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2020-21 Annual Wage Review

First Submission of the Australian Chamber of Commerce and Industry

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Australian
Chamber of Commerce
and Industry

Australian Chamber of Commerce and Industry

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1. INTRODUCTION

1. The 2020-21 Annual Wage Review is not the first review after a crisis, but the second review during a period of continuing challenge and uncertainty, taking place as immediate crisis and concerns about mass pandemic have given way to longer term challenges and endemic risk. This Review should not be seen as a return to normalcy, as the risks of proceeding on that basis would be substantial.

2. The Expert Panel in this Review confronts the same challenge as our policy makers and broader community in early to mid-2021. It is the challenge of reconciling three contradictory, simultaneous developments:

   a. The first is Australia's remarkable success at controlling COVID-19 and even in reversing governmental failures that cost livelihoods and businesses, and our success limiting negative impacts on jobs and our economy through our collective efforts and sound decision making by governments, as well as the nascent recovery which seems to be proceeding quickly in some areas. We are envy of the world, both through hard work and good decisions, and through our geography.

   b. The second however is unevenness and inconsistency. When the rest of the country is open or opening, venues and hospitality businesses remain closed, international travel dependent industries and regions are facing massive economic and employment adversity, and businesses and jobs continue to be lost. National level macroeconomic indicators mask a wide variety of experiences and vulnerabilities, and genuine crises for many minimum wage reliant employers every bit as pressing and damaging as the 'hot' crisis that the wider community faced in 2020. Talk of the strength of recovery, whilst accurate, doesn't apply to venues still working under restrictions, doesn't match the experience of tourism or travel dependent industries, and cannot be allowed to mask those most impacted by the end of JobKeeper.

   c. The third is risk and fragility. Victorians know better than anyone how rapidly good work can be undone, and various states have experienced sudden restrictions in recent weeks. We also face risks beyond our borders, to the global economy, and for all its positives the success of vaccination is yet to be realised. For all the strength of recovery at the macro or national level, it is not only uneven, it is also subject to clear risks and fragilities.

3. These risks and fragilities, and the uncertainties are particularly clear as small businesses and those who work for them confront the end of JobKeeper — only 48 hours after this submission is lodged.

4. The end of JobKeeper and related Fair Work Act temporary flexibilities on Sunday 28 March 2021 will require a substantial and urgent readjustment for many businesses, particularly those that continue to be impacted by international border closures and on-going state-based health restrictions.

5. This readjustment will place many businesses under a considerable amount of financial stress, requiring them to reassess their viability, both long-term and immediate-term, as they continue to operate below capacity and with revenues below their pre-COVID levels. Some will need to pare-back operations and shed jobs, others will be forced to close altogether.

6. Presenting at Senate Estimates – Economics Legislation Committee on 24 March 2020, Treasury Secretary Steven Kennedy predicted that somewhere in the order of 100,000 to 150,000 JobKeeper recipients may lose employment at the completion of the program.[1]

7. Similarly, leading labour market economist Professor Jeff Borland from the University of Melbourne forecast the potential job losses with the end of JobKeeper to be in the range of 125,000 to 250,000.[2]

8. Insolvencies are also expected to surge with the end of JobKeeper. We have already seen a 61% increase in insolvencies in February with the removal of the temporary safe harbour protections on 1 January 2020.[3] This will contribute to a further wave of job losses.

9. Industries with the highest award reliance are those that are most likely to continue to rely on JobKeeper as the program completes, as they continue to be impacted by international border closures and state-based health restrictions – including accommodation and food services, arts and recreation services

10. The Panel should be mindful of the impact any increase in minimum and award minimum wages will have on vulnerable, financially stressed businesses in these award-reliant industries. The Panel needs to consider the most vulnerable jobs and enterprises in 2021, and look through strong aggregates and nascent macro recovery.

11. There is a high level of uncertainty around what impact the end of JobKeeper and related Fair Work Act temporary flexibilities will have on economic activity and employment. While some initial information will be available prior to the Decision being handed down, critical information demonstrating the medium term and longer-lasting impacts will not yet be available at the time the Expert Panel makes its decision. Therefore, the Panel should take a precautionary approach in setting the minimum and award-minimum wage rate.

12. Also, given the staggered commencement of the increases arising from the 2020 review, for the most vulnerable businesses in award-reliant industries it will only be 5 months between the 2020 increase and 1 July 2021. This will need to be grappled with if any increase is to be awarded.

13. The legislated increase in the Superannuation Guarantee (SG) from 9.5% to 10% will take effect from 1 July 2021. This is effectively a 0.5% increase that is borne directly by the employer. Any increase that may be under consideration needs to be moderated for the SG rise.

14. The Expert Panel must also address calls from unions and other review participants, which regrettably are often unrelated to the realities confronting jobs and businesses. Any extraordinary increase in minimum and award minimum wages in this Annual Wage Review risks stifling the economic recovery and threatens the financial viability of many vulnerable, financially stressed businesses, particularly small businesses

15. The Annual Wage Review is not, and cannot be, approached as a stimulatory or disruptive exercise for the Australian economy as a whole. Calls to attempt to use the Review decision as a circuit

[1] Senate Estimates, Economics Legislative Committee, Wednesday 24 March 2021. Dr Steven Kennedy, Treasury Secretary – Opening Statement, p.5 https://parlwork.aph.gov.au/committee/details/352

[2] Borland J. 2021 Another step forward, but how many steps backward are we about to go. University of Melbourne Labour Market Snapshots, March 2021. https://sites.google.com/site/borlandjum/labour-market-snapshots

[3] https://www.theaustralian.com.au/business/insolvencies-up-61-in-february/news-story/f1db7bbc5548edc18bcfe9fb7f438e97

breaker, catalyst or as stimulus, to somehow "kick-start" an acceleration in wages growth generally through an inflated increase should be rejected.

16. The minimum wage is a blunt tool for tackling the living standards of the low paid. Reforming the tax and transfer system is a far more effective way to lift people's living standards. The tax and transfer system can target income according to people's needs such as family size, in a way the minimum wage can never do.

17. Asking award reliant employers, most of which are small businesses in at risk sectors to somehow pick up the stimulatory baton post-JobKeeper would be extraordinarily damaging.

1.1 Position / Proposed Minimum Wage Adjustment

18. In the last review, in light of the substantial unknowns of COVID-19, ACCI was not in a position to make a recommendation to the Expert Panel in its first submission on whether there should be an increase and the level of any increase were one to be awarded.

19. We unfortunately find ourselves in this position again in 2021.

20. There is critical information yet to emerge on one of the central considerations in this case; i.e. how the ending of JobKeeper and the related FWA temporary flexibilities will impact on economic activity and employment, given this submission is being lodged just two days prior to the finish date — Sunday 28 March 2021.

21. The more award reliant industries have been key recipients of JobKeeper through to its completion, and jobs in retail, hospitality, tourism, arts and events etc are clearly most at risk in late-March 2021. The ACCI network will have an opportunity across coming weeks to consider initial feedback and data on the impact of the completion of JobKeeper, and to recommend an outcome to the Expert Panel.

22. ACCI will settle our position taking into account the impacts of the completion of JobKeeper on businesses, on jobs and on the range of considerations germane to this review. Updated data on economic and labour market conditions and reported impact on businesses will enable us to finalise our consideration of, and communication to the Panel on:

    a. Whether there should be any increase in the NMW and minimum award wage rates in 2021, or whether the 2021 review should give rise to an order maintaining rather than increasing minimum wages.

    b. If there were to be an increase, what level may be sustainable, consistent with the applicable statutory considerations, given the massive uncertainty and risks created by the ongoing impacts of COVID-19, by enduring uncertainty, and by the completion of JobKeeper.

    c. How the various groupings of awards should be addressed and the continued case for staggering increases.

23. ACCI intends to communicate our position on this review during the further rounds of submissions, and to have clearly communicated the outcome that should emerge from this review prior to the consultations on 19 May 2021.

24. We do however caution that critical information on the impact of the completion of JobKeeper will not be available to the Panel during this review. The timing of post JobKeeper data from the ABS will limit the extent to which the Panel will have key facts before it.

25. It is also clear that the negative impacts of the end of JobKeeper will not be 100% immediate. The full impacts of ending JobKeeper are not going to be felt or shown in ABS data prior to Easter, nor indeed for some months. A practical example of this will be businesses that attempt to trade on, or to retain jobs, but ultimately find that over coming weeks and months this is impossible and jobs are lost. These would be no less negative impacts on jobs and businesses as a direct result of the ending of JobKeeper, but they may come to light across 2021.

26. The Panel's response must be one of genuine caution, having regard to informed and expert assessments of the potential negative impacts of the JobKeeper subsidies coming to an end. This includes the evidence of the Treasury Secretary to Senate Estimates in the days prior to this submission which identified that:

    a. Approximately 1.1 million workers would lose their wage subsidy of up to $1,000 a fortnight when the scheme ends on 28 March.

    b. 88,000 workers in receipt of JobKeeper were working zero or minimal hours in February.

    c. 110,000 small business still receiving the payment reported a 75 per cent reduction in revenue in the December quarter compared to the same period in 2019.

    d. "We expect that the end of the JobKeeper program will lead to some businesses closing and jobs being lost"

    e. Up to 150,000 jobs and 110,000 small businesses are at risk.[4]

27. Experience and feedback from employers may well see ACCI argue for no increase to arise from this review. We can however unequivocally state at this stage that any real increase, in excess of inflation, in Australian minimum wages, is clearly not merited, risks crystallising and extending the risks arising from the ending of JobKeeper and would be inconsistent with the Expert Panel's statutory considerations.

1.2 Impact on various industries

28. Last year the majority decision from the 2019-20 Annual Wage Review found that 'the impact of the COVID-19 pandemic has not been consistent across all sectors of the economy.'

29. In last year's decision, the majority classified industries into three award groups with different operative dates for the increase, clustered according to the perceived impact of the COVID-19 impact on those industries.

30. While the economic recovery is underway, this recovery is very uneven. There is ongoing weakness in many sectors, particularly those impacted by international travel restrictions and state health-

[4] Senate Estimates, Economics Legislative Committee, Wednesday 24 March 2021. Dr Steven Kennedy, Treasury Secretary – Opening Statement, p.5 https://parlwork.aph.gov.au/committee/details/352

based restrictions, as well as CBD-based businesses which are being impacted by working from home trends. The impact of the end of JobKeeper is also likely to differ substantially by sector.

31. We note the FWC has conducted research into distressed industries, updated from its research in 2020.[5] The research will focus on developments within the clusters identified in the 2020 Decision since the time of that decision, such as changes in the labour market, business activity, the effect of the pandemic, and Government responses to the pandemic and their effects. The most recent version is current as at 17 February 2021 and we note that the FWC has advised this research will be updated throughout the 2020-21 Review.

32. Given the impact of the end of JobKeeper is at this stage unknown and will no doubt impact industries differently, ACCI proposes to address the exceptional circumstances and appropriateness of staggered operative dates for distressed industries in a subsequent submission, noting that 1 July is just 5 months after the last wage increase came into effect for the final tranche of awards applying to the most distressed, and many of the most award reliant, industries.

1.3 Outline of submission

33. **Chapter 2, Economic Outlook**: Australia's spending, policy and epidemiological responses to COVID-19 have been highly effective in ensuring as many businesses as possible could continue to operate and as many Australians as possible could retain their jobs. These responses helped our nation stave off economic collapse. However these supports are coming to an end or are changing and businesses are facing a substantial readjustment which inevitably places both business and jobs at risk, and which will lead to many tens of thousands of businesses re-examining their future and reconsidering whether jobs can be retained.

34. Australia is not facing the heat of immediate crisis we faced in 2020, but in 2021 far more jobs and more businesses are facing existential threats than in any 'normal' review year. There are again massive unknowns for jobs and small businesses, particularly in industries most directly impacted by increases in award rates (the more award reliant). This includes substantial threats of insolvencies, as outlined in Section 2.

35. There are also ongoing risks of disruption and restrictions as have been seen in all states and territories during recent weeks.

36. This needs to be balanced against:

    a. Indications of strong recovery and growth, and strong forecasts for growth (albeit subject to risks and uncertainties).

    b. Unevenness and variable speeds of recovery that lie behind aggregates, including ongoing, job endangering adversity in some industries, some states and some regions.

37. **This compels substantial caution and moderation**, and the rejection of any claims for substantial increases in minimum wages, including (pending the confirmation of a final ACCI position) any increases in excess of price increases.

[5] Borland J. 2021 *An assessment of the economic effect of COVID-19 – Version 2.* Fair Work Commission Research Report 1/2021

38. Given the high level of uncertainty around the impact of the wind-back in Government and other support on economic activity and employment, the Panel must take a precautionary approach in setting the minimum and award-minimum wage rate in the year ahead.

39. **Chapter 3, Economic Considerations**: The major disruption to the Australia economy throughout 2020 continues to be felt, and be apparent across a range of indicators, and in the diversity of experience and ongoing adversity that macro level indicators can mask.

40. While the headline numbers are positive, recovery is very uneven across industry sectors. There is ongoing weakness, particularly sectors impacted by international travel and state health-based restrictions, as well as CBD-based businesses which are being impacted by ongoing concerns around the use of public transport, social distancing requirements in the workplace and working from home trends.

41. Some of the most at risk sectors and those facing greatest uncertainty are those with the highest levels of award reliance, most directly exposed to the potential negative impacts of uprating minimum wages.

42. Gross Value Added suffered its first recorded decrease in more than 25 years of recording. Productivity remains parlous, and anomalous paper gains as a function of the pandemic should be disregarded. It is quite unclear what is happening with profits which have been distorted by JobKeeper. However, it is clear that many businesses continue to be in significant trouble and will lack capacity to absorb any increase in minimum wages, particularly if significant and in excess of inflation.

43. A further key consideration for the Expert Panel in the 2021 wage decision must be whether its actions support or counteract the work of the Government and Reserve Bank in creating the conditions to drive the unemployment rate and put upward pressure on wages and inflation. Any significant, above trend, increase in the minimum and award minimum wages in the current economic environment is likely to work against the Government's and Reserve Bank's objectives, which are consistent with the statutory objectives for these reviews.

44. **Chapter 4, Wages**: As expected, COVID-19 supressed wage growth, and protracts historically lower levels of wage growth pre-pandemic. Wage growth has been weakest in key award reliant industries, where jobs and businesses continue to face greatest risks.

45. It is critical that the panel continue to reject attempts to fundamentally misuse minimum wage rises in any attempt to stimulate wage growth or consumption. Not only will this not work, it will kill off jobs and businesses, and turn the multiple risks which surround this review into actual detriment.

46. Absolutely no weight should be given to calls for small businesses, such as those in hospitality, retail, tourism, arts and events, to somehow stimulate spending when government has determined its wage subsidy program must end.

47. This terrible idea hasn't got any better during the COVID-19 crisis and recession, and there could not be a worse or more irresponsible time for any participant in this review to call for such an approach. It should be rejected out of hand.

48. **Chapter 5, Superannuation Guarantee**: A consideration arises in 2021 which has not come before the panel since 2014, namely a scheduled rise in the superannuation guarantee which will both benefit employees and add to the labour costs of employers from 1 July 2021.

49. **Chapter 6, Labour Market Considerations**: Employment is gathering momentum as much, but far from all of Australia, recovers from crisis. Whilst aggregates may have recovered there are pockets of jobs, and cohorts of Australians at ongoing risk.

50. Recovery in employment is inconsistent across industry sectors and regions, with those most impacted by the international border closures, state-based restrictions and supply chain disruptions lagging the recovery. These are of course some of the most award reliant industries, most directly impacted by minimum wage rises flowing from these reviews.

51. Underemployment remains a considerable problem and with unemployment also relatively high, there continues to be considerable slack in the labour market. As a result of this slack, there is little pressure on wages growth.

52. Labour market transitions are important and should be supported by minimum wages.

53. Small, award-reliant businesses that run on lean margins and are unable to pass on sizeable increases to consumers, may need to cut costs by either reducing headcount and hours, substituting capital for labour or substituting proprietor labour for employment in the smallest businesses. It is very possible that short-term gains in the earnings of those who remain in employment come at the expense of those who are negatively impacted with broader economic consequences. Wage increases that are not supported by higher productivity or higher prices for consumers, are far more likely to cost jobs. To the extent that international research demonstrates negative employment impacts caused by minimum wages overseas and their uprating, these impacts may be compounded in Australia due to our higher statutory minimum wages.

54. **Chapter 7, Living Standards / Needs of the Low Paid**: ACCI maintains that minimum wage fixation is not an effective way of addressing the needs of lower income households. The tax and transfer system is far better targeted to address the actual circumstances of lower income households and is a superior means to provide necessary support. The working illustration of two thirds of median earnings as an illustrative proxy for a poverty line should be reviewed, and greater consideration should be given to non-wage transfers and supports. Budget standards cannot in themselves be determinative of the minimum wage or an uprating of minimum award rates.

55. The Panel has previously found that it unlikely that any moderate adjustment of the NMW or modern award minimum wages arising from these Reviews would have any discernible effect upon wealth inequality. This remains a valid conclusion and should weigh in favour of caution and moderation in considering any further increase or increases in 2021. There is no significant work for this Review to do on living standards and employee needs, save for supporting businesses and jobs.

56. **Chapter 8, Other relevant considerations.** The submission concludes by addressing agreement making, equal remuneration and the application of any increase that may be awarded to transitional instruments and various proportionate and ancillary minimum rates and special minimum wages. This corresponds to Sections 5 and 6 of the Annual Wage Review 2019–20 Decision.

2. ECONOMIC OUTLOOK

2.1 Government support measures

57. Throughout 2020 the Government initiated a number of measures to helped to shield the economy, businesses and employees from the worst of the impacts of the people movement trading restrictions introduced to limit the spread of COVID-19. This included JobKeeper, the cashflow boost, apprenticeship support, and more recently HomeBuilder and JobMaker. There was also support provided by state and territory governments including the temporary waiver or delayed payment of payroll tax and other fees and charges. Private providers also provided support, including deferral of interest payments on loans by bank and commercial rents by landlords, as well as energy, telecommunications and other service charges by utilities providers.

58. These measures were very successful in enabling businesses to continue to operate throughout the COVID-19 lockdowns and trading restrictions, preventing a complete collapse of the economy during the pandemic induced economic and jobs crisis. JobKeeper, in particular, was very effective in maintaining the connection between employers and their employees, such that when conditions improved, many businesses were able to quickly ramp up their activity and return to more normal operations.

59. Yet, these measures have always been temporary and will be wound back over the coming months — in the case of JobKeeper, within 48 hours of lodging this submission. This will require to a substantial readjustment for many businesses, particularly those that continue to be impacted by, international border closures and on-going state-based health restrictions (for example limiting capacity in venues). This readjustment will place many businesses under a considerable amount of financial stress, as they continue to operate below capacity and with revenues below their pre-COVID levels.

60. In addition to their normal operating costs, businesses that have been allowed to delay payment of payroll tax, bank loans, commercial rent, etc., will also be required to cover back payments on expenses that have been delayed over the past 9 months. This increase in costs will occur despite continuing constraints on their revenue. Increasing labour costs at the same time will exacerbate the financial stress on these businesses.

61. This will require many thousands of businesses to assess their viability, both for the long term, but also for the immediate term. Some businesses will need to pare-back their operations and reduce staffing levels. Other businesses may be forced to fold, with consequent losses of all of their employees. This impact of this reduction in economic activity and employment will reverberate throughout the economy, slowing, or potentially stalling, the economic recovery.

62. At the time of this submission, and even at the time the Panel makes it decision, the full magnitude of this economic readjustment and the associated job losses cannot be known, as the data is not yet be available. Employment data for April will not be available until mid-May and National Accounts, CPI, WPI for the June quarter will not be available until September. Given the high level of uncertainty around the impact of the wind-back in Government and other support on economic activity and employment, the Panel must take a precautionary approach in setting the minimum and award-minimum wage rate in the year ahead.

63. ACCI is not arguing that this readjustment should not be allowed to occur, with these Government support programs continuing indefinitely. In fact, we believe that with the economy showing signs of recovery, this support should be steadily removed, so that business activity and the economy more broadly, can return to a more normal state as soon as possible. We agree with the view of the Treasurer that a continuation of JobKeeper and other support measures *creates adverse incentives which will become more pronounced as the economy recovers*.[6] Continuing JobKeeper will hold back workers from transition to new employment in industries where there is a high demand for labour. It will also enable businesses to continue to delay the decision to restructure their operations to better suit the new operation environment, or put off the decision to fold if their business is not likely to be viable over the long term.

64. However, the Panel needs to be mindful that there will be significant pain associated with the removal of this Government and other support, with a notable reduction in economic activity and a marked decline in employment. The parameters of this pain go directly to the considerations under which these reviews are determined. This must be taken into consideration when determining any wage increase for 2021-22. An excessive increase in the minimum and award minimum wages at a time when business are under a significant amount of financial stress and the economy is very fragile will lead to in a new wave of unemployment and underemployment and stall the economic recovery.

2.2 The end of JobKeeper

65. A key consideration for the Panel in the 2021-22 Annual Wage Review must be the impact on employment when JobKeeper ends on 28 March. Many businesses currently reliant on JobKeeper will need to reassess and adjust their staffing levels when this support is no longer available.

66. In an example presented in the AM radio program 24 March, the Hunter Hotel in the Liverpool area in South West Sydney is likely to be forced to let many of their 19 workers go when JobKeeper ends.[7] While occupancy rates at the hotel have improved from 5% in mid-2020, to around 30% in March 2021, they remain constrained by international border closures that impeding tourist traffic. With 500,000 business around the country still on JobKeeper, come 28 March many of these businesses will be forced to retrench workers. Others won't survive, with all of their employees being forced to search for a new job.

67. There is broad consensus among the Government, the Reserve Bank and leading labour market economists that there will be a notable economic readjustment when JobKeeper ends. Estimates of the impact of the ending of JobKeeper on employment vary widely, but all agree that the job losses will be substantial.

68. In a recent speech to ACCI members, the Treasurer identified that *the number of individuals relying on the (JobKeeper) payment to be 1.1 million in the March quarter (2021)* ….[8] It is expected that many of these jobs will continue when JobKeeper ends, but accepted that substantial job losses will occur.

69. The Panel approaches this review with a substantial proportion of 1.1 million jobs at considerable risk of being lost.

[6] https://ministers.treasury.gov.au/ministers/josh-frydenberg-2018/speeches/address-australian-chamber-commerce-and-industry-canberra
[7] https://abcmedia.akamaized.net/radio/local_sydney/audio/202103/pam-2021-03-24-liverpool-jobkeeper.mp3
[8] https://ministers.treasury.gov.au/ministers/josh-frydenberg-2018/speeches/address-australian-chamber-commerce-and-industry-canberra

70. Critically, the major industry users of JobKeeper, and the industries at most ongoing risk and harm from pandemic based restrictions in early to mid-2021, are those that are most award reliant.

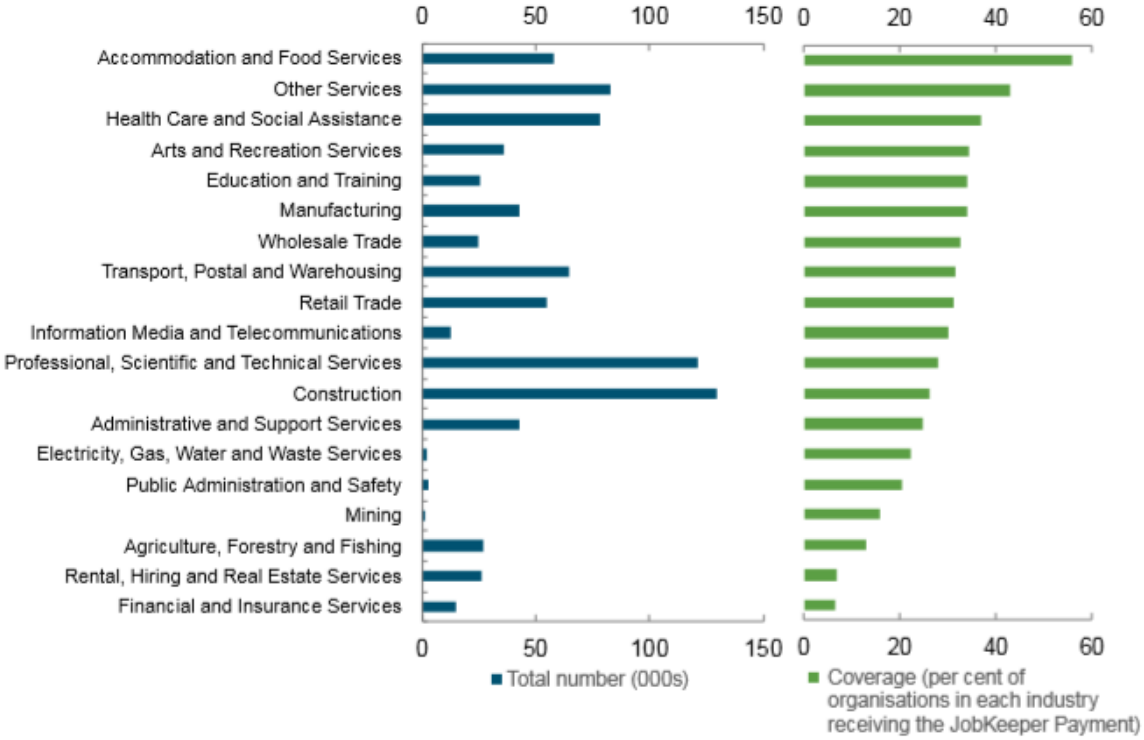
    a. Accommodation and Food Services, which is at the sharp end of travel and operating restrictions is the most award reliant industry at 44.9%.[9]

    b. Retail, again highly award reliant, is operating at variable speeds, with CBD retail and travel reliant retail still very hard hit.

    c. Arts and Recreation, records 22.5% award reliance, and award reliance is steadily increasing. This industry is also impacted by both travel restrictions reducing custom and operating restrictions, with venues being amongst the last places to reopen.

71. The initial three-month review of the JobKeeper Payment (June 2020) shows industries with the highest award reliance to be those with the highest JobKeeper coverage (i.e. percent of organisations within the industry receiving JobKeeper payments) (Chart 1). This included accommodation and food services (54%), administrative and support services (28%), other services (42%) healthcare and social assistance (35%), retail trade (30%) and arts and recreation services (32%).[10]

Chart 1. JobKeeper applications processed in April 2020.



Source: Treasury 2020, *The JobKeeper payment: three-month review.*

72. Presenting at Senate Estimates – Economics Legislation Committee on 24 March 2021, Treasury Secretary Steven Kennedy noted that 110,000 firm receiving the JobKeeper payments in the March quarter experienced a fall turnover of over 75% in the December quarter 2020 relative to the year

[9] Statistical Report (Version 2, 19 March), Table 7.1, p.51
[10] Treasury 2020, *The JobKeeper payment: three-month review.* Australian Government June 2020. https://treasury.gov.au/sites/default/files/2020-07/jobkeeper-review-2020.pdf

before, as they were still being impacted by border closures and the stricter social distancing restrictions. He went on to state *we believe that in the order of 100,000 to 150,000 JobKeeper recipients may lose employment at the completion of the program*.[11]

73. Leading labour market economist Professor Jeff Borland from the University of Melbourne forecast the potential job losses with the end of JobKeeper to be in the range of 125,000 to 250,000. This is based on the jobs that would have been lost in a normal year but had been retained because of JobKeeper, as well as jobs in industries that continue to be impacted by COVID restrictions that will be unprofitable for businesses to retain when JobKeeper ends.[12] Wage costs versus incomings after 1 July will be a consideration for employers in decisions to retain or end marginal jobs at the point at which JobKeeper is coming off.

74. Analysis by Commonwealth Bank economist Nicholas Guesnon shows that *high-risk industries will see up to 25 per cent of employees on the payment lose employment, and up to 10 per cent in medium-risk industries and 5 per cent in low-risk industries.*[13] Workers in transport, arts and recreation, accommodation and food services industries are most at risk, particularly those reliant on international travel. Again, with the exception of transport these are some of the most award reliant industries in which increases in wage costs in these reviews directly translate into higher labour costs to employers.

2.3 Business insolvencies

75. An increase in the rate of insolvencies with the end of JobKeeper must also be a consideration for the Panel in making its decision.

76. Throughout COVID the level of insolvencies has been suppressed, with the real state of businesses hidden by the unprecedented support provided by the JobKeeper and other support measures, as well as temporarily changes to bankruptcy legislation that increased "safe-harbour protections" for businesses.[14]

77. These temporarily safe-harbour protections were designed to help employers hibernate through lockdowns, reducing the risk of prosecution for businesses that may be trading while insolvent. These changes reduced the ability of creditors to speedily force a debtor company into insolvency. However, the safe harbour protections concluded at the end on 2020. With the previous rules restored, creditors are able to apply for a bankruptcy notice against a business when outstanding debts reach $10,000, half of what it was under the safe-harbour rules, and the debtor has 21 days to respond to a notice, down from six months.

78. The previous bankruptcy rules were restored on January 1, leading to a 61% jump in insolvencies in February 2021.[15] However, this is likely to be just the beginning of the surge. The end of JobKeeper on 28 March will be the trigger point for many companies. Many businesses that have been able to keep operating (and able to keep employing) due to JobKeeper support and the safe harbour protections, will need to reassess their long-term viability and reconsider their future. The rate of

[11] Senate Estimates, Economics Legislative Committee, Wednesday 24 March 2021. Dr Steven Kennedy, Treasury Secretary – Opening Statement, p.5 https://parlwork.aph.gov.au/committee/details/352
[12] Borland J. 2021 Another step forward, but how many steps backward are we about to go. University of Melbourne Labour Market Snapshots, March 2021. https://sites.google.com/site/borlandjum/labour-market-snapshots
[13] https://www.theaustralian.com.au/business/the-wall-street-journal/postjobkeeper-hit-could-puncture-recovery/news-story/7d311035c85bdbb56a49a2356d807dfc
[14] https://treasury.gov.au/sites/default/files/2020-03/Fact_sheet-providing_temporary_relief_for_financially_distressed_businesses.pdf
[15] https://www.theaustralian.com.au/business/insolvencies-up-61-in-february/news-story/f1db7bbc5548edc18bcfe9fb7f438e97

insolvencies is expected to spike in coming months, which will also have flow on effects to employment and the economy more broadly.

79. Patrick Coghlan of CreditWatch commented that based on historic insolvencies there were at least 3,000 to 4,000 businesses that were propped up and continued to operate in 2020 because of JobKeeper and other government support measures. Mr Coghlan indicated that most of these businesses, in addition to a large number of purely COVID-affected business, will go into administration in the June quarter and the second half of 2021, with hundreds of thousands of jobs lost.[16]

80. It should also be recognised that as businesses go into administration, it will have flow on impacts to their creditors, which are often other small and medium sized businesses that are yet to be paid for the goods and services already provided. The loss of outstanding income from insolvent businesses, will place increased financial pressure on otherwise viable businesses.

2.4 Continuing Uncertainty

81. There is also a high level of uncertainty around the sustainability of Australia's recovery, due to the risk of new outbreaks causing further disruptions from snap lockdowns and border closures. International economic downturn and risk from COVID also remains a substantial risk.

82. While infection rates have been very low over the past 3 months, most state governments (Victoria, South Australia, Western Australia and NSW) persisted in initiating circuit-breaker lockdowns and border closures in recent months (December, January and February). These lockdowns were in response to a very small number of cases — below the nationally agreed threshold of 30 cases of community transmission. While these circuit-breaker lockdowns and border closures have lasted only a few days (3 to 5 days), they have caused considerable economic disruptions, particularly for small businesses such as cafés, bars, restaurants and florists, in the lead up to peak trading days over Christmas-New Year, Australia Day and Valentine's day.

83. Valentines Day in Victoria was instructive. Restaurants ordered in significant stock for their busiest single night of the year, as did florists, and a sudden and unforeseen closure saw this stock either discarded or donated, with the loss of all, or nearly all, of their sales and income. Like drought breaking rain, many small restaurants and shops were counting on a strong Valentine's Day, to help repair their balance sheets, instead it became an overnight disaster, with significant financial loss.

84. Until the vaccine has been fully rolled out and the risk of community transmission of the virus has been reduced to a negligible level, the risk of further outbreaks and closures remains. Similar lockdowns and border closures are likely to be regularly repeated through 2021 and into 2022, which would stunt the recovery and add further to the financial stress on businesses.

2.5 The vaccine roll-out

85. The current vaccine roll-out is already 3 months behind schedule. The initial plan was for Phase 1a (covering quarantine and border workers, front line health workers, and age-care and disability care staff) and 1b (vulnerable individuals, including elderly aged above 70 years, Aboriginal and Torres Strait Islander adults, and adults with disability, as well as other healthcare workers and critical high

[16] https://www.theage.com.au/politics/federal/up-to-250-000-more-unemployed-when-jobkeeper-ends-within-weeks-20210304-p577oh.html?ref=rss

risk workers including defence, police, fire and emergency) of the vaccine roll-out to be completed by the end of April 2021.[17] However, due to problems importing and distributing of the vaccine, the schedule for the completion of Phase 1a and 1b has now been pushed back to the end of July 2021.[18] While the completion of the vaccine rollout was previously scheduled for the end of October 2021, it is now not likely to occur until well into 2022.

86. This delays community immunity, delaying both:

    a. The resilience of our communities to inflection, and scope for Australia to be confident that any single infection will not lead to an outbreak.

    b. Confidence for state governments to not respond to small pockets of infection with widespread closedowns which cause economic damage to small businesses, in particular in award reliant industries.

87. The pace of the vaccine rollout dictates that risk of infection, with the risk of lockdowns and further trading restrictions. This will remain a material factor through 2021 and 2022, warranting caution and moderation in considering uprating minimum wages.

2.6 Australian forecasts

88. While economic growth and labour market recovery are exceeding earlier expectations, and consumer and business confidence is also strengthening, this does not disguise the fact that the economy still has a long way to go. Economic growth in the December quarter 2020 remains 1.1% below its level in December 2019.[19]

89. As Reserve Bank Governor Lowe comments:

> *These better than expected outcomes are very welcome news. However, they do not negate the fact that there is still a long way to go and the Australian economy is operating well short of full capacity. There are still many people who want a job and can't find one and many others want to work more hours.*[20]

90. The Government's Mid-Year Economic and Fiscal Outlook noted that there remain significant risks to the economic recovery, with further outbreaks and disruptions in other major economies meaning the economic environment remains highly uncertain.[21] MYEFO assumes:

    a. Localised outbreaks will continue to occur, but these will be contained.

    b. The population wide vaccination program is fully in place by late 2021, enabling the gradual easing of restriction and help support consumer confidence and business activity.

[17] https://www.health.gov.au/sites/default/files/documents/2021/01/covid-19-vaccination-australia-s-covid-19-vaccine-national-roll-out-strategy.pdf
[18] https://www.abc.net.au/news/2021-03-11/covid-19-committee-health-australia-vaccine-rollout/13238062
[19] Australian Bureau of Statistics 2021, *National Accounts: National Income, Expenditure and Product, December 2020.* Released 3 March 2021. https://www.abs.gov.au/statistics/economy/national-accounts/australian-national-accounts-national-income-expenditure-and-product/dec-2020
[20] Lowe P. 2021 *The Recovery, Investment and Monetary Policy.* Speech to AFR Business Summit 10 March 2021. https://www.rba.gov.au/speeches/2021/sp-gov-2021-03-10.html
[21] Australian Government 2020, *Mid-Year Fiscal and Economic Outlook 2020-21*. 17 December 2020 https://budget.gov.au/2020-21/content/myefo/index.htm

c. Ongoing uncertainty from elevated unemployment rate could lead to high household savings and weaker than expected consumption growth.

d. Other risks include increasing global trade tensions and their impact on Australia's export markets and trade flows.

91. Economic growth is forecast to remain solid over the remainder of the forward estimates as the recovery, both the domestic and international, continues to gather momentum.

92. Real GDP is forecast to grow 2½% in 2022-23 and 2¾% in 2023-24. The unemployment rate is forecast to fall to a level consistently below 6% in 2023 and be 5¼% by the end of the forward estimates.

93. The Panel's decision in the past review was heavily reliant on the economic forecasts put forward by the RBA. ACCI encourage the Panel to again look closely at the RBA's expectations for the Australian economy in the year ahead.

94. The Reserve Bank in its February 2021 *Statement on Monetary Policy* noted that the domestic economy has been sustained over recent months by better health outcomes and further expansion in fiscal and monetary policy in the second half of 2020.[22]

95. With many of the fiscal policy measures being wound back during 2021, the prospects for the economy over 2021 and into 2022 are highly uncertain. Therefore, the Reserve Bank is wary in forecasting its expectations the economy. Instead, it has put forward a number of scenarios of possible outcomes.

96. The baseline scenario assumes no further large COVID-19 outbreaks and accompanying hard lockdowns, and that if restrictions are imposed, they will be brief. Based on these assumptions, the economy will continue on its current path to recovery, with GDP and employment returning to their pre-pandemic levels over the course of 2021. However even under the baseline scenario, GDP will remain below the levels forecast prior to the pandemic, due in part to a smaller population growth with migration halted by borders closures. The unemployment rate will decline steadily to around 5¼% by the end of 2023. However, with spare capacity remaining in the labour market, both underlying inflation and wages growth will remain below 2% over the forecast period (to June 2023).

97. The RBA's downside scenario expects further disruptions from COVID outbreaks leading to lockdowns, trading restrictions and border closures being reimposed. Under the downside scenario weakening consumer and business confidence will slow household consumption and business investment holding back economic growth and leading unemployment to tick up in mid-2021, then decline slowly in 2022.

98. In contrast the upside scenario sees a sustained run of positive health outcomes leading to faster easing of restrictions, boosting confidence and leading to a stronger recovery in private consumption and investment. This will lead to stronger economic growth, although GDP will still remain below the trend forecast prior to the pandemic, and a faster decline in the unemployment rate, to be below 5% by the end of 2022.

[22] Reserve Bank of Australia 2021 *Statement on Monetary Policy* February 2021 https://www.rba.gov.au/publications/smp/2021/feb/

99. Similarly, most private economist and economic consultants are also highly uncertain as to how the economy will evolve over the next two years. The few who are willing to provide forecasts note the considerable risks associated with further outbreaks and the sensitivity of business and consumer confidence.

100. The Commonwealth Bank Australia's CommSec is expecting the Australian economy to grow by 4.9% in 2021 after contracting 2.8% in 2020.[23] However, it notes there are significant risks to this forecast from second and third waves of the virus, setbacks with the roll-out of the vaccine, policy mistakes on the removal of support measures and extended delays in the reopening of international borders. CommSec believes that the unemployment rate peaked at 7.5% and expects it to fall sustainably within the range of 5¾% to 6% by the end of 2021.

101. Forecasts by Deloitte Access Economics indicate Australia is well placed for a solid economic recovery in 2021.[24] GDP is expected to grow by 4.4%, follow a projected 2% decline in 2020. However, the scars from the pandemic will linger and there remains some uncertainty around how the economy will respond as the government support measures are wound back throughout the year. The steady rate of decline in unemployment observed in recent months will slow substantially once the government support measures are removed. Wages and inflation, which were on a downward trend leading into the crisis, are expected to remain low for some time and not start to climb much until unemployment drops, and is sustained, well under 6% – which Deloitte don't see happening until 2023.

2.7 International Environment / Global forecasts

102. The RBA notes that following a strong rebound in economic activity in September, the global economic recovery lost momentum late last year, due to a resurgence in COVID infections which led to a significant tightening of activity restrictions in some economies.[25]

103. In parts of Western Europe, lockdown measures became almost as restrictive as they were during the initial wave of the pandemic. This dampened economic activity at the beginning of 2021.

104. In contrast, economic activity rebounded strongly in China and a small number of other economies, where infections have remained low, returning to pre-pandemic levels by the end of 2020.

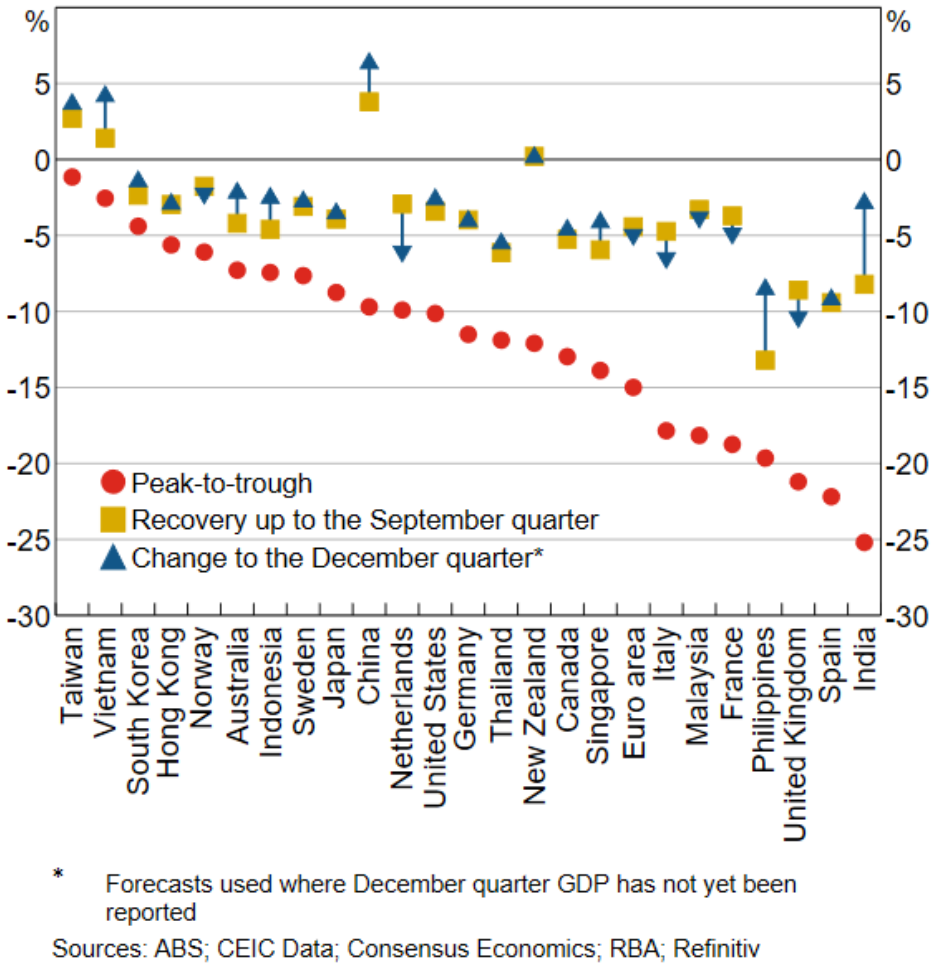
105. In many economies, including Australia, the unprecedented levels of fiscal and monetary policy response, continue to support activity. The US authorities approved a further large expansion of fiscal policy in late 2020, extending unemployment benefits and forgivable loans to business to maintain employment. This was expanded further in March 2021 by the incoming Biden administration. Japan, the European Union and Canada also announced sizable fiscal policy measures for the recovery phase.[26]

106. With reported GDP outcomes for the September and December quarter stronger than expected in many economies, the prospects for global economic growth are improving (Chart 2). However, spare capacity remains in labour markets in most advanced economies, with the shortfall varying dependent on the health outcomes and the stringency of restrictions. This spare capacity will weigh

[23] CommSec 2021 *Economic Insights – Year in Review. Year in Preview.* https://www.commsec.com.au/content/dam/EN/ResearchNews/2021Reports/January/ECO_Insights_040121-Year-in-Review-Year-in-Preview.pdf
[24] https://www2.deloitte.com/au/en/pages/media-releases/articles/business-outlook.html
[25] Reserve Bank of Australia 2021 *Statement on Monetary Policy* February 2021 https://www.rba.gov.au/publications/smp/2021/feb/
[26] Reserve Bank of Australia 2021 *Statement on Monetary Policy* February 2021 https://www.rba.gov.au/publications/smp/2021/feb/

heavily on wages growth and underlying inflation for some time. Inflation will only very gradually pick up towards central bank targets as the global recovery gains traction and the spare capacity in the labour market is gradually absorbed.

Chart 2. Global GDP growth through 2020



Source: RBA 2021 *Statement on Monetary Policy February 2021*.

107. Monetary policy settings in advanced economies remain highly accommodative and are expected to remain so for some time, given the spare capacity and subdued outlooks for inflation. Central banks continue to signal that interest rates will remain very low until there is sustained progress towards employment and inflation goals.

108. Overall, the global economic recovery is expected to be faster than a typical recession, as much of the weakness has been the result of supply constraints rather than weak demand.[27] The scarring effect on the labour market are likely to be more limited because of the unprecedented fiscal and monetary policy responses.

109. Despite this positive outlook, it will still take some time for global economic activity and labour markets to recover due to the sheer scale of the economic contraction in the first half of 2020. Also,

[27] Reserve Bank of Australia 2021 *Statement on Monetary Policy* February 2021 https://www.rba.gov.au/publications/smp/2021/feb/

the global recovery will be uneven, with economic activity likely returning to pre-pandemic levels by the end of 2022 in a small number of economies including China and the United States. Yet, for most other countries, the impact of the pandemic on economic activity will be much longer lasting.

110. The International Monetary Fund (IMF) estimates the global economy contracted 3.5% in 2020 on the back of the disruption caused by the COVID-19 pandemic.[28] Most of this impact was felt in the June quarter, as infections mounted and countries responded to the virus through people movement and trading restrictions. To support their economies through the crisis, countries focused policy actions on boosting output and raising workforce participation. This enabled many economies, including Australia, China, Euro area, India, Japan, Korea, Mexico, New Zealand, Turkey, United States, to bounce back in the third quarter of 2020. This economic growth tapered in the fourth quarter, although the momentum is expected to carry into 2021. The recovery in these economies is being fuelled by a rebound in private consumption, although investment in these countries has been much slower to pick up.

111. The IMF is projecting the global economy to grow 5.5% in 2021, then 4.2% in 2022, with recent vaccine approvals raising hopes of an earlier turnaround and stronger recovery from the pandemic. However, new variants of the virus create considerable uncertainty to this global economic outlook. The strength of the recovery through 2021 and 2022 is projected to vary significantly across countries, dependent on medical interventions and the availability and efficacy of vaccines. Also, many countries, particularly low-income developing countries, entered the crisis with a high level of debt, which will slow their rate of recovery.

Table 1. Global GDP growth forecasts

	2020 p	**2021** f	**2022** f
International Monetary Fund			
World	-3.5	5.5	4.2
Advanced Economies	-4.9	4.3	3.1
Emerging and Developing Market Economies	-2.4	6.3	5.0
OECD			
World	-3.4	5.6	4.0
G20	-3.2	6.2	4.1

Source: IMF 2021 *World Economic Update*
OECD 2021 OECD Economic Outlook

112. Similarly, the OECD is projecting global GDP growth to be 5.6% in 2021 and 4.0% in 2022, with world output expected to reach pre-pandemic levels by mid-2021.[29] Significant fiscal stimulus in the United States, along with a fast vaccination roll-out, is expected to boost US GDP growth this year, which will have welcome demand spill-overs in key trading partners.

[28] International Monetary Fund 2021 *World Economic Outlook Update*. January 2021 https://www.imf.org/en/Publications/WEO/Issues/2021/01/26/2021-world-economic-outlook-update
[29] OECD 2021, *OECD Economic Outlook, Interim Report March 2021*. OECD Publishing, Paris. https://www.oecd-ilibrary.org/docserver/34bfd999-en.pdf?expires=1616061188&id=id&accname=guest&checksum=58A040C205D9CBA3F1CBEB726A655076

113. However:

a. The OECD is observing increasing signs of divergence across countries, with strict containment measures holding back growth in some countries in the near term, while others benefit from effective public health policies, faster vaccine deployment and strong policy support.

b. There seem significant risks to the OECD growth projections.

114. It is clear from these global economic forecasts that COVID created a severe disruption in 2020, with a very sharp downturn in global economic activity, leading to a recession in most major economies. Due to the nature of the downturn, being supply driven rather than demand driven, and the unprecedented levels of both fiscal and monetary support provided by governments, most economies are expected to begin to bounce back in 2021 and 2022. However, the recovery will be highly variable across economies, with countries such as China, the United States and Australia recovering quicker than others such as Canada, Euro area, Japan Korea and many other advanced and developing economies.

3. ECONOMIC CONSIDERATIONS

115. There are many dimensions to the impact of the COVID pandemic and the subsequent recession on the Australian businesses and economy that need to be taken into consideration when determining any increase in minimum and award minimum wages in 2021.

116. The COVID-19 pandemic has caused a major disruption to the Australia economy throughout 2020. All states were subject to a 6-week lockdown through March, April and May, with businesses shuttered and most economic activity halted or restricted. Victoria experienced a second wave, which resulted in a subsequent 14-week lockdown through June, July, August and September.

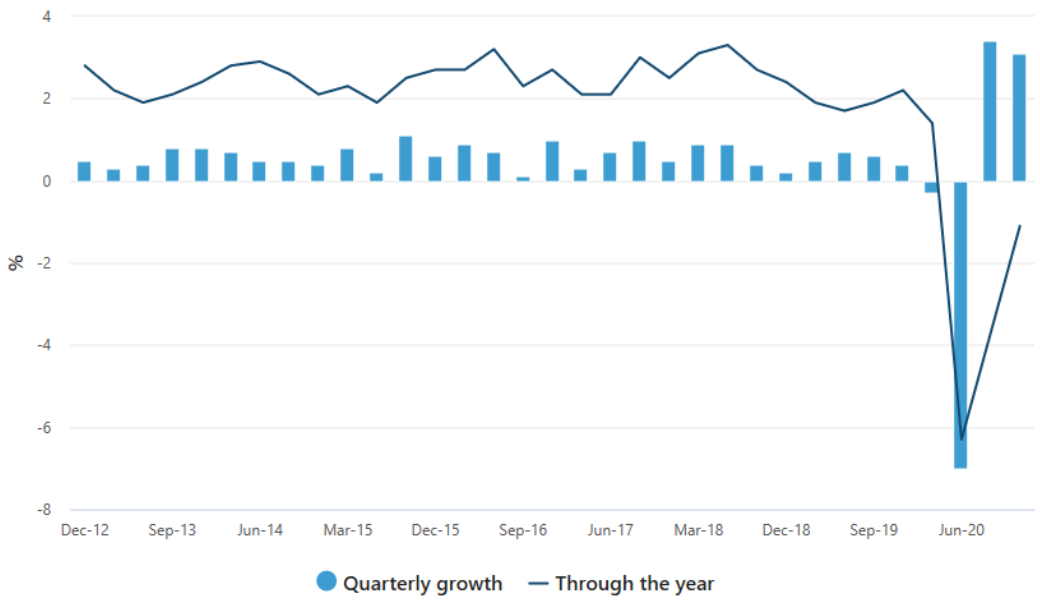
117. While there has been a strong bounce back in many indicators in the second half of 2020 and into 2021, these indicators are yet to return to their levels entering the COVID-crisis in March 2020. Also, the recovery has been patchy and uneven, with a number of sectors lagging the recovery in the broader economy, particularly those that continue to be impacted by international travel and state-based health restrictions. There are also clearly substantial geographical differences evidenced for example by differences between Melbourne and other CBDs, and the ongoing challenges in heavily tourist reliant areas such as a number of regional communities in Queensland.

3.1 Economic growth

118. Following a 7% decline in economic activity the June quarter, which saw Australia enter its first recession in 29 years, GDP bounced back, growing 3.4% the September quarter.[30] The recovery continued in the December quarter data, with GDP up a further 3.1%. While economic activity exceeded expectations in the second half of 2020, it remained down 1.1% year-on-year to December 2020.

[30] Australian Bureau of Statistics 2021, *National Accounts: National Income, Expenditure and Product, December 2020.* Released 3 March 2021. https://www.abs.gov.au/statistics/economy/national-accounts/australian-national-accounts-national-income-expenditure-and-product/dec-2020

Chart 3. Gross Domestic Product, Australia



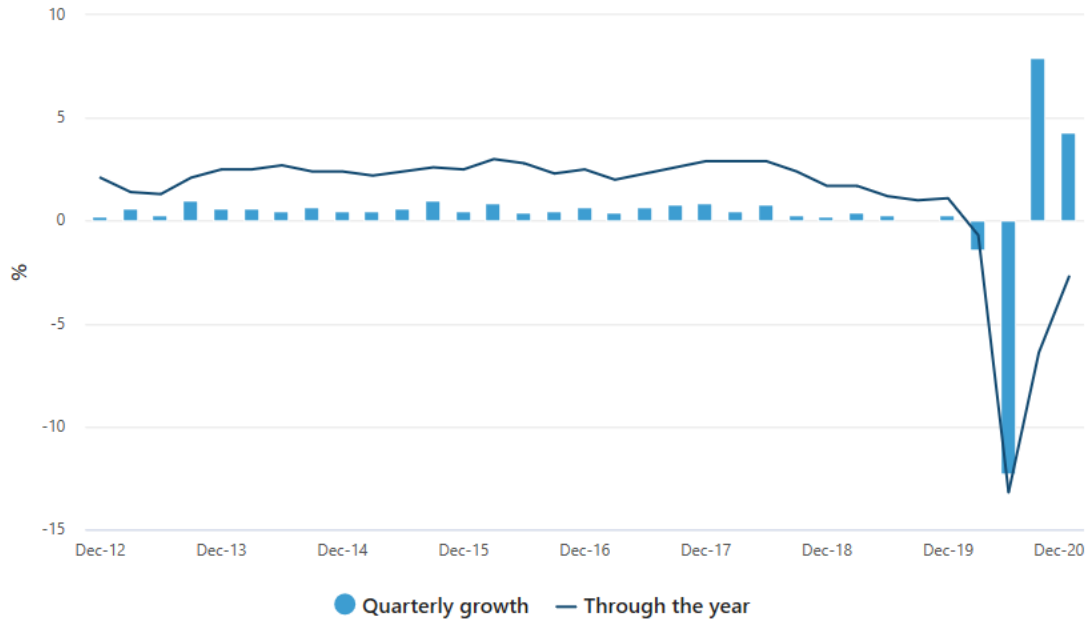
Source: ABS 5206.001 National Accounts: National Income, Expenditure and Product, December 2020.

3.2 Household consumption

119. Household consumption expenditure, which makes up about 60 per cent of GDP, fuelled much of the rebound in economic activity over the second half of 2020, driven by healthy increases in areas such as retail items, vehicle purchases, and spending on services. After falling by 1.4% in March 2020 then by a dramatic 12.3% in the June quarter, household final consumption expenditure, rose 7.9% in the September quarter and 4.3% in the December quarter 2020. However, it remains 2.7% below its level at the end of 2019.[31]

[31] Australian Bureau of Statistics 2021, *National Accounts: National Income, Expenditure and Product, December 2020.* Released 3 March 2021. https://www.abs.gov.au/statistics/economy/national-accounts/australian-national-accounts-national-income-expenditure-and-product/dec-2020

Chart 4. Household Final Consumption Expenditure



Source: ABS 5206.001 National Accounts: National Income, Expenditure and Product, December 2020.

120. Notably, these returns towards longer terms trend levels of consumption seem more of a 'bounce back' rather than a function of the outcomes of the last wage review. Given the staggering of the 2020-21 increases, and the inclusion of some of the most award reliant industry modern awards in the second and third tranches of increases, it could be argued that the delay in the wage increase enabled businesses to retain staff and rebuild. Yet it does not support the view that raising minimum wages was a catalyst for the recovery in consumption.

3.3 Business conditions

121. While the headline numbers are positive, the recovery is very uneven across industry sectors. There is ongoing weakness, particularly sectors impacted by international travel and state health-based restrictions, as well as CBD-based businesses which are being impacted by ongoing concerns around the use of public transport, social distancing requirements in the workplace and working from home trends.

122. The ABS Business Conditions and Sentiments survey for February 2021 (formerly Business Indicators, Business Impacts of Covid-19 survey) identified that two in five (41%) of businesses continued to be significantly impacted by COVID-19 restrictions in February 2021.[32] The impact on large (52%) and medium (52%) businesses was greater than that on small (40%) businesses. Sectors experiencing the greatest impact were accommodation and food services (80%), arts and recreations services (70%) and administrative and support services (69%). The impacts on these businesses relate mainly to border restrictions and closures (both international and domestic),

[32] Australian Bureau of Statistics 2021, *Business Conditions and Sentiment*, February 2021. Released 26 February 2021. https://www.abs.gov.au/statistics/economy/business-indicators/business-conditions-and-sentiments/latest-release

limiting both business operations and ability to source staff, as well as state-based health restrictions imposing capacity limits on venues and increased cleaning requirements.

123. Again, these are some of the most award reliant industries, in which operators will need to fund in full any further uprating of minimum wages.[33]

124. These restrictions in turn were impacting on businesses cashflow and demand for their good and services, with 30% of businesses identifying reduced cash flow and 28% identifying reduced demand to be significant factors impacting in their business in February 2021. Sectors most impacted by reduced cash flow were arts and recreation services (53%), manufacturing (44%) and administrative and support services (43%), while those most impacted by reduced demand include arts and recreation services (59%), information media and telecommunications (41%) and retail trade (38%).

125. It is important to note that industries in the upper cluster (accommodation and food services; arts and recreation services) and many of those in the middle cluster (administrative and support services; manufacturing; information media and telecommunications; and retail trade), that had their wage increase from the 2019-20 Annual Wage Review staggered, continue to be impacted by COVID-19 restrictions, reduced cashflow and reduced demand. These businesses continue to be under a high level of financial stress that is being compounded by the wage increases from 2019-20 Annual Wage Review decision that came into effect in November 2020 (middle cluster) or February 2021 (upper cluster).

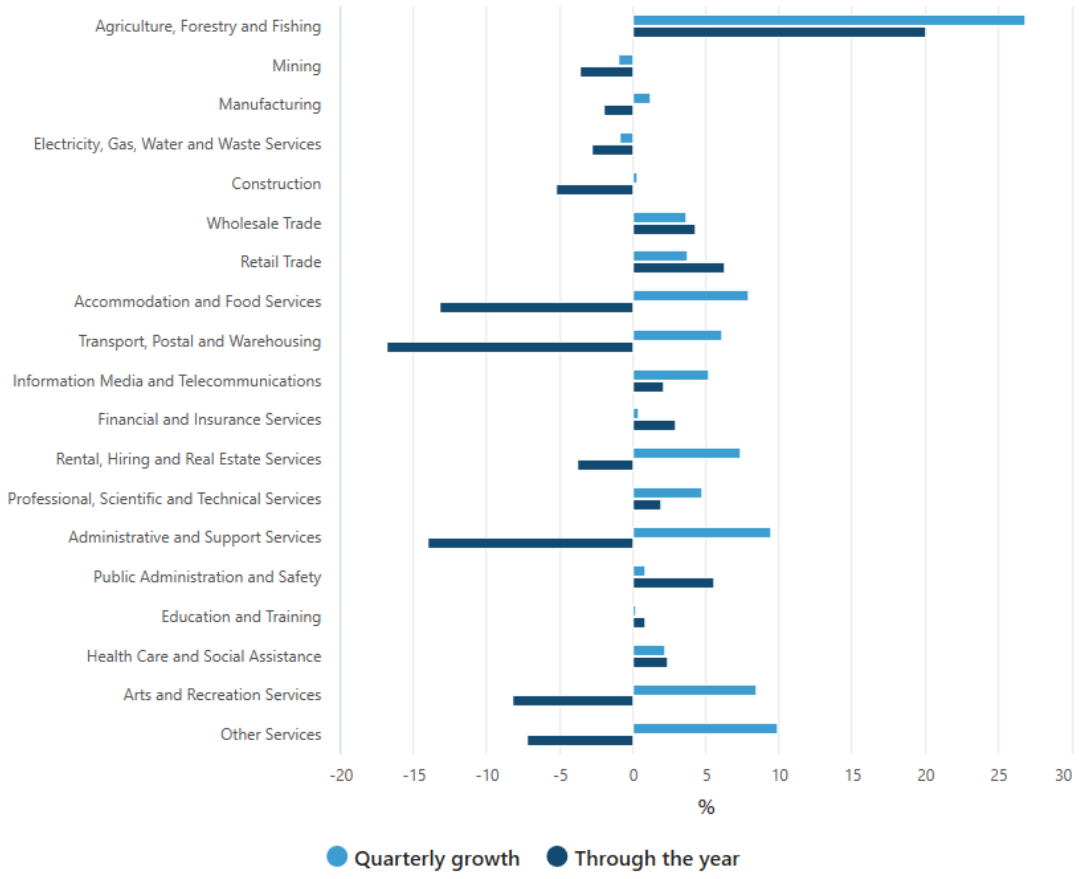
126. It would be unreasonable for the Panel to introduce a further wage increase on businesses in sectors that continue to be impacted by COVID-19 restrictions and remain under considerable financial stress, only 5 month or 8 months after the previous increase.

3.4 Company Gross Value Added

127. The COVID-19 pandemic and resultant lockdown led to a notable fall in the Gross Value Added (GVA), down 1.2% in 2019-20. This is the first recorded decrease in market sector GVA since the series commenced in 1994-95. Ten of the nineteen market sector industries experienced a decline, with the largest falls in transport, postal and warehousing industries (down 16.8% year-on-year to December quarter 2020), administrative and support services (-14.1%), accommodation and food services (-13.2%), and arts and recreation (-8.2%).[34] Again, this seems a disproportionate impact on the most award reliant industries.

[33] Statistical Report, (Version 2), Table 7.1
[34] Australian Bureau of Statistics 2021, *Business Conditions and Sentiment*, February 2021. Released 26 February 2021. https://www.abs.gov.au/statistics/economy/business-indicators/business-conditions-and-sentiments/latest-release

Chart 5. Gross Value Added by Industry Sector



Source: ABS 5206.001 National Accounts: National Income, Expenditure and Product, December 2020.

3.5 Productivity

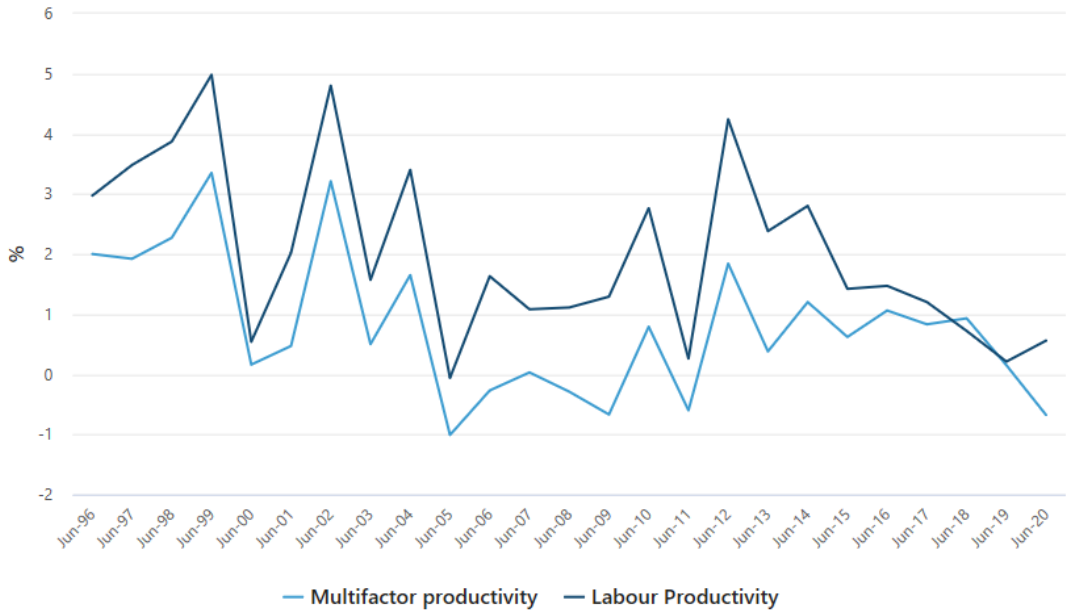
128. The decline in market sector GVA in turn impacted on multifactor productivity (MFP) and labour productivity in these sectors.

129. The COVID people movement and trading restrictions left a large share of business capital unused or under-used for productive activities for much of 2020. This was more pronounced in customer-facing industries such as accommodation and food services and transport, postal and warehousing.

130. This influenced labour productivity, overstating the capital deepening component. While labour productivity rose 0.6% in 2019-20, this was artificial, boosted by a reallocation of labour toward higher productive industries as less productive industries experienced larger falls in hours worked. This contrasts with the trend in labour productivity over the past business cycle from 2012 to 2019, where labour productivity growth has steadily fallen, from a peak of over 4% in 2012 to only 0.2% in 2019.

131. Multifactor productivity (MFP) has been relatively stable, albeit fluctuating at a very low level, i.e. below 1% over the previous business cycle. However, in 2019-20, it departed from its normal trend, falling sharply, to negative 0.7%. This was mainly in response to the substantial economic shock of the COVID-19 pandemic and Government responses affecting economic efficiency and slowing business activity.

Chart 6. Market Sector Productivity Growth – hours worked basis



Source: ABS 5260.055 Estimates of Industry Multifactor Productivity, 2019-20 financial year.

132. As noted in the 2020 decision [500], in reference to a comment by Federal Labor MP Dr Andrew Leigh *without rising productivity wages will eventually stagnate and living standards will stop rising*. However, as shown above, even prior to the pandemic, and labour productivity growth had been steadily falling and MFP was persistently low throughout the business cycle from 2012.

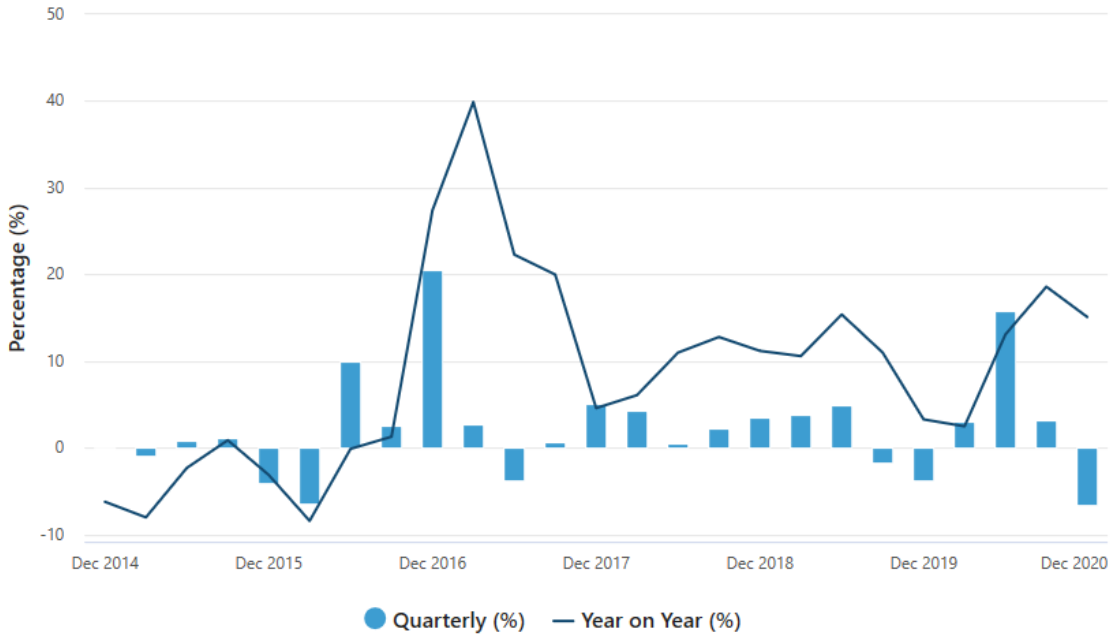
133. This situation is unlikely to change in the near term. Despite the pandemic distorting labour productivity, overstating capital deepening and raising the share of workers in higher productive industries (as less productive industries experienced larger falls in hours worked), labour productivity remained very low in 2020, at just 0.6%. MFP is now negative and without substantial business investment, it will remain at a very low level going forward.

134. The Fair Work Act makes specific mention of productivity as a factor that needs to be a key factor taken into consideration by the Panel in making its decision [500]. Given that labour productivity is extremely low and is likely to remain suppressed for some time, it is not appropriate to be raising wages in this environment. If the Panel continues down the path of increasing minimum and award minimum wages at a rate that is out of step with productivity growth and growth in the broader economy, this will only contribute to further slack in the labour market. That means in practice more Australians unemployed or underemployed.

3.6 Business Competitiveness and Viability

135. There was a very strong growth in company gross operating profits (GOP) in the June quarter 2020, up 15.8%, which continued in the September quarter, with a further 3% increase. Overall, company GOP was up 18.6% year-on-year to September 2020. It subsequently fell 6.6% in the December quarter, but remained up 15.1% year-on-year in December 2020.

Chart 7. Company Gross Operating Profits



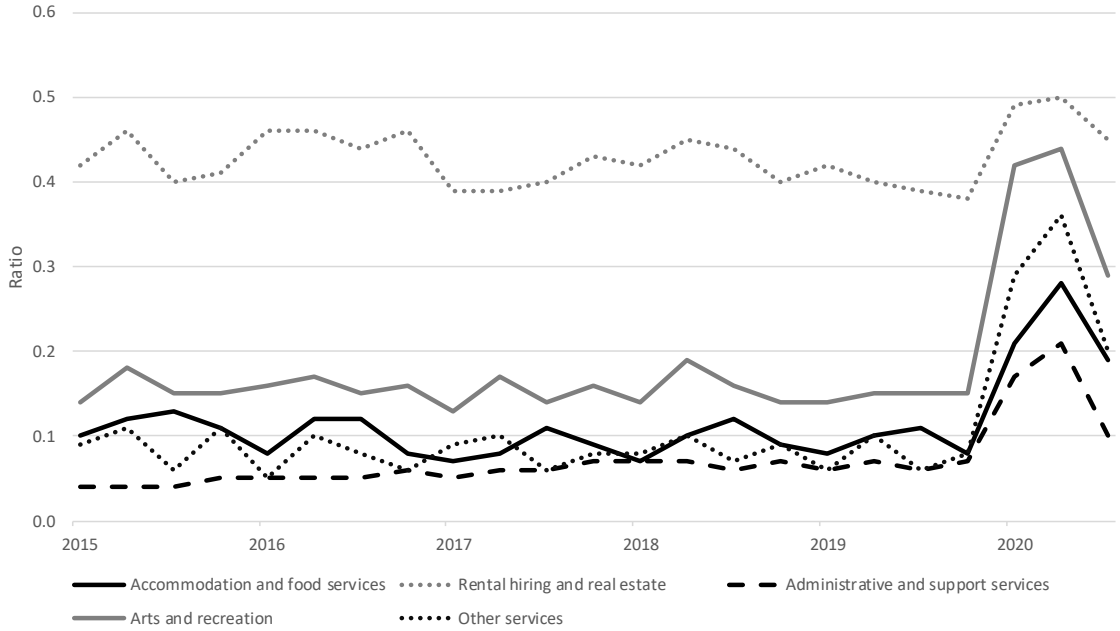
Source: ABS 5676.001 Business Indicators, Australia, December 2020.

136. The increase in GOP in the June and September quarters 2020 is an interesting anomaly, given sales were sharply down over this period. The strongest increases were in sectors most impacted by the people movement and trading restrictions. This anomaly was noted by Borland, who showed large increases in GOP were in industries in what he classified as upper cluster and many industries in the central cluster.[35] The upper cluster included accommodation and food services and arts and recreations, while those most affected in the middle cluster included administration and support services, transport, postal and warehousing, professional, science and technical services and rental hiring and real estate.

137. This largely reflects the temporary support provided to businesses by JobKeeper, Government grants and the waiver or deferral of rent, interest on loans and payroll tax. These buffered businesses during the worst of the COVID restrictions and are largely responsible for the survival of many thousands of businesses throughout the crisis.

[35] Borland J. 2021 *An assessment of the economic effect of COVID-19 – Version 2.* Fair Work Commission Research Report 1/2021

Chart 7. Company Gross Operating Profits to Sales Ratio



Source: ABS 5676.022 Business Indicators, Australia, December 2020.

138. These artificially high profits are very temporary and are expected to fall sharply over the first half of 2021 to normal, or below normal, levels as government support (particularly JobKeeper) is wound back at a time when some trading restrictions remain in place.

139. In observing these company gross operating profits, the Panel needs to take all factors into consideration when drawing a conclusion. There is a strong basis to conclude that these were not realisable, bankable or re-investable 'profits. These profits were artificial and will fall sharply as government and other support measures are wound back during 2021. The temporary and extraordinary nature of these profits means that they cannot be built into any future increase in minimum and award minimum wages as they will not be sustained over the longer term.

3.7 Inflation

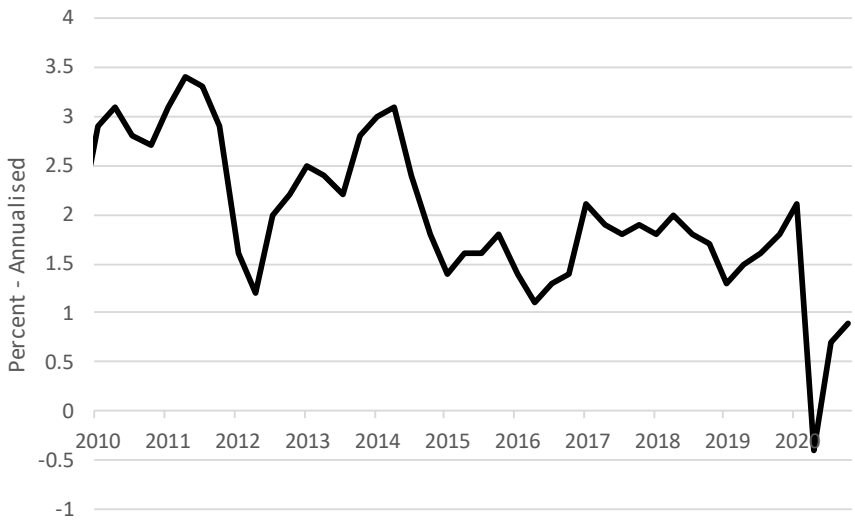
140. In the years preceding the COVID crisis, inflation had been low and tracking well below the Reserve Bank's target range of 2%-3%. On an annualised basis, inflation was below the bottom of the target range for the five years from December 2014 to December 2019, with the exception of March 2017 (2.1%) and June 2018 (2.0%).

141. There was an initial bump in the Consumer Price Index (CPI) in the first quarter of 2020 up to 2.1%, as people raced to stock up on grocery and other essential items in advance of the initial lockdown and trading restrictions. However, the CPI subsequently collapsed, falling 1.9% in the June quarter and negative 0.4% on an annualised basis, due mainly to Government support measures, such as free childcare, as well as delayed payments on rent, interest on loans and other services. In addition, global oil prices plunged at the onset of the COVID crisis greatly reducing transport costs through lower fuel prices.

142. As the economy began to reopen, inflation bounced back increasing to 0.7% on an annualised basis in the September quarter and 0.9% in December quarter 2020, slightly higher than earlier expected.

This was driven mainly by the unwinding of government support measures, such as the temporary free childcare measure ending in July, an increase in domestic holiday travel with the reopening of state borders, and rising healthcare costs including private health insurance premiums following a 6-month freeze. Housing inflation also increased, with a surge in demand for detached houses as a result of the HomeBuilder program and state government grants, as well as a reversal of rent reductions and tenant protection measures. The annual increase in tobacco excise also contributed to the rise in the CPI. So, while the headline numbers suggest inflation may be getting back on track, the main contributors to this are the unwinding of the support measures introduced at the depth of the COVID crisis.

Chart 8. Consumer Price Index



Source: ABS 6401.01 Consumer Price Index, Australia, December 2020.

143. Further unwinding of government support measures and the withdrawal of rental relief and other caps on increases in insurance, utilities costs and other services, as well as pent up demand for spending on some goods and services and global oil prices returning to more normal pre-COVID levels, may lead a short-term bump in inflation in the first half of 2021. However, this should be seen as a readjustment from the deflation in the middle of 2020. Over the medium term, inflation is expected to remain subdued. This does not provide a basis for a permanent uprating in minimum wage levels and needs to be 'seen through' as previous spikes and recoveries.

144. The Reserve Bank is forecasting inflation to rise to 3% in June quarter of 2021, before settling back to 1½% in December 2021 and remaining steady at that level over the next 12 months to December 2022.[36] Similarly, the Government in the Mid-Year Fiscal and Economic Outlook is projecting inflation to increase to 2¼% in 2020-21, before settling back to 1½% in 2021-22 and 1¾% in 2022-23.[37]

[36] Reserve Bank of Australia 2021 *Statement on Monetary Policy* February 2021 https://www.rba.gov.au/publications/smp/2021/feb/
[37] Australian Government 2020, *Mid-Year Fiscal and Economic Outlook 2020-21*. 17 December 2020 https://budget.gov.au/2020-21/content/myefo/index.htm

4. WAGES GROWTH

4.1 Introduction

145. ACCI has consistently argued **the Annual Wage Review is not, and cannot, be approached as a stimulatory or disruptive exercise** for the Australian economy as a whole.

146. The Panel should continue to reject calls to attempt to use these reviews as a circuit breaker, catalyst or as stimulus, to somehow "kick-start" an acceleration in wages growth generally.

147. Further, the Panel should not attempt to chase or codify wage outcomes in agreements into minimum wages and award wage rates.

148. We say this on the basis of both the construction of the Fair Work Act, and economic merit with regard to the considerations the Panel addresses in these reviews.

149. We will respond in further rounds of submissions to any such contentions that may be made by any participant in this review. Any interest advancing such an argument in support of an inflated level of increase would need to, in addition to other burdens of proof and evidence, satisfy the Panel that such a course would be reconcilable with the statutory parameters for minimum wage setting under the Fair Work Act. ACCI maintains that this is not possible.

4.2 Wages Price Index

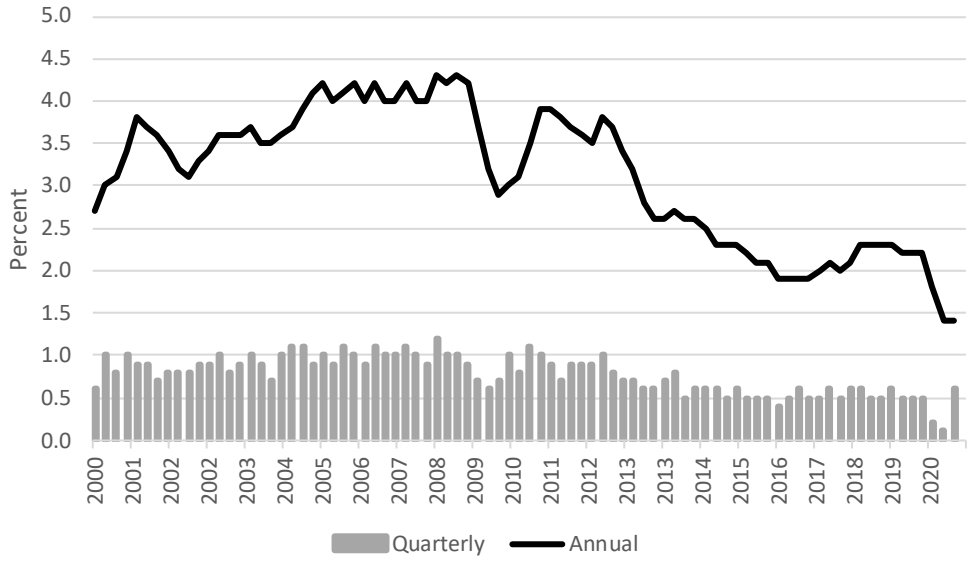
150. Wages growth has been on a steadily declining trend over the past decade, reflecting deteriorating labour productivity over the current business cycle from 2012 and lowering inflationary pressure over this period. Prior to the COVID-crisis, the wage price index had fallen from an annualised rate of 3.9% in December 2010, to 2.2% in March 2020.

151. Wages growth had remained relatively steady at around 0.5% per quarter since 2017 (which was in excess of price inflation). This changed as a result of the COVID-19 lockdowns and trading restrictions, with the WPI inching up by 0.2% in the June quarter then by only 0.1% in the September quarter 2020, as businesses froze wages and delayed discussion on to enterprise bargaining based increases in an effort to hold on to workers.

152. In year-end term, the WPI fell to 1.4% in September 2020 – its lowest reading since the series began 20 years ago. This continued in the December quarter 2020, with the WPI remaining at 1.4% year-on-year, despite a quarterly increase of 0.6%.[38]

[38] ABS 6345.0 Wage Price Index. 24 February 2021 See also 2020 *Statistical* report. p. 21

Chart 8. Wage Price Index

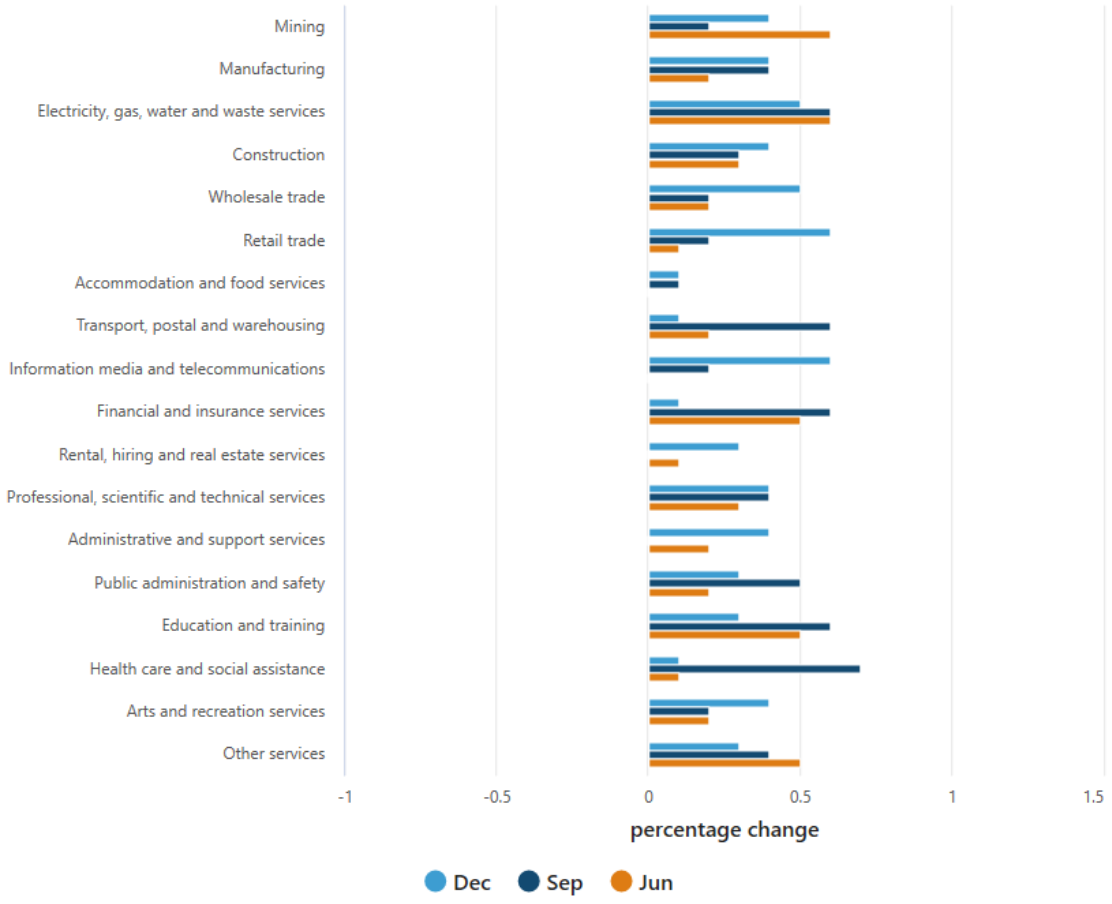


Source: ABS 6345.01 Wage Price Index, Australia, December 2020.

153. On an annualised basis wages growth over the three quarters between June 2020 and December 2020 was weakest in industries in the upper and middle cluster, i.e. those experiencing the greatest impacts of the lockdowns and trading restrictions – accommodation and food services (0.3% change), administrative and support services (0.6%), healthcare and social assistance (0.9%), retail trade (0.9%), rental hiring and real estate services (0.4%), and arts and recreation (0.8%) (Chart 9). These are also some of the most award-reliant industries.

154. The Panel should be mindful of the impact any increase in minimum and award minimum wages will have on vulnerable, financially stressed businesses in these award-reliant industries. It also needs to be aware that the staggered introduction of the 2020 wage increases requires consideration again in 2021. If all award wages were to increase from 1 July 2021, it would result in the most vulnerable businesses being hit with a second wage increase within a very short space of time – 5 months for upper cluster and 8 months for middle cluster businesses.

Chart 9. Wage Price Index by Industry – June 2020 to December 2020



Source: ABS 6345.01 Wage Price Index, Australia, December 2020.

4.3 Average Weekly Earnings

155. Full-time adult Average Weekly Ordinary Time Earnings (AWOTE) represents the average gross (before tax) earnings of employees. A drawback of AWOTE is that it is influenced by the change in labour quality, such that a larger proportion of workers with higher levels of education attainment or working in occupations such as management or professions will result in a higher AWOTE value. For this reason, AWOTE tends to be more volatile than the WPI.

156. In contrast to the WPI, AWOTE rose 4.8% year-on-year in May 2020 and a further 3.2% year-on-year in November 2020.[39] However, these increases should be viewed with caution due to the way this data is compiled.

157. The increase in average weekly earnings doesn't necessarily reflect an increase in wages at the individual employee level, or increased labour demand, more it reflects the compositional change in the wage and salary earner segment of the labour force.[40] This compositional change includes

[39] ABS 6302.002 Average Weekly Earnings Australia, November 2020. 25 February 2021
[40] ABS 2021 *Spotlight - increases in average weekly earnings - compositional changes during the COVID-19 period.* https://www.abs.gov.au/statistics/labour/earnings-and-work-hours/average-weekly-earnings-australia/may-2020#spotlight-increases-in-average-weekly-earnings-compositional-changes-during-the-covid-19-period

variations in the proportion of full-time, part-time, casual and junior workers, variations in occupations and variations in the distribution of employment between industries.

158. The COVID-19 lockdowns and trading restrictions led to a decrease in the number of jobs, people employed and hours worked, with lower paid jobs and industries most impacted. JobKeeper payments also provided a considerable increase in earnings for some part-time and junior employees.

159. To some extent, this would reflect a situation in which lower skill jobs at most direct risk from price inflation through minimum wage increases have been those most in flux (and rapid risk of loss) during pandemic induced recession. Thus, a rise in AWOTE actually underscores the precariousness or insecurity of the roles most directly impacted on rises awarded in these reviews.

160. At the time of the May 2020 reading of AWOTE, 74% of businesses were operating under modified working conditions and 53% of businesses reported reducing working hours of staff, leading to a large compositional change in the labour market which had important implications for average weekly earnings. At the time of the November reading of AWOTE, employment was showing signs of a rapid recovery and was only 1% below the level of March 2020, when the COVID restrictions were first implemented. This contributed to a further compositional change in the workforce, with part-time and casual work initially bouncing back more quickly than full-time employment in the September quarter (before being surpassed by full-time employment in the December quarter) and a slower recovery in employment in those sectors hardest hit by interstate travel and state-based health restrictions (which typically have a higher award reliance and are more directly impacted on by rises awarded in these reviews).

161. Given this distortion to average weekly earnings data as a result of the COVID-related impacts on the labour market, the Panel should apply caution and place little weight on AWOTE as a comparative measure in any considerations as part of this Review.

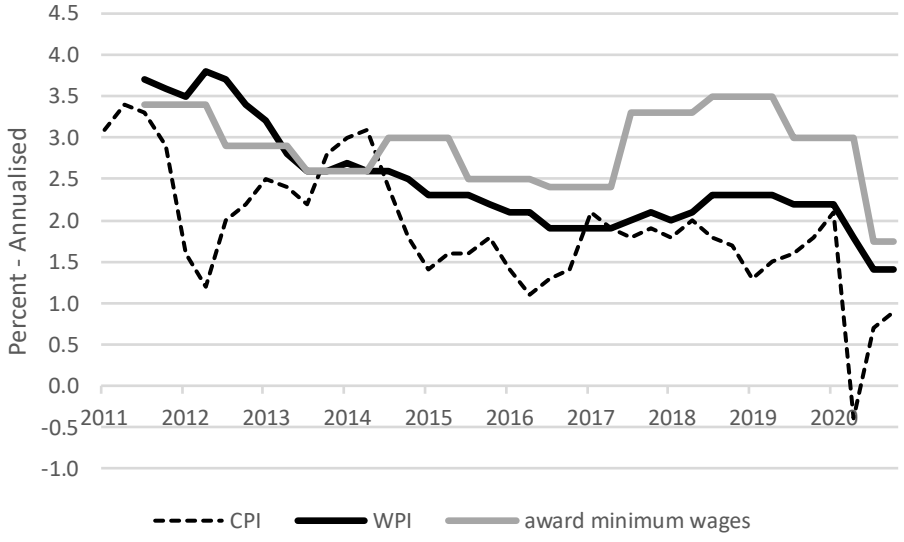
4.4 Award minimum wages relative to average wages and inflation

162. It is important to note that over the past five years, minimum and award minimum wages have grown at a rate well in excess of the wages of all other employees and inflation. When observed over the past five years, at a compounding rate, minimum and award minimum wages have increased by 15%, this compares to a 10% increase in the WPI and an 8% increase in the CPI.

163. The Panel's decision to consistently increase minimum and award minimum wages above average wages growth and above the cost of living, exceeds its stated objective of maintaining the real value of the wages of NMW and award-reliant employees.[41]

[41] [2020] FWCFB 3500 at [139]

Chart 10. Comparison of Consumer Price and Wage Price Indexes and the Award Minimum Wage Increases



Source: ABS 6401.01 Consumer Price Index, Australia, December 2020. ABS 6345.01 Wage Price Index, Australia, December 2020.

4.5 Wages Growth

164. In determining any future increase in minimum and award minimum wages, the Panel should keep an eye to average wages growth to be sure that minimum and award minimum wages don't move out of step with wages growth in the broader economy. Wages growth is otherwise an indicator in the broader macroeconomy which may be argued to be relevant to the considerations in s 284 of the Fair Work Act.

165. The RBA notes that its outlook for wages is dependent on how quickly the spare capacity in the labour market can be adsorbed.[42] It points out that while labour market outcomes at the beginning of 2021 have been stronger than expected, there is still much uncertainty around the employment impacts of the ending of JobKeeper on 28 March. It maintains its forecast that the unemployment rate will not return to its pre-COVID level until mid-2023. Even then, it is not clear that the labour market will have tightened sufficiently to produce a strong pick-up in wages growth. This fits with the wider theme of uncertainty which ACCI argues favours genuine moderation and caution in 2021.

166. The RBA is forecasting year-end growth in the WPI of only 1¼% in the first half of 2021 and is expecting it to remain below 2% for the next few years. Its expectation is that wages growth over next few years will be even slower that the low rates recorded prior to the pandemic.

167. Similarly, in the Mid-Year Economic and Fiscal Outlook, Treasury is expecting wage growth to be subdued across the forward estimates, reflecting spare capacity in the labour market.[43] The MYEFO forecasts the WPI growing by 1¼% year-on-year throughout 2021 and 2022, before rising to 2% in mid-2023.

[42] Reserve Bank of Australia 2021 *Statement on Monetary Policy* February 2021 https://www.rba.gov.au/publications/smp/2021/feb/
[43] Australian Government 2020, *Mid-Year Fiscal and Economic Outlook 2020-21*. 17 December 2020 https://budget.gov.au/2020-21/content/myefo/index.htm

168. It is clear that comparatively low wages growth (albeit still real wages growth given low inflation) will be a feature of the economy as we emerge from COVID-19 over the next few years, as it was preceding the crisis. While some may argue the Panel should use its decision to deliver an extraordinary increase in minimum wages for the lower paid in this Annual Wage Review, in the hope that it will drive wages growth more broadly, the Panel should continue to refrain from doing as it would have the practical effect of stifling the economic recovery and threatening the financial viability of many, particularly small, businesses.

169. Healthy and sustained employment growth, placing pressures on labour scarcity, and thereby wages, coupled with supporting productivity growth and productivity-based reward, is the sustainable and reliable mechanism towards a return to longer term trend levels of wages growth.

4.6 Excessive increases in minimum and award minimum wages

170. ACCI reiterates our 2019-20 Submission that an excessive increase in mandated minimum and award minimum wages, above average wages growth, limits that ability of employers to provide a wage increase to other employees that are not award reliant.

171. In its 2019 decision the Panel commented that it *remains difficult to explain why industry sectors with the highest level of award reliance generally have nominal wages growth only or below average in circumstances where modern award and minimum wage rises were increased by 3.3% in 2017 and 3.5% in 2018*.[44]

172. Employer experience is that there is a clear basis for this. Mandated increases to minimum and award minimum wage reliant employees (who are typically younger, inexperienced workers), often comes at a cost to employees that are not award-reliant (who can typically be older, more experienced workers).

173. Research by Cassidy (2019) shows 30% of all workers experienced no change in their nominal wages in 2017, and nearly one half of those people had experienced no wages growth for two years or more.[45] The prevalence of these periods without wages growth often stems from an explicit agreement by firms and workers to delay wage increases to maintain jobs in response to weak demand. It can also relate to businesses being limited in their ability to increase wages for other workers by the need to accommodate mandated increases for minimum and minimum award wage employees.

174. This narrowing of the wage base fails to recognise the value of loyal higher skilled employees, often at stages of their life where their cost commitments are highest. Over the past 5 years, these loyal higher skilled workers have seen their rates of pay stagnate or even fall in real terms, at a time when less experienced award-reliant workers have seen their wages increase by around 15% in nominal terms and 7% in real terms.

175. The COVID-crisis has exacerbated this situation, with many public and private sector organisations implementing a wage freeze or delaying discussion on enterprise bargaining based increases over the past year. Constraints on wages growth are likely to continue over the next few years as businesses rebuild and restructure their workforce.

[44] [2019] FWCFB 3500, [87]
[45] Cassidy N. 2019 *Low Wages Growth in Australia – An Overview*. Reserve Bank of Australia

176. As noted above, RBA and Treasury are forecasting low wages growth across the broader economy over the next few years. It is important that the Panel takes this into consideration in the current Annual Wage Review and moderate minimum and award wage growth, as any increase is likely to come at the cost of wages growth for employees that are not award-reliant.

5. SUPERANNUATION GUARANTEE

177. ACCI notes the legislated increase in the Superannuation Guarantee (SG) from 9.5% to 10% that will take effect from 1 July 2021.

178. Under the legislation the SG will increase by 0.5% each year until it reaches 12% on 1 July 2025 and will remain at 12% thereafter.

179. The SG is calculated as a percentage of an employee's earning, indicating:

    a. Each increase in the SG effectively provides employees with a 0.5% wage increase each year over the next five years.

    b. Any increase in minimum and award wages from this Review will have a higher flow on impact to labour on-costs, than it would have had in preceding Reviews.

180. This increase is borne entirely by the employer and results in the total wages bill for the employer increasing by 0.5% each year to 2025.

181. The SG will have a compounding effect on any increase in the minimum and award minimum wage, as any increase will grow by 0.5% each year to 2025. Even without an increase in the minimum and award minimum wage, the compounding increase in the SG will see wages increase by 2.54% over the next five years. In dollar terms, based on the current national minimum wage of $753.80 per week, this is equivalent to a $3.77 per week in 2021, which compounds to almost $20 per week in 2025.

182. In 2021-22, a 0.5% increase in an employee's wages will increase the load on businesses that are already under financial stress, as they adjust to the gradual wind-back of Government support and restructure to better suit the new operating environment.

5.1 Apply the established approach to SGA increases in these reviews

183. The last increases in the Superannuation Guarantee occurred on 1 July 2013 (from 9.00% to 9.25%) and 1 July 2014 (from 9.25% to 9.50%). This was considered in the 2013[46] and 2014[47] Review decisions, which considered "*the extent to which these changes are to be taken into account in our determination of the level of increase to minimum wages*". This consideration included a consideration of the present statutory context (the Fair Work Act) against that in which previous increases in the superannuation guarantee had been implemented.

184. The then Panel, under the still operative legislative parameters concluded:

> ***[346]*** *For our part we broadly agree with Ai Group's characterisation of superannuation as part of the social safety net. But superannuation has some unique characteristics that distinguish it from the general tax-transfer system. The SG contribution is a legislative requirement paid by employers for the benefit of employees. An increase in the SG rate is a*

[46] [2013] FWCFB 4000, from [333]
[47] [2014] FWCFB 3500, from [273]

> *labour cost to business that provides a deferred benefit to employees. It is a deferred benefit in the sense that "superannuation is directed to enhancing living standards in retirement rather than living standards during employment". The SG Acts are also an important component of a broader retirement incomes policy.*[48]

185. The Panel declined to apply "a direct, quantifiable, discount to the minimum wage increase,"[49] based on the 2013 SGA Superannuation increase.

186. However, the Panel in 2013 concluded that:

> *[360] The SG rate increase to apply from 1 July 2013 is a moderating factor in considering the adjustment that should be made to minimum wages. As a result, though it would not be appropriate to quantify its effect, the increase in modern award minimum wages and the NMW we have awarded in this Review is lower than it otherwise would have been in the absence of the SG rate increase.*[50]

187. This approach was followed in the 2014 Decision.[51]

5.2 How to proceed

188. There is no basis to depart from this established approach in 2021, given the action under consideration is unchanged (a statutory uprating in the Superannuation Guarantee) and the statutory parameters for these reviews has not changed (those elements of the Fair Work Act that this Panel considers in these reviews).

189. The scheduled increase in the Superannuation Guarantee from 1 July 2021 from 9.5% to 10%:

    a. Must again be a moderating factor in considering (any) adjustment to minimum wages in 2021.

190. Any increase in modern award minimum wages and the NMW to be awarded in this 2021 Review must again lower than it otherwise would have been in the absence of the SG rate increase.

[48] [2013] FWCFB 4000, [346] endnotes omitted.
[49] [2013] FWCFB 4000, [359]
[50] [2013] FWCFB 4000, [360]
[51] [2014] FWCFB 3500, [285]

6. LABOUR MARKET CONSIDERATIONS

191. The labour market, and impacts on employment, unemployment, participation etc, is one of the major considerations for setting and uprating minimum wages in these reviews.

192. The Expert Panel is directed to consider impacts on employment and the labour market by the various considerations in the Fair Work Act 2009 it weighs in these reviews, including:

a. The need to promote "economic prosperity and social inclusion", s.3.

b. The Modern Awards Objective, s.134(1)(c) and (h).

c. The Minimum Wage Objective, s.284(1)(a) and (b).

193. The importance of considering impacts on jobs when varying minimum wages directly informed the drafting of the relevant provisions of the Fair Work Act 2009.

194. This consideration also arises from Australia's treaty obligations, which have in part been codified into the Fair Work Act 2009 and the provisions that are balanced in these matters. Article 3 of the ILO's Minimum Wage Fixing Convention, 1970 (No. 131)[52], sets out the considerations (elements) that should be taken into account in setting and varying minimum wages, which clearly includes the importance of jobs:

Article 3

The elements to be taken into consideration in determining the level of minimum wages shall, so far as possible and appropriate in relation to national practice and conditions, include--

(a) the needs of workers and their families, taking into account the general level of wages in the country, the cost of living, social security benefits, and the relative living standards of other social groups;

(b) economic factors, including the requirements of economic development, levels of productivity and the desirability of attaining and maintaining a high level of employment.

195. The Panel looks closely at labour market considerations in these reviews, including employment and hours worked, unemployment and underemployment, participation, and labour market transitions.

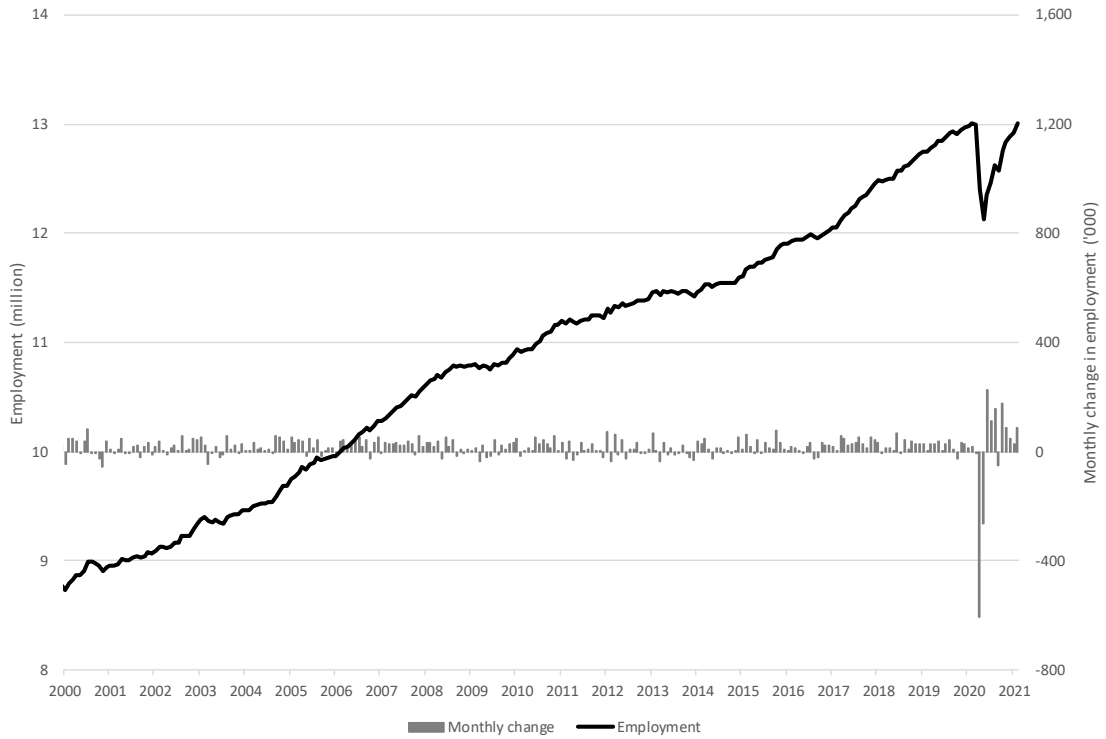
[52] Ratified by Australia, 15 June 1973

6.1 Employment

196. The overall Australian labour market continues to gather momentum, despite setbacks over the past 3 months from new COVID outbreaks in most capital cities leading to further circuit-breaker lockdowns, trading restrictions and border closures.

197. ABS Labour Force data shows employment returned to its pre-COVID level of just over 13 million in February 2021. Since June 2020, 877,600 jobs were created, reemploying workers and/or generating new jobs to replace those lost during the national lockdowns and trading restrictions between March and May 2020.

Chart 11. Employed people



Source: ABS 6202.001 Labour Force, Australia, February 2021.

198. However, the recovery in employment is not consistent across industry sectors and regions, with those most impacted by the international border closures, state-based restrictions and supply chain disruptions lagging the recovery in other industries and regions.

199. As noted in Yuen and Cumming (2021), employment losses during the COVID pandemic were largest in accommodation and food services (31.4%), arts and recreation services (35.9%), as these sectors were significantly impacted by restrictions on business operations. These sectors comprised almost half of the total jobs lost between March and May.[53] Further, of those job losses in the arts and recreation sector almost four in ten left the workforce in this period, while in

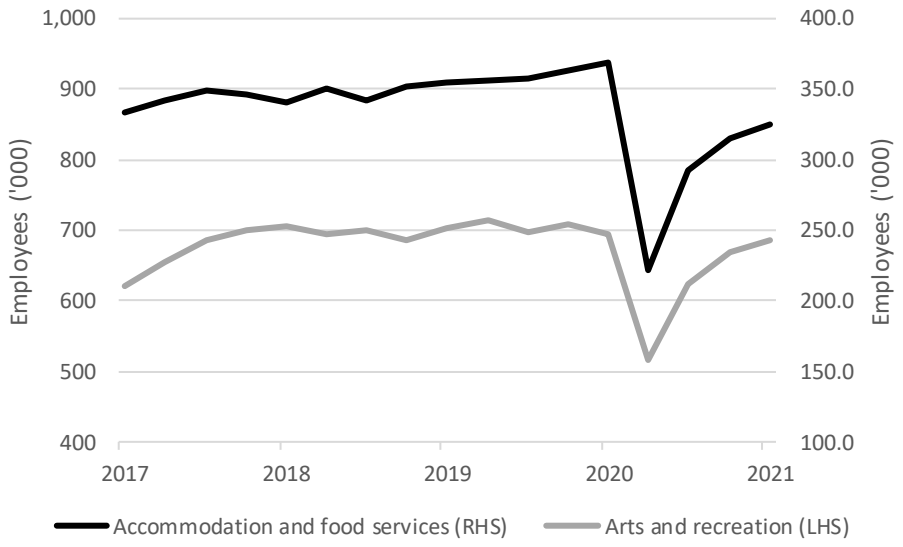
[53] Yuen K. and Cumming P. 2021 Labour market transitions of workers during COVID-19. Fair Work Commission Research Report 2/2021

accommodation and food services one in three left the workforce. This was three times larger than the average for all sectors.[54]

200. By August almost two thirds of these workers had returned to work, in the arts and recreation (69.7%) and accommodation and food services (64%), sectors.[55]

201. While this momentum continued between August 2020 and February 2021, employment in accommodation and food services (-9.2%) and arts and recreation services (-2.5%) were still considerably lower than their COVID levels (i.e. February 2020).

Chart 12. Employment in Industry Sectors Most Impacted COVID-19 Restrictions



Source: ABS 6291.004 Labour Force, Australia, Detailed, February 2021.

202. Yuen and Cummings also note that more than half of those that returned to work had changed industries or occupations. However, for those industries most affected by the government restrictions, including accommodation and food services and arts and recreation services, the proportion that returned to their former job was relatively high at around 70% to 80%.

203. Yuen and Cumming's analysis also shows less that four in ten workers returned to the same industry and same occupation, with 52% of workers that lost their job returning to work in a different occupation and 55% returning to work in a different industry.[56]

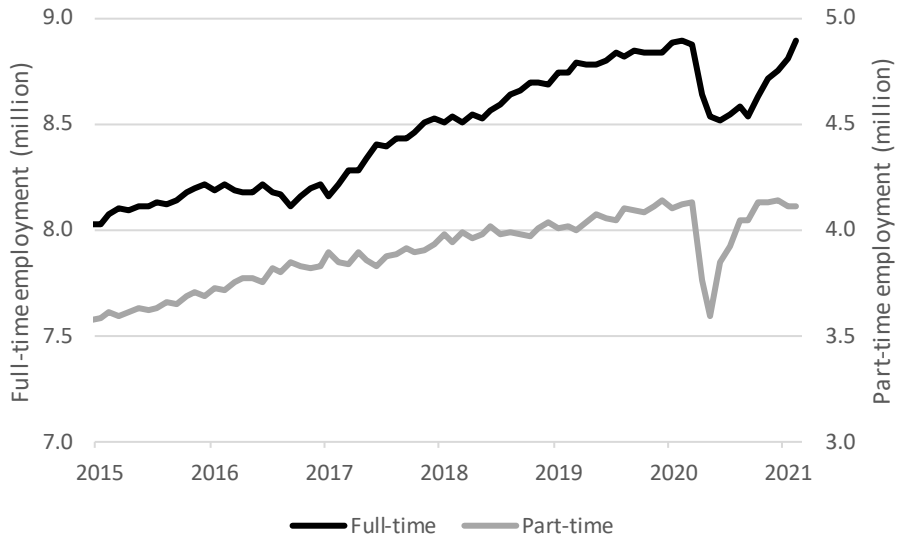
204. Overall, the Panel should be aware that those industries that are the most award reliant, are also those with the slowest recovery in employment. Any decisions by the Panel to raise minimum and award minimum wages will weigh further on the recovery in employment in the award reliant industry sectors.

[54] Yuen K. and Cumming P. 2021 Labour market transitions of workers during COVID-19. Fair Work Commission Research Report 2/2021
[55] Yuen K. and Cumming P. 2021 Labour market transitions of workers during COVID-19. Fair Work Commission Research Report 2/2021
[56] Yuen K. and Cumming P. 2021 Labour market transitions of workers during COVID-19. Fair Work Commission Research Report 2/2021

6.2 Full-time and Part-time Employment

205. Full-time employment in February 2021 was 8.9 million, marginally above its level at the beginning of the COVID crisis a year earlier. However, part-time employment at 4.1 million, was slightly below its February 2020 level (part time in this context includes casual employees).

Chart 13. Full-time and part-time employment



Source: ABS 6202.001 Labour Force, Australia, February 2021.

206. It is important to note that over the five years before the COVID crisis began in 2020, full-time employment was growing at a faster rate than part time employment.

207. In the initial stages of the recovery, full-time lagged part-time employment growth. Many businesses were only prepared to rehire workers on a part-time basis, due to reduced trade, as well as uncertainty around the extent of the lockdowns, state-based health restrictions and their longer-term prospects. Much of this was casual engagement, which is essential to navigating uncertainty of opening and demand.

208. However, by October, as the economy reopened from the second-wave lockdowns in Victoria and the recovery appeared to be gathering momentum, businesses became more confident and began hiring workers on a full-time basis. As a result, the number of part-time workers flattened then dipped slightly, while there has been exceptionally strong growth in full-time employment at the end of 2020 and beginning of 2021.

209. There has been a remarkable recovery in employment. However, with government support measures being wound back (particularly JobKeeper) and businesses adjusting to the new post-COVID operating environment, the rate of employment growth is expected to slow, and may even dip slightly, in the second quarter of 2021. As confidence returns to the labour market in the second half of 2021, it is expected that employment will begin to increase again and full-time employment will continue to out-pace part-time employment.

210. This is not inevitable or guaranteed. An excessive increase in the costs of hiring through an inflated minimum wage outcome risks any return to full-time employment dominating employment growth.

6.3 Casual Employment

211. While there has been much discussion of an increase in casual employment (the claimed casualisation of the workforce), the data does not support this view. Over the past five years casual part-time employment, while more volatile, has grown at a similar rate as permanent part time employment, reflecting the growth in the labour force more generally.

212. In response to the COVID lockdowns and trading restrictions, casual employment fell sharply in the March and June quarters of 2020, compared to only a moderate decline in permanent employment. This reflects the JobKeeper eligibility requirements, as JobKeeper was available to permanent employees but only casual employees that had been employed for more than 12 months. The data suggest that around 20% of casual employees were not eligible for JobKeeper (i.e. they had been employed for less than 12 months) and instead received JobSeeker payments. However, once the lockdown and trading restrictions were eased in the May, casual employment quickly bounced back, recovering over 80% of the jobs lost in the first half of 2020, by December 2020.

213. This disproportionate loss in casual employment also reflects:

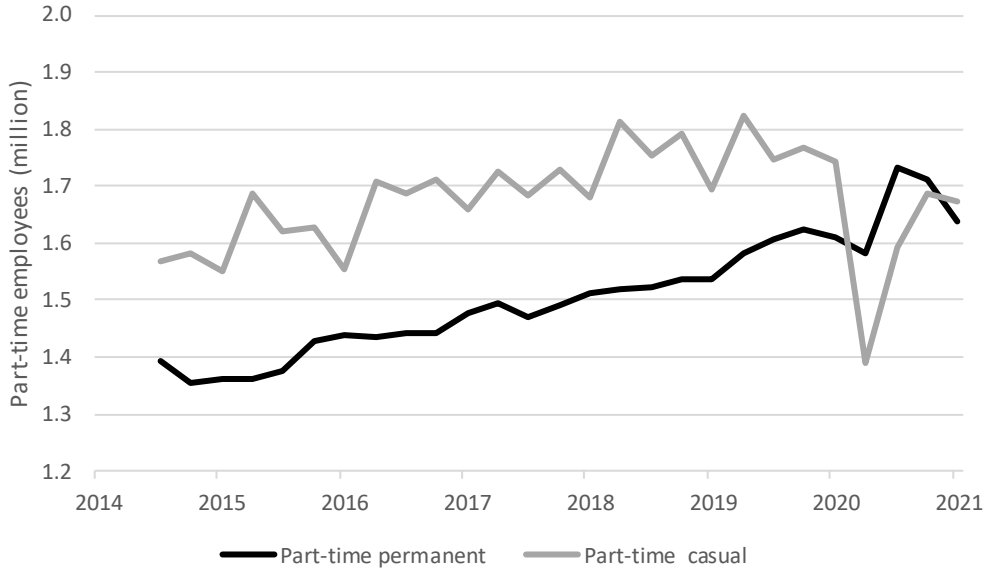
    a. The industries most impacted by COVID downturn, closures and uncertainty being those with strong traditional reliance on casual employment, such as accommodation and food services and arts and recreation services.

    b. The nature of casual employment and its inherent adjustment to demand.

214. Despite employment returning to its pre-COVID level, casual employment remains well below its trend levels leading into the crisis and appears set to remain below its previous trend going forward.

215. In contrast, part-time employment grew strongly in the second half of 2020, such that it is rose above its previous trend. However, it appears to be settling back to its previous trend level in the 2021, as some of these part-time workers transition to full-time employment.

Chart 14. Part-time employment – Permanent and Casual



Source: ABS 6291.008 Labour Force, Australia, Detailed February 2021.

6.4 Unemployment and Underemployment

216. With the rebound in employment, there has been a notable improvement in the unemployment rate. After peaking at 7.5% in July 2020, unemployment has fallen to 5.8% in February 2021. While the recovery in the unemployment rate is exceeding all expectations, it remains above its level, between 5% and 5¼% leading into the COVID pandemic.

Chart 15. Unemployment

Source: ABS 6202.001 Labour Force, Australia, February 2021.

217. After peaking at 13.8% in April 2020 at the depth of the COVID crisis, underemployment has steadily declined back to pre-COVID levels. While underemployment settled back to 8.1% in

January, it has since ticked back up to 8.5% in February 2021. Despite returning to its pre-COVID range, between 8.0% and 8.5% that it has consistently maintained since 2014, it remains high, with one in twelve workers seeking more hours than they are currently gaining.

Chart 16. Underemployment

Source: ABS 6202.001 Labour Force, Australia, February 2021.

218. Overall, the underutilisation rate of 14.3% (5.8% unemployed plus 8.5% underemployed) remains high and represents considerable slack in the labour market. Until this slack is taken up, with unemployment moving well below pre-COVID levels and there is a marked decline in underemployment, wages growth and inflation will remain subdued.

6.5 Non-accelerating Inflation Rate of Unemployment

219. For conditions in the labour market to tighten and begin to put upward pressure on wages and inflation, the economy needs to return to full employment, which is typically viewed through the lens of the non-accelerating inflation rate of unemployment (NAIRU).[57]

220. Prior to the COVID-19 pandemic, the RBA announced that it had reviewed its position on the NAIRU, identifying unemployment of 4.5% as a more appropriate target, from a level that it had previously deemed to be around 5%.

221. In a more recent speech at the Australian Financial Review Business Summit, the Reserve Bank Governor indicated that the NAIRU was now more likely to be around 4%, but it was *entirely possible* it could be in the 3% range. He indicated that the RBA did not expect to see *wages growth consistent with the inflation target before 2024.*[58]

[57] Reserve Bank of Australia 2017, *Estimating the NAIRU and the Unemployment Gap*. RBA Bulletin – June Quarter 2017. https://www.rba.gov.au/publications/bulletin/2017/jun/2.html
[58] https://www.afr.com/business-summit/rba-wants-wage-bounce-before-lifting-rates-20210310-p579dw

222. Similarly, Professor Ross Garnaut from the University of Melbourne, a former Reserve Bank Board member, has suggested that the NAIRU could be as low as 3.5%.[59]

223. Therefore, despite recent decline in the unemployment rate from the peak of 7.5% in July 2020 to 5.8% in February 2021, it is clear that unemployment must fall considerably for it to approach the NAIRU and put any meaningful pressure on wages and inflation.

224. A key consideration for the Panel in handing down its decision must be whether its actions support or counteract the work of the Government and Reserve Bank in creating the conditions to drive the unemployment rate to the NAIRU and put upward pressure on wages and inflation. Any significant, above trend, increase in the minimum and award minimum wages in the current economic environment is likely to work against the Government's and Reserve Bank's objectives, which are consistent with the statutory objectives for these reviews.

6.6 Labour market transitions

225. As ACCI has emphasised in previous submissions, in determining any increase in minimum wages, the Panel must take into account the important role of the minimum wage as a stepping-stone to higher paid employment, enabling young and inexperienced workers to access the workforce and gain the experience necessary to build a career.

226. Analysis by Wilkins and Zilio 2020 observing *low-paid award-reliant employees* identified that 39.1% move to higher paid employment within one year, 56.8% move after 2 years and almost 80% have moved after 5 years.[60]

227. ACCI reiterate the point that we have made in previous submissions that the minimum wage should be set at a level that encourages business to employ more workers and maximises the opportunity for new workers to enter the workforce.

228. It is not the role of the minimum wage to provide a welfare safety net, nor a safety net inflating in value, to a very small proportion of the workforce that are unable to transition from the minimum wage to higher paid work. These people are best supported by other means, through the welfare system and/or through the education and training system.

229. We again encourage the Panel to review its long-standing position on the role of the minimum wage in maintaining or enhancing the living standards of the low paid, taking into consideration that:

    a. Successful labour market transitions, into work and from lower paying employment to higher paying employment, are critically important for living standards and individual life course trajectories.

    b. The uprating of minimum wages in these reviews should not have effect of making these transitions more difficult or discouraging employers from the offering of higher paying work.

230. We make this submission in the context of significant additional concerns on the labour market scarring effects of the COVID induced pandemic, particularly for our young people and the young

[59] https://www.smh.com.au/business/the-economy/there-s-no-excuse-we-need-full-employment-now-20210225-p575xz.html
[60] Wilkins R. and Zillio F. (2020), *Prevalence and Persistence of Low-Paid Award-Reliant Employment* Fair Work Commission Research Report 1/2020, February. p.35

unemployed. This is an ongoing or lagging challenge, which remains acute for particular cohorts of concern even as overall recovery and reversal of declines is realised. Thus, there is substantial concern for young people unemployed and those in early careers, to ensure they are able to enter work and proceed in work, and do not become the long-term victims of pandemic induced recession.

6.7 Employment Effects

231. The Panel, and the preceding minimum wage setting bodies, have for many years considered the relationship between minimum wage increases and employment. This is an area of some research interest, albeit that there is some debate on the relevance of international experiences and conclusions into Australia's idiosyncratic minimum wage system (which has for example more than 2000 minimum wage rates and minimum wages across much of the wages distribution in any industry, not the single rate applicable in many other developed countries).

232. Over a series of submissions ACCI has indicated to the Panel that:

a The circumstances of the small businesses that overwhelmingly pay minimum wage rates must be taken into account in considering proposals to increase wages by significant amounts.

b Small, award-reliant businesses that run on lean margins and are unable to pass on sizeable increases to consumers, may need to cut costs by either reducing headcount and hours, substituting capital for labour or substituting proprietor labour for employment in the smallest businesses. It is very possible that short-term gains in the earnings of those who remain in employment come at the expense of those who are negatively impacted with broader economic consequences.

c Many award-reliant businesses operate in a highly competitive environment and are unable to pass costs on.

d Increasing wages excessively risks discouraging investment and entrepreneurship.

e Wage increases that are not supported by higher productivity or higher prices for consumers, are far more likely to cost jobs.

f To the extent that international research demonstrates negative employment impacts caused by minimum wages overseas and their uprating, these impacts may be compounded in Australia due to our higher statutory minimum wages.

7. LIVING STANDARDS / NEEDS OF THE LOW PAID

7.1 Introduction

233. ACCI maintains that minimum wage fixation is not an effective way of addressing the needs of lower income households. The tax and transfer system is better targeted to address the actual circumstances of lower income households and is a superior means to provide necessary support, as is recognised by our transfers system.

234. As we have argued for some years, it cannot be assumed that lower paid employees necessarily reside in lower income households. Previous research for the Annual Wage Review has shown that:

   a. Minimum wage earners are found throughout the distribution of household income and over half were not the primary earner in the household, with a large share of minimum wages workers dependent students (17%), non-dependent children living with their parents (17%) or were secondary earners in couple households (21%).[61]

   b. A large proportion of minimum wage earners work part-time (77.2%) or casually (79.6%).[62]

   c. While there is a higher proportion of minimum wage earners among low-income households (44% in the bottom 3 deciles), when compared with the wider population, lower income groups are dominated by the unemployed and those outside the labour force.[63] This limits the effectiveness of wage setting in the context of the needs of the low paid, and renders the Decision of the Expert Panel a very poor mechanism to attempt to address the needs of the lower paid.

235. Nevertheless, the Minimum Wages Objective requires that this consideration be taken into account in conducting Annual Wage Reviews, and the Panel has previously emphasised that this is one of the considerations it must weigh.

236. The Panel has also clarified that the needs of the low paid and relative living standards cannot be the sole or determining considerations under the current legislation.

237. The Panel is required by both the Minimum Wages Objective and the Modern Award Objective to take into account relative living standards and the needs of the low paid when setting fair and relevant minimum wage rates. Those matters are different, but related, concepts and must be considered, together with the other matters in ss.3, 134(1) and 284(1) of the Fair Work Act 2009, in the context of available data and research.

[61] Yuen K., Ellis G. and Nelms L. 2018, *Characteristics of workers earning the national minimum wage rate and of the low paid*, Fair Work Commission, Research Report 3/20, 18 Feb 2018, pp. 4-5
[62] Yuen K., Ellis G. and Nelms L. 2018, *Characteristics of workers earning the national minimum wage rate and of the low paid*, Fair Work Commission, Research Report 3/20, 18 Feb 2018, p. 8.
[63] Yuen K., Ellis G. and Nelms L. 2018, *Characteristics of workers earning the national minimum wage rate and of the low paid*, Fair Work Commission, Research Report 3/20, 18 Feb 2018, p.6

238. ACCI has consistently argued that comparisons of 'relative living standards' should extend to those out of work, and to those in our community not participating in the labour market / not in employment.

    a. We maintain the unemployed, small business proprietors, and welfare recipients should be included in any analysis for determining the NMW and award minimum wage rates under the Fair Work Act 2009, and the relative living standards of the lower paid.

    b. We cannot identify anything in the statutory framework that would suggest that an assessment of relative living standards should only entail a comparison of award-reliant employees and employees that are employed, but not pursuant to awards.

    c. We invite the Panel to review its previous interpretation and reconsider the potential relevance of comparisons employers view as relevant.[64]

    d. We contend that the comparison between those out of work and those in work is precisely what the community would expect at a time in which jobs have been rendered more precarious by pandemic induced recession and its aftermath as we transition into an ongoing recovery challenge.

239. The remainder of this Chapter focusses on the considerations addressed in Chapter 4 of the Panel's 2020 Decision[65] in light of additional information, including that contained in the updated Statistical Report.

240. ACCI notes the comment in the Panel's 2020 Decision that much of the data used in its assessment pre-dates the COVID-19 pandemic and hence was not reflective of current circumstances.[66] Similarly, ACCI notes that much of the information provided in Section 8 of the Statistical Report is dated and is no longer relevant in determining relative living standards.[67]

7.2 Award reliant employees and the low paid

241. In previous determinations, the Expert Panel has set the *threshold of two thirds median is benchmark we use to identify who is 'low paid'*, and that this analysis applied a similar setting of two thirds of median hourly earnings of all employees.[68]

    a. However, this appears to be completely arbitrary, and there is no clear explanation given in this research, the research referenced, or earlier decisions why two thirds of median earnings is any more representative of the low-paid than any other number.

[64] [2016] FWCFB 3500, [354]-[357]
[65] [2020] FWCFB 3500, pp.82-94, [338]-[385]
[66] [2020] FWCFB 3500, p.82 [339]
[67] Particularly that related to the ABS Employee Earning and Hours survey and the ABS Household Income and Wealth survey, which were last updated in 2018. In addition, data from the *Household, Income and Labour Dynamics Survey* in Section 12 of the Statistical Report also refers to 2018 data and is of limited relevance in determining Financial Stress on households in 2020-21.
[68] [2020] FWCFB 3500, p.85, [359]

b. The pure fact that two thirds of median earnings reflects the campaign goal of some seeking minimum wage increases does not make it a valid assumption or comparator in Australia. This should not be accepted uncritically.

c. We note that the threshold chosen in defining the low paid will greatly influence the findings of any research, but for want of a more appropriate measure of low paid, we can engage with the results of research undertaken or presented on this basis.

d. ACCI intends to seek to have these factors addressed in future research by the Fair Work Commission for future Annual Wage Reviews. A ratio of two thirds of median earnings should continue to be critically examined as a tool for these reviews. There may be scope for a more sophisticated informative and targeted approach, including through some of the datasets such as HILDA.

242. As highlighted by Wilkins and Zilio in their research on the *Prevalence and Persistence of Low-Paid Award-Reliant Employment*, the definition of low paid employment does not have unanimous consensus.[69]

243. The research by Wilkins and Zilio makes a clear distinction between award reliance and low-paid employment and the overlap between the two. It shows in 2018, while 14.2% of employees were low paid and 16.2% were award reliant, only 5.9% were *low-paid award-reliant employees.* It also shows a marked decline in *low-paid award-reliant employees* over the past decade, down from 7.5% in 2009, a decrease of 21%.[70] While this suggests living standards are improving ¸ it does not warrant further increases in minimum and award minimum wages to further reduce the pool of *low-paid award-reliant employees*.

244. The research also shows the characteristics of *low paid award reliant employees*, who are more likely to be in part-time jobs (58%) and/or in casual employment (66.5%).[71] They are more likely to be younger employees (29% between 20 and 25 years, and 60% between 20 and 35 years), suggesting they are more likely to be less experienced workers. They are living in couples (58.5%) or dependent students/non-dependent children (19.9%) still living with their parents.[72] Almost 60% of *low-paid award-reliant employees* in couple households are secondary earners and a high proportion of all *low-paid award-reliant employees* receive Government welfare benefits (25%) that supplements their lower income.[73]

245. *Low-paid award-reliant employees* are more concentrated in accommodation and food service (20.8%), retail trade (18.4%), healthcare and social assistance (13.6%), manufacturing (10.3%) agriculture, fisheries and forestry (5.9%) and administration and support services (5.8%) relative to other wage/award classifications. Also, they have a lower educational attainment and are more likely to be labourers, sales workers and technician and trade workers. They are more likely to

[69] Wilkins R. and Zillio F. (2020), *Prevalence and Persistence of Low-Paid Award-Reliant Employment* Fair Work Commission Research Report 1/2020, February. p.7.
[70] Wilkins R. and Zillio F. (2020), *Prevalence and Persistence of Low-Paid Award-Reliant Employment* Fair Work Commission Research Report 1/2020, February. p.9
[71] Wilkins R. and Zillio F. (2020), *Prevalence and Persistence of Low-Paid Award-Reliant Employment* Fair Work Commission Research Report 1/2020, February. p.17.
[72] Wilkins R. and Zillio F. (2020), *Prevalence and Persistence of Low-Paid Award-Reliant Employment* Fair Work Commission Research Report 1/2020, February. p.25
[73] Wilkins R. and Zillio F. (2020), *Prevalence and Persistence of Low-Paid Award-Reliant Employment* Fair Work Commission Research Report 1/2020, February. pp.23, 26.

be employed by small or micro businesses, and to have been with their current employers and in their current occupation for a shorter period of time.

246. In determining this Review, it is important the Expert Panel to realise changes to award and minimum wages will have only a very limited impact on household disposable income and poverty levels in Australia. It is far more effective to improve the situation of households with low disposable income through:

a. The tax and transfer system

b. Balanced decisions which support job creation, with jobs clearly the best measures to counteract poverty.

7.3 Household Disposable Income

247. Equivalised household disposable income is most commonly used in analysis of the living standards of minimum wage employees. This observes both labour market earnings and income from other sources, as well as the net impact of the taxes and transfers, by household type.

248. ACCI supports minimum wages being set at levels that enables a worker to maintain a reasonable standard of living and not be in a position of being the 'working poor'. However, we do not agree that an arbitrary 'poverty line' at 60% of the median income of all employees is an appropriate measure of what is needed to maintain a reasonable standard of living in Australia. This claim or assumption cannot be sustained without further evidence, and would need to be tested against other data sources or approaches without adopting a mechanistic or unbalanced approach to wage setting.

249. That said, the following discusses household income in Australia relative to the data presented in the Statistical Report using this arbitrary poverty line.

250. Over the year to July 2020, all minimum wage reliant household types, received an increase in nominal disposable income of 2.3% or more.[74] The exception was single parents working part-time, who received an increase of 1.8%, which was still well above inflation (CPI of 0.9%) and average wages (WPI of 1.4%) over the past year. Those receiving the JobSeeker supplement to the NewStart Allowance received an extraordinary increase in income of between 27% and 45%.

251. All household types retained a greater share of their increase in the minimum wage than in previous years, with single parents and single earner households with children retaining the greatest share of the increase in the minimum wage, at 83.5% or above (compared to 73.5% or above in 2019).[75] Notably this occurred in a year in which the level of minimum wage increase was lower than in any other year of the present wage setting parameters.

252. Dual-earner couples with children retained a lower share at 61% of the increase in the minimum wage, but this was greater than the 55% they retained the previous year.[76] Similarly, households

[74] Statistical Report – Annual Wage Review 2020-21, Table 8.4
[75] Statistical Report – Annual Wage Review 2020-21, Table 8.5
[76] Statistical Report – Annual Wage Review 2020-21, Table 8.5

reliant on the NewStart Allowance/JobSeeker supplement retained a lower share at 59% their income, but this was considerably better than the less than 20% retained in 2019.

253. The lower retention of wage growth for dual earner couples and households reliant on the NewStart Allowance/JobSeeker supplement, is related to the structure of the tax and transfer system. It is not appropriate to use the minimum and award minimum wages to offset changes in the tax and transfer system, nor can a basis for this be found in the Fair Work Act.

254. The disposable income of minimum wage earners as a ratio of 60% of the medium income (the arbitrary poverty line) is down slightly over the past year for all household types, but has shown a moderate increase over the past five years.[77] What is surprising in observing these numbers is that there has been little to no change in the disposable income in the July 2020 income year of households with children (neither single parents with children, single earners with children nor dual earners with children) despite the provision of free childcare between 2 April and 12 July 2020, followed by a transitioning back to the 25% Childcare Subsidy on 27 September 2020. It would be expected that a sizable reduction in childcare costs for households with children, that had a notable impact on the CPI, would have some influence in raising household disposable income.

255. Similarly, changes in the tax and transfer system announced in the delayed October 2020 Budget, have not been captured in the calculation of disposable income of the selected household types presented in Table 8.6. These include bringing forward the Stage 2 personal income tax cuts to 2020-21, providing:

a. An increase in the low income tax offset from $445 to $700 and adjustments to the phase out rules

b. An extension of the low to middle income tax offset (LMITO) to the 2020-21 income year, providing $255 for those earning up to $37,000, plus 7.5 cents for every dollar earned above $37,000 up to a maximum of $1,080.

c. Increasing the top threshold of the 19% personal income tax bracket from $37,000 to $45,000

7.4 Income and wealth inequality

256. In the 2019 Decision the Panel concluded that despite evidence of wealth inequality "*it is unlikely that any moderate adjustment of the NMW or modern award minimum wages arising from this Review would have any discernible effect upon wealth inequality*".[78] The Decisions of earlier Reviews have concluded that income inequality had stabilised and there were some indicators that income growth in households at the bottom of the distribution was increasing more than households at the middle and top of the income distribution.[79]

257. The research provided by Wilkins and Zilio discussed in section 6.1 supports this conclusion, suggesting that the trend in income growth of households at the bottom of the distribution is

[77] Statistical Report – Annual Wage Review 2020-21, Table 8.6
[78] [2019] FWCFB 3501 at [263].
[79] [2018] FWCFB 3500 at [326], see also [2017] FWCFB 3500 at [63];[484].

increasing, with the share of *low-paid award reliant employees* in the workforce continuing to decline and the overall living standards of workers progressively improving.

258. Previous decisions have recognised and given weight to the conclusions of research by the Productivity Commission on inequality in Australia, which found:[80]

a. economic growth over almost three decades prior to the COVID pandemic has delivered significantly improved living standards for the average Australian across every income decile.

b. Australia's progressive tax and highly targeted transfer systems has substantially reduced income inequality.

c. Economic mobility is high in Australia, with almost everyone moving across the income distribution over the course of their lives. HILDA data shows the fluid nature of income and wealth, indicating most people are not in the same income decile today that they were in 15 years ago.

d. A small group of Australians do experience entrenched economic disadvantage, in particular those without jobs. While many Australians experience economic disadvantage at some stage of their life, for most it is temporary.

259. ACCI concurs with the Productivity Commission's conclusion that income inequality is lessening, with income growing faster for household at the bottom of the income distribution than at the top.[81]

260. Overall, the minimum wage is a blunt tool for tackling the living standards of the low paid. Reforming the tax and transfer system is a far more effective way to lift people's living standards. The tax and transfer system can target income according to people's needs such as family size, in a way the minimum wage can never do.

261. We urge the Panel maintain its approach from previous reviews that wealth inequality is a matter that should be assigned little weight in determining whether to increase award minimum wages, and by how much, if an increase is to be awarded.

7.5 Budget Standards and the Needs of the Low Paid

262. ACCI maintains that budget standards cannot in themselves be determinative of the minimum wage or an uprating of minimum award rates.

263. We note that much of the base-data used to determine budget standards in the Statistical report is very dated and of limited relevance in 2021. The original data in the Statistical Report: Table 13 Budget Standards, dates back to 2013. This was subsequently updated to 2016 by Saunders and Bedford using the CPI.[82] This data was again updated by the FWC using the CPI to provide Budget

[80] Productivity Commission *Rising Inequality: A stocktake of the evidence.* August 2018 https://www.pc.gov.au/research/completed/rising-inequality
[81] [2018] FWCFB 3500 at [326],
[82] Saunders P and Bedford M (2017) New Minimum Income for Healthy Living Budget Standards for Low-Paid and Unemployed Australians. SPRC Report 11/17, Social Policy Research Centre, UNSW Sydney, p.34;41

Standards for 2020. It must be recognised that household consumption and behaviour patterns have changed considerably since 2013.

264. We also note reference in the 2020 Decision that *there were some errors in the calculation of the 'safety net' income … of the* (Saunders and Bedford) *2017 Budget Standards Report which resulted in an over-estimation of the disposable income* …. It was therefore difficult to draw any firm conclusion from *the 2017 Budget Standards Report.*[83]

265. Therefore, until the Budget Standards research has been updated and errors in earlier research have been corrected, ACCI recommend the Panel place little weight on Budget Standards as a basis for determining minimum and award minimum wages in this or future Annual Wage Reviews.

7.6 Poverty and poverty lines

266. We note that there is no consensus on how to measure poverty, and that **absolute poverty is not relevant in Australia**, particularly pertaining to those in employment. In the context of this Review, the issue can only be that of **relative poverty,** to the extent that is relevant to paid employment.

267. As noted in the 2020 Decision, *The poverty line is essentially a measure of inequality at the lower end of the income distribution and does not measure observed needs or capacity to meet these needs …*[84]

268. ACCI agrees that the low paid should not live in poverty, and the minimum wage should be, and is, set at a level that provides a 'decent standard of living' for minimum and award reliant employees, as those concepts are operationalised in legislation.

269. It needs to be honestly acknowledged that Australia has one of the highest minimum wages in the world, clearly the highest when the lowest effective classification rates in key minimum wage industries are taken into account (e.g. retail or hospitality).

270. As noted in the 2020 Decision and observed in previous Decisions, *difference in household types …. mean that it is not feasible for minimum wages alone to ensure that all family types with a minimum wage employee working full-time have incomes that exceed relative poverty levels.*[85] Some families may need help from the welfare system, and they do get that help under Australia's highly developed and substantial taxes and transfers system.

271. We reiterate the point made in previous submissions that there does not appear to be a clear rationale for setting the relative poverty line at 60% of the median income. We consider this to be arbitrary and would like the Panel to explain further why it believes this to be the correct illustrative threshold, or to exercise caution in using such an arbitrary measure.

272. Overall, ACCI submits that the minimum wage is not an appropriate tool to address relative poverty. We believe relative poverty in Australia should be addressed through the tax and transfer system.

[83] [2020] FWCFB 3500 at [371]
[84] [2020] FWCFB 3500 at [364]
[85] [2020] FWCFB 3500 at [363]

8. OTHER RELEVANT CONSIDERATIONS

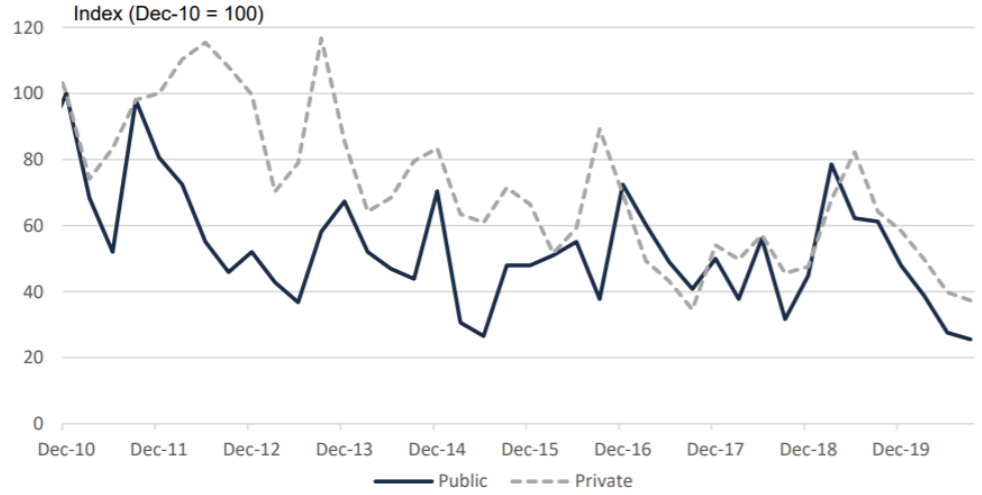
8.1 Agreement making

273. One of the matters the Panel is required to take into consideration in giving effect to the modern awards objective is 'the need to encourage collective bargaining'.[86]

274. The most recent data published in the Attorney General's Department report on *Trends in Federal Enterprise Bargaining* (September quarter 2020) shows that private sector wages growth as measured by the average annualised wage increase (AAWI) remained steady at 2.7% in the September quarter 2020 compared with the September quarter 2019, in terms of both current agreements and those approved in the relevant quarter. The private sector AAWI had increased to 3.0% in the March quarter 2020, before dropping to 2.7% in the September quarter 2020 which was after the COVID-19 pandemic and related government restrictions took effect.

275. An index on the number of federal enterprise agreements approved per quarter is shown below in Chart 10.1. In the private sector, the number of federal enterprise agreements approved in the most recent quarter (September 2020) dropped significantly to 690, compared with 1,188 approved in the September quarter 2019. It is also significantly lower than the amount approved a decade earlier, with 2,202 approved in the September quarter 2010.

Chart 10.1: Number of agreements approved in the quarter by sector, index



Source: Attorney-General's Department, *Trends in Federal Enterprise Bargaining*, September quarter 2020, <https://www.ag.gov.au/industrial-relations/enterprise-agreements-data/Pages/trends-in-federal-enterprise-bargaining.aspx>.

3.1.1 Implications for setting the NMW / award minimum wages

276. The Panel has previously found that there are a number of factors which impact the propensity to engage in collective bargaining and as such the precise impact of the Expert Panel's decision

[86] *Fair Work Act 2009*, s 134(1)(b), see also [2020] FWCFB 3500 at [387].

is difficult to determine. In last year's decision the Panel called out an additional factor with the potential to impact on the decision to engage in bargaining, being COVID-19, stating as follows:[87]

> ***[397]*** *…It is also likely that the impact of the COVID-19 pandemic will be felt in the extent and nature of bargaining in the immediate future, although the precise impact is difficult to predict with any certainty at this juncture.*

277. In addition, the Panel has previously found that "the gap between modern award minimum wages and bargained wages, to the extent that it can be identified with any precision, has not reached a level where it is encouraging or discouraging collective bargaining".[88]

278. Feedback from businesses indicates that in considering whether to engage in bargaining they do take into consideration the level of minimum wage floor, given that it (along with award conditions), provides a floor against which the Better Off Overall Test (BOOT) is applied. If minimum wages are set at a rate that is too close to the rates paid in workplaces (e.g. expectations in the market), this will be a key consideration in relation to the decision of whether or not to bargain, and will likely give weight to a decision not to bargain.

279. In any case, ACCI agrees with the previous views of the Panel that there are a number of factors determining propensity to bargain and submits that any increase awarded is not likely to encourage collective bargaining.

8.2 Equal remuneration

280. In relation to equal remuneration, the modern awards objective and the minimum wage objective is that the Panel must take into account the 'principle of equal remuneration for work of equal or comparable value' (ss 134(1)(e) and 284(1)(d)).

281. This consideration was comprehensively addressed in the 2017–18 Review decision an extract of which is set out below, which the Panel has adopted in subsequent decisions:[89]

> *'The application of the principle of equal remuneration for work of equal or comparable value is such that it is likely to be of only limited relevance in the context of a Review…*
>
> *But the broader issue of gender pay equity, and in particular the gender pay gap, is relevant to the Review. This is so because it is an element of the requirement to establish a safety net that is 'fair.' It may also arise for consideration in respect of s.284(1)(b) ('promoting social inclusion through workforce participation'), because it may have effects on female participation in the workforce…*
>
> *We accept that moderate increases in the NMW and modern award minimum wages would be likely to have a relatively small, but nonetheless beneficial, effect on the gender pay gap.'*

[87] [2020] FWCFB 3500.
[88] [2020] FWCFB 3500 at [395].
[89] [2018] FWCFB 3500 at paras [35]–[38].

282. The latest data from the Workplace Gender Equality Agency (WGEA) (based on ABS data) has the gender pay gap for Full-Time Adult Weekly Ordinary Time Earnings in November 2020 at 13.4%. There has been a decrease of 0.58 percentage points in the gender pay gap since November 2019. The analysis by WGEA on the gender pay gap between 1999 and 2020 reveals that the gender pay gap was lowest in November 2020.

283. In last year's Annual Wage Review decision 2019-20, the Panel again found that the causes of the gender pay gap are complex and influenced by a multitude of factors, stating as follows:[90]

> *As we concluded last year, the causes of the gender pay gap are complex and influenced by factors such as: differences in the types of jobs performed by men and women; discretionary payments; workplace structures and practices; the degree to which occupations involve majority female employment; and the historical undervaluation of female work and female-dominated occupations.*

284. Added to this is that after November 2019, the national gender pay gap calculations were based on seasonally adjusted data rather than trend data, as the ABS suspended the use of trend data given the impact of COVID-19 on the labour market.

285. In addition, the Panel accepted in its 2020 Decision ACCI's submission that the impact of the Decision on the gender pay gap needs to be considered against more general labour market considerations raised by the COVID-19 pandemic:[91]

> *…as ACCI submitted, this needs to be considered in 2020 against more general and labour market considerations raised by the COVID-19 pandemic:*
>
> > *'There must be a tipping or critical point at which any uprating in minimum wages that seeks to take into account gender pay disparity, may risk adding to underemployment or reducing hours and jobs to the lower paid, which would disproportionately negatively impact women, and perversely serve to reduce incomes and opportunities.'*

286. ACCI maintains this submission in 2021, as the general economic and labour market considerations raised by the fallout from the COVID-19 pandemic, including the end of JobKeeper and threats of general economic downturn and job losses remain, the impact of which would likely disproportionately effect women were the minimum labour costs of award jobs increased unduly.

287. The complexity of arguing any direct or significant causation between minimum wages and the gender pay gap remains, and in the context of the economic situation in 2021 we caution against placing significant weight on this factor in considering any increase in minimum wages in 2021.

[90] [2020] FWCFB 3500 at [402].
[91] [2020] FWCFB 3500 at [404].

8.3 Transitional Instruments

288. The Expert Panel in its Annual Wage Review Decision in 2019-20 decided to maintain the approach taken by the Panel in previous Annual Wage Reviews, by increasing the rates in relevant transitional instruments consistent with any increase determined for modern award minimum wages. ACCI is supportive of the approach taken by the Panel in previous Reviews being maintained, and does not oppose the same approach being taken in respect of "copied State awards".

8.4 Junior Employees

289. ACCI supports the approach of previous Annual Wage Review decisions, that any minimum wage increase that may be awarded in this year's Annual Wage Review should flow through to junior rates of pay in modern awards, through the operation of established provisions for calculating junior rates in modern awards.

8.5 Apprentices and Trainees

290. The Panel should apply the approach in line with previous decisions as appropriate, where the increase flows through to the minimum award wages of employees to whom training arrangements apply, through the operation of the relevant award provisions relating to these employees.

291. We note that an issue arose last year regarding the timing of the increases to the National Training Wage rates as incorporated into the majority of modern awards from Schedule E to the Miscellaneous Award and the different operative dates for increases to rates in award groups 1-3 determined in the *2019–20 Annual Wage Review decision*.

292. If the Panel adopts an approach with respect to different operative dates similar to the 2019-2020 Review, the Panel should maintain the approach of its further decision in relation to the National Training Wage as issued in [2020] FWCFB 5676 on 27 October 2020.

8.6 Employees with Disability

293. Consistent with previous Annual Wage Review decisions, ACCI does not oppose a flow on of any Review decision to the modern award minimum wages for employees with a disability, in accordance with previously established approaches.

8.7 Piece Rates

294. Noting paragraph [449] of the 2020 Decision, ACCI does not seek any changes to the method of calculation of piece rates in modern awards.

8.8 Casual Loadings

295. ACCI notes the Panel is required to review casual loadings in modern awards and to include a casual loading for award/agreement free employees in the NMW order. ACCI submits that the standard casual loading in modern awards and for award/agreement free employees is appropriate and should be maintained at 25%.

8.9 Special National Minimum Wages

8.9 Award/Agreement Free Junior Employees

296. Consistent with [457] to [458] of the 2020 Decision, the Panel should continue to use the junior wage percentage scale in the Miscellaneous Award to set the special NMW for award/agreement free junior employees.

8.9 Award/agreement free apprentices and trainees

297. Consistent with [459] to [460] of the 2020 Decision, the Panel should continue to adopt the wage rates in the Miscellaneous Award for award/agreement free apprentices and trainees. Applicable rates from these awards should again be adopted as the basis for the special NMWs for employees to whom training arrangements apply.

8.9 Award/agreement free employees with disability

298. Paragraphs [461] to [463] of the 2020 Decision address special NMWs for award/agreement free employees with disability.

    a ACCI does not oppose Special NMW1 (for employees with disability whose productivity is not affected) continuing to be set equal to the NMW.

    b Special NMW2 should continue to be adjusted in accordance with the methodology under the SWS Schedule.

    c The minimum payment should continue to be fixed in accordance with the disability support pension income-free threshold.

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The Australian Chamber of Commerce and Industry (ACCI) is the largest and most representative business advocacy network in Australia. We speak on behalf of Australian business at home and abroad.

Our membership comprises all state and territory chambers of commerce and dozens of national industry associations. Individual businesses are also able to be members of our Business Leaders Council.

We represent more than 300,000 businesses of all sizes, across all industries and all parts of the country, employing over 4 million Australian workers.

The Australian Chamber strives to make Australia the best place in the world to do business – so that Australians have the jobs, living standards and opportunities to which they aspire.

We seek to create an environment in which businesspeople, employees and independent contractors can achieve their potential as part of a dynamic private sector. We encourage entrepreneurship and innovation to achieve prosperity, economic growth and jobs.

We focus on issues that impact on business, including economics, trade, workplace relations, work health and safety, and employment, education and training.

We advocate for Australian business in public debate and to policy decision-makers, including ministers, shadow ministers, other members of parliament, ministerial policy advisors, public servants, regulators and other national agencies. We represent Australian business in international forums.

We represent the broad interests of the private sector rather than individual clients or a narrow sectional interest.

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- Australian Beverages
- ADA – Australian Dental Association
- ADIA – Australian Dental Industry Association
- AFEI – Australian Federation of Employers & Industries
- Australian Gift & Homewares Association
- AHA
- Australian Institute of Credit Management
- Australian Made
- AMPC
- AMMA – Australian Resources & Energy Group
- AMTA – Australian Mobile Telecommunications Association
- APMF – Australian Pyrotechnic Manufacturers' Federation Inc.
- ARIA – Australian Recording Industry Association
- ARITA
- Australian Retailers Association
- ARTA
- ASMI – Australian Self Medication Industry
- Australian Steel Institute
- ATEC – Australian Tourism Export Council
- ATIC – Australian Tourism Industry Council
- ATA – Australian Trucking Association
- AVA – Australian Veterinary Association
- BIC – Bus Industry Confederation, moving people
- Business Council of Co-operatives and Mutuals
- Caravan Industry Association of Australia
- Cement Concrete & Aggregates Australia
- Chemistry Australia
- CAA
- CMAA
- Consult Australia
- COPHE – Council Of Private Higher Education
- CPA Australia
- CLIK – Credit Union International Association Australasia
- Customer Owned Banking Association
- Direct Selling Australia
- Exhibition & Event Association of Australasia
- Fitness Australia
- Franchisee Federation
- HIA
- LFRA – Large Format Retail Association
- Live Performance Australia
- Master Builders Australia
- master plumbers – Expert. Committed. Professional.
- MTAA – Medical Technology Association of Australia
- Medicines Australia
- NALSPA
- NDS – National Disability Services
- neca – national electrical and communications association
- nesa – national employment services association
- National Fire Industry Association
- NRA – National Retail Association
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- Outdoor Media Association
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- Primerus – The World's Finest Law Firms
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