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## **Executive summary**

Across the globe, the adverse impacts of disasters and climate change are prompting

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#### Section 6: Why Australia needs to act

Responding to displacement is not just a humanitarian imperative, but it is also in Australia's national interest. The stability and prosperity of Pacific Island countries directly impact Australia, and Australia benefits from the economic and social contributions Pacific Islanders make as temporary and permanent migrants. Migration employment programs will be undermined by displacement-driven instability, directly affecting those Australian employers who have become dependent on reliable and effective workers from the Pacific.

### Section 7: The role of migration in enhancing mobility

Migration can be a form of adaptation to climate change. It provides an important risk management strategy that can enhance the resilience of those who move, as well as those who stay behind. If only one per cent of the Pacific's population were permitted to work permanently in Australia, this would bring more benefits to the Pacific than Australia's aid contribution.

Smart migration policies can provide people with choices to take control of their own lives, rather .2 ()]TJ9 (e)6 (t)-6.6 (be-2 ()10.(anag ai)2.6 (d)1 g,)]TJ0 Tc 0(ac)-2 2 ()0.5 (t)-6.6 (he.a)-20.7 n ()]T

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authorities in the Pacific identified 'overcrowding' as a significant problem when it came to ensuring sufficient resources for small, coral island populations.<sup>30</sup> This issue will be compounded by a shortage of formal sector employment opportunities,<sup>31</sup> and the impact of disasters, which affect water supply, crops and food, and habitability of land. In turn, these may affect people's need, ability and desire to move.

## 3 Existing legal protection and practices

Over the past decade, a number of international instruments have been developed that include commitments relating to climate change, disasters and displacement.<sup>32</sup> None formally requires states to admit people who are at risk, however, and existing international protection frameworks provide an incomplete and imperfect solution.

is not an easy fit in this context, and no refugee claim based on the risks of climate impacts alone has succeeded so far.<sup>33</sup> Primarily, that is because it is difficult to show that these impacts on their own amount to 'persecution', and that they are occasioned 'for reasons of' one's race, religion, nationality, political opinion or membership of a particular social group.<sup>34</sup> However, refugee law should not be automatically dismissed either.<sup>35</sup> Disasters and climate change may provide a backdrop for persecution, such as where humanitarian assistance is withheld from particular groups, or existing discrimination is exacerbated.<sup>36</sup> Additionally, disasters and climate impacts may intersect with other drivers of displacement, such as conflict, giving rise to a well-founded fear of persecution.<sup>37</sup> Indeed, UNHCR emphasises the importance of focusing on the broader 'social and political characteristics of the effects of climate change or the impacts of disasters' and their potentially 'significant adverse effects on State and societal structures and individual wellbeing and the enjoyment of human rights.'u-6.6 (he ie e)10.5 (f)-6.6 (f)-6.6 136 (her13.6 (s)8.9>>BDC prevents governments from removing people to any place where they face a real risk of being arbitrarily deprived of their life, or subjected to torture or cruel, inhuman or degrading treatment or punishment.<sup>39</sup> These obligations are partially reflected in Australia's complementary protection provisions in the 1958 (Cth).<sup>40</sup>

In 2019, the UN Human Rights Committee found that it was unlawful for governments to send people back to countries where climate change impacts expose them to life-threatening risks.<sup>41</sup> The matter concerned New Zealand's deportation of a man to Kiribati, where he claimed that his life was increasingly threatened by erosion, inundation and insufficient fresh water. The Committee observed that 'the conditions of life in such a country may become incompatible with the right to life with dignity before the risk is realized', meaning that people should be able to receive protection before their life is imminently threatened.<sup>42</sup> Although the Committee's decision itself is not legally binding, the international legal obligations on which it is based are. It effectively puts governments on notice to ensure that their national laws enable people to claim – and receive – protection from the (cumulative) impacts of disasters and climate change, or to otherwise move out of harm's way to a place of safety.

, many countries do admit – or refrain from removing – people in the aftermath of disasters.<sup>43</sup> Practices are wide-ranging and ad hoc, spanning special humanitarian visas,<sup>44</sup> temporary stay arrangements,<sup>45</sup> expedited processing of or flexibility with requirements for migration visas, and temporary labour migration schemes to help people move out of precarious circumstances.<sup>46</sup> Free movement agreements can also allow people to enter or remain in a country following a disaster.<sup>47</sup>

On occasion, Australia has provided Temporary Safe Haven Visas to enable particular

resilience and adaptation activities in the Pacific. The Department of Foreign Affairs and Trade (DFAT) is also working to 'climate proof' all existing and future aid projects in the Pacific where appropriate. As we explore below, however, Australia could make a further, significant contribution by expanding opportunities for mobility.

We do not need to reinvent the wheel. The Australian-endorsed 'toolkit' set out in the Nansen Initiative's Protection Agenda provides the roadmap. Targeted policy interventions by Australia across a range of areas could reduce the risk and extent of future displacement linked to the impacts of disasters and climate change in the Pacific. In doing so, however, it is vital that Australian policymakers ensure that initiatives are attuned to the needs and interests of Pacific communities themselves.

### 5 Regional developments

In 2018, Pacific leaders (including Australia) adopted the Boe Declaration on Regional Security, which identifies climate change as 'the single, greatest threat to the livelihoods, security, and well-being of the peoples of the Pacific'.<sup>56</sup> In 2019, the leaders endorsed the Boe Declaration Action Plan.<sup>57</sup> Three of its six strategic focus areas are: climate security, human security and humanitarian assistance, and environment and resource scarcity. Although enhancing mobility is not specifically mentioned in the document, the Pacific Climate Change Migration and Human Security Programme, funded by the UN Trust Fund for Human Security, is seeking to protect and empower individuals and communities adversely affected by climate change and disasters in the Pacific region, focusing specifically on climate change and disaster-related migration, displacement and planned relocation.<sup>58</sup>

In many respects, Pacific governments are already well ahead of Australia. For instance, both Fiji and Vanuatu have developed guidelines on internal displacement in the context of climate change and disasters to assist the government and other stakeholders 'to address and reduce vulnerabilities associated with displacement' and to consider 'sustainable solutions to prevent and minimize the drivers of displacement on the affected communities in relation to climate change and disaster-associated events'.<sup>59</sup> Fiji has also created national guidelines on internal planned relocations and established a Climate Relocation and Displaced Peoples Trust Fund for Communities and Infrastructure<sup>60</sup> (seed funded by a percentage of Fiji's Environment and Climate Adaptation Levy).<sup>61</sup> A number of communities have already been relocated from areas highly susceptible to disasters where continued settlement is unsafe and unsustainable.

New Zealand has donated A\$3 million to Fiji's relocation fund (as part of a broader package of climate change assistance).<sup>62</sup> Australia shou (al)2.1e assijshang3 (Fi)2 0 6.96 376.083t.002 Tc -d23be6

the Pacific and Australia have been effective, they have also devastated economies throughout the region and may amplify existing pressures in these fragile nations.

We may not be able to stop climate change displacement dead in its tracks: no matter

any migration policy. Migration can be disruptive to family ties, cultures, individual identity and belonging. This disruption should not be compounded by the risks of exploitation or trapping migrants in low socio-economic stasis.

Of course, migration is not a new phenomenon for the Pacific. For almost a century, Pacific Islanders have been moving so that individuals and families can pursue educational and economic opportunities. The bulk of contemporary migration from Pacific Island countries in recent decades has involved a mix of temporary labour flows and permanent settlement abroad, and more than a million Pacific Islanders now live outside their immediate region, largely in Australia, New Zealand and the United States.<sup>72</sup>

However, it is easier for some Pacific Islanders to move than others. For instance, the United States has Compacts of Free Association with the Federated States of Micronesia, Palau and the Republic of the Marshall Islands, which provide visa-free entry to citizens of those states and allow them to reside and work in the US.<sup>73</sup> However, amendments to the compacts in 2003 mean that entry and stay are not guaranteed, and people with insufficient means to support themselves may be deported. Further, any period of time spent in the US

## 8 Australia's existing Pacific migration schemes

After decades of advocacy from Pacific leaders, the World Bank, and the academic community, Australia now runs two temporary migration schemes with the Pacific, the Seasonal Worker Programme (SWP) and the Pacific Labour Scheme (PLS)

#### **Seasonal Worker Programme**

The SWP, established as a pilot in 2008 and fully implemented in 2012, has so far provided more than 33,000 jobs to Pacific and Timorese peoples to work in Australia's horticulture industry. It is a form of circular migration and has been described by the Australian government as 'a key part of building resilience'.<sup>81</sup> With its cap removed in 2015, numbers continue to grow: 12,200 people participated in 2018–19 alone, representing a 44 per cent increase from the previous financial year.<sup>82</sup> The SWP is now the same size as its longer-sample building financial year.<sup>82</sup> The SWP is now the same size as its longer-

including through their failure to provide regular financial support for their families.<sup>92</sup> Between 2012 and 2017, twelve people died while participating in the scheme (from car accidents or pre-

Australian temporary migration categories (such as the Temporary Skill Shortage visa,

Pacific Islanders.<sup>108</sup> The program has also generated criticism from Pacific peoples and governments about the risks associated with 'brain drain', or human capital flight. While many experts argue that the individual and structural benefits of migration counter such concerns,<sup>109</sup> for Pacific nations with relatively low levels of education, it remains a point of significant concern.<sup>110</sup>

New Zealand and the US also have skilled migration pathways that are open to Pacific Islanders. However, most Pacific migrants to those countries move either through (in the case of the US) the Green Card lottery or (in the case of New Zealand) the Pacific Access Category (PAC) and Samoan Quota Resident Visa schemes. While there are some conditions – including criminal background checks, health checks, and, in the case of New Zealand, a job offer – (he )0.5 (U)2.o207 Tw 0.8her

### Endnotes

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<sup>2</sup> Internal Displacement Monitoring Centre (IDMC), (IDMC, 2020) 1.

<sup>3</sup> Sylvain Ponserre and Justin Ginnetti, (IDMC, 2019) 7.

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<sup>30</sup> Jane McAdam, 'Relocation and Resettlement from Colonisation to Climate Change: The Perennial Solution to "Danger Zones" (2015) 3 93.

<sup>31</sup> World Bank (n 29) 1.

<sup>32</sup> Sendai Framework for Disaster Risk Reduction 2015–2030, UNGA res 69/283 (23 June 2015);
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<sup>68</sup> See eg Graeme Hugo, 'Migration and Development in Low-Income Countries: A Role for Destination Country Policy?' (2012) 1
<sup>67</sup> Z7; Olivia Dun and Natascha Klocker, 'The Migration of Horticultural Knowledge: Pacific Island Seasonal Workers in Rural Australia – A Missed Opportunity?' (2017) 48
<sup>68</sup> Z7; Richard Curtain and Matthew Dornan,

(Development Policy Centre, 2019) <https://devpolicy.org/publications/reports/Migration-climate%20change-Kiribati-Nauru-Tuvalu.pdf>.

<sup>69</sup> Leon Berkelmans and Jonathan Pryke,

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<sup>78</sup> World Bank, 'Personal Remittances, Received (% of GDP)'
 <a href="https://data.worldbank.org/indicator/BX.TRF.PWKR.DT.GD.ZS">https://data.worldbank.org/indicator/BX.TRF.PWKR.DT.GD.ZS</a>> (accessed 10 July 2020).

<sup>79</sup> For their utility in other regions, see Francis (n 73); Tamara Wood,

(Platform on

Disaster Displacement, 2019) <a href="https://disasterdisplacement.org/wp-content/uploads/2019/06/52846\_PDD\_FreeMovement\_web-single\_compressed.pdf">https://disasterdisplacement.org/wp-content/uploads/2019/06/52846\_PDD\_FreeMovement\_web-single\_compressed.pdf</a>>.

<sup>80</sup> Peter Lafferty, 'International Migration to/from Christchurch after the Earthquakes' (Statistics New Zealand, 29 November 1 ()-P <</MC2.2 (i)3.1 12.E.1 (t)-1.1 (p:)-1.1 (/)-13.2 (w)-2.9 (w)-2.9 (w)-2.9 (.)-1.1 (point of the provide the provided the provid 91 World Bank (n 87) 44.

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