, more than 33,000 season jobs have been provided to workers from the Pacific and Timor-Leste through the SWP.<sup>34</sup>

#### **B *Pacific Labour Scheme ('PLS')***

The PLS commenced on 1 July 2018, with the objective of complementing the existing SWP scheme. It focuses on addressing labour shortages in low-skilled and semi-skilled workers for Australian businesses across all industries in rural and regional Australia. Workers under the PLS may stay for a period of up to 3 years, under an Employer-sponsored 403 Visa, and remain employed by their sponsor for the full period.<sup>35</sup>

In 2018, the SWP and PLS schemes resulted in a net income gain in the Pacific of \$144 million from the PLS alone.<sup>36</sup> It is evident that the seasonal worker schemes are mutually beneficial, addressing key labour shortages in Australia and providing economic flow-on effects to participating Pacific Island nations. However, the full potential of these schemes is not being realised, and there is need for systematic reform on both the demand and supply side, for the following reasons.

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<sup>32</sup> Ibid 23.

<sup>33</sup> Australian Government Department of Education, Skills and Employment, 'Seasonal Worker Programme', (Web Page, 20 October 2020) <<https://www.employment.gov.au/seasonal-worker-programme>>.

<sup>34</sup> Ibid.

<sup>35</sup> Australian Government Department of Foreign Affairs and Trade, 'Pacific Labour Mobility', (Web Page) <<https://www.dfat.gov.au/geo/pacific/engagement/pacific-labour-mobility/Pages/default>>.

<sup>36</sup> Parliament of Australia, 'Pacific labour mobility – the \$144 million question' (Media Release, 27 February 2020).



First, eligible Australian employers are disincentivised from participation due to high additional costs, such as those incurred for transportation, sponsorship, travel and accommodation.<sup>37</sup> This makes Pacific seasonal workers uncompetitive against other categories of workers, such as backpackers and illegal workers.<sup>38</sup> This submission recommends action to reduce this disincentive through reform of the upfront costs and employer contributions to international and domestic travel costs, which would be subsidised by the Government. Additionally, this submission recommends increasing funding for compliance activities undertaken by the Department of Immigration and Border Protection and the Fair Work Ombudsman to ensure control of illegal worker markets, increasing Pacific seasonal workers' competitiveness.<sup>39</sup>

Second, this submission recommends that the living conditions of seasonal workers in Australia are thoroughly audited, improving transparency and encouraging accountability for employers. There are regular reports to the Australian Workers Union regarding 'slum-like' conditions where seasonal workers are living in overcrowded households whilst paying exorbitantly high rents.<sup>40</sup> In February 2020, it was revealed that up to 70 workers employed by Costa Group, a major Australian horticultural company, under the SWP had been housed in a five-bedroom property, each paying \$100 per week in rent.<sup>41</sup> Employers are required to ensure that accommodation is safe and fit for occupation, and meets local council regulations. However, the continued instances of poor living conditions for Pacific seasonal workers demonstrate a lack of transparency and ability of the local government council to assess the accommodation.<sup>42</sup> This submission recommends streamlining the assessment process and ensuring a national body is responsible for conducting these assessments. We propose this will significantly improve the quality of life for seasonal workers.

Finally, this submission recommends a sustained Government effort to improve the awareness and reputation of the SWP and PLS. Reputation of these schemes amongst Approved Employers is regularly cited as a disincentive to hiring Pacific seasonal workers.<sup>43</sup> As recommended above, improving high costs of participation for employers may be supplemented with increased awareness of the business case for hiring Pacific season workers, such as efficiency gains and overall profitability. This submission further recommends the government engage in a targeted marketing campaign of the SWP and PLS schemes, through rural and social media. This submission notes that the true benefits of the

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<sup>37</sup> Jesse Doyle and Stephen Howes 'Australia's Seasonal Worker Program: Demand-side Constraints and Suggested Reforms' (Discussion Paper, World Bank, 2015) 16.

<sup>38</sup> *Ibid* 15.

<sup>39</sup> *Ibid* 25.

<sup>40</sup> Kath Sullivan and Eden Hynninen, 'Seasonal worker program under scrutiny after 70 people in house', *ABC News* (Online, 14 February 2020) <<https://www.abc.net.au/news/2020-02-14/seasonal-worker-program-under-scrutiny-after-70-people-in-house/11960818>>.

<sup>41</sup> *Ibid*.

<sup>42</sup> *Ibid*.

<sup>43</sup> Doyle and Howes (n 37) 19.

seasonal worker programs cannot be realised unless both prospective employers and employees are aware of them.<sup>44</sup>

## V COVID-19

This submission recommends that in a post-pandemic society, the Pacific Step-Up initiatives must address the changing needs of the government and people of Pacific island countries. This includes the ability of countries in these regions to be equipped in forecasting impending social and economic impacts. This submission recommends the Pacific Step-Up initiatives follow the World Bank's relief response to COVID-19 in the Pacific region, where there has been increased research into where countries have been critically impacted and how they may respond.<sup>45</sup> This submission recommends using this ongoing relief response to inform and guide the Pacific Step-Up. This submission also recommends policy changes within the Pacific region to combat the increasing losses in critical industries such as the small business and education sector.<sup>46</sup>

This submission recommends that Australia develops appropriate responses to the contraction in tourism-dependent economy, particularly in the aftermath of the COVID-19 pandemic. With the operation of the travel bubble opening with New Zealand, expanding this bubble to the Pacific region in order to fuel their dwindling sectors could be a consideration.<sup>47</sup> This will allow for much needed influx of tourists from Australia and vice versa in order to strengthen relationships with the Pacific region.

Australia has already supplied critically needed PPE and testing kits to the Pacific region, facilitating the immediate crisis of the underfunded healthcare system prevalent in the countries.<sup>48</sup> However, this submission recommends Australia addresses this underfunding and lack of preparation to be able to contain and prevent future instances of virus transmissions. This includes healthcare education of the population, which may be achieved by partnering with third party organisations that are prevalent in this region to disseminate reliable healthcare information. This submission specifically recommends that the Australian Partnership for Preparedness Research on Infectious Disease Emergencies (APPRISE) Centre of Research work in tandem with the Pacific region governments in order to share research and implement a plan for further actions within communities. APPRISE is already a partner

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<sup>44</sup> Doyle and Howes (n 37) 25.

<sup>45</sup> World Bank, *Our Work in Papua New Guinea & the Pacific Islands* (Report, August 2020).

<sup>46</sup> Jeffrey Wall, 'The importance of Australia's Pacific step-up in the post-virus environment', *The Strategist* (online, 24 April 2020) < <https://www.aspistrategist.org.au/the-importance-of-australias-pacific-step-up-in-the-post-virus-environment/>>.

<sup>47</sup> *Ibid.*

<sup>48</sup> Anthony Galloway, 'Australia steps up medical support for South Pacific', *Sydney Morning Herald* (online, 6 April 2020) < <https://www.smh.com.au/politics/federal/australia-steps-up-medical-support-for-south-pacific-20200406-p54hd4.html>>.

of the Global Research Collaboration for Infectious Disease Preparedness,<sup>49</sup> therefore committing to an exchange of information will be an efficient extension of its operations. In doing so, this submission notes that the Pacific region will be able to not only have a clearer outlook for the current healthcare crises but will have infrastructures in place ready for any future infectious disease containment. Furthermore, by maintaining strong, symbiotic ties with its Pacific neighbours, Australia is able to grow its presence, engage in greater cultural exchanges, and gain access to sustainable labour resources to offset skills shortages faced by certain Australian industries.

## VI RECOMMENDATIONS

1. This submission recommends that Australia identifies priority needs in the Pacific Step Up, with diversity at the forefront of decision making.
2. This submission recommends that, to successfully identify and address the priority needs of the government and peoples of Pacific Island countries, Pacific voices must be centred in each phase of Step-up initiatives.
3. This submission recommends that Australia continue to utilise NCP scholarships to increase cultural, educational and diplomatic ties within the region.
4. This submission recommends that Australia's Pacific Step-up implements initiatives that promote the benefits of a multicultural society, and mobilise diasporic Pacific communities with local councils to host events that promote Pacific Island culture to the broader Australian society.
5. This submission recommends a sustained Government effort to improve employer awareness, quality standards and reputation of the SWP and PLS.
6. This submission recommends that the Pacific Step-Up initiatives follow the World Bank's relief response to COVID-19 in the Pacific region.
7. This submission recommends that the Australian Partnership for Preparedness Research on Infectious Disease Emergencies (APPRISE) Centre of Research work in tandem with the Pacific region governments in order to share research and implement a plan for further actions within communities.

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<sup>49</sup> 'Covid-19 Impacts', *National Health and Medical Research Council* (Web Page) <<https://www.nhmrc.gov.au/research-policy/COVID-19-impacts>>.