Ai GROUP SUBMISSION

Fair Work Commission

Annual Wage Review 2021 – 2022

Reply Submission, Latest Economic Developments and Responses to Questions on Notice

10 May 2022

1. Introduction

On 1 April 2022, the Australian Industry Group (**Ai Group**) filed its initial submission in the Annual Wage Review.

In this Reply Submission, we address the latest economic developments and we put forward a revised proposed minimum wage increase given changes that have occurred in the economic environment since our initial submission was filed on 1 April.

We also address the Expert Panel's Questions on Notice, as published on 14 April 2022, and various matters raised in:

- The submission of the Australian Council of Trade Unions (**ACTU submission**);
- The submission of the Australian Catholic Council for Employment Relations (**ACCER submission**); and
- The submission of the Australian Manufacturing Workers' Union (**AMWU submission**).

Since we filed our initial submission on 1 April, there has been an increase in the Consumer Price Index (**CPI**), and the Reserve Bank of Australia (**RBA**) has made a change in the stance of monetary policy. The change in inflation has prompted the RBA to raise its inflation forecasts, including for underlying inflation.

Despite the changed economic circumstances, it remains critical for the Expert Panel to adopt a cautious approach in adjusting wages. An excessive minimum wage increase would fuel inflation and lead to higher interest rates on mortgages, personal loans and credit cards than would otherwise be the case. Higher inflation and higher interest rates would have a particularly harsh impact on the low paid.

In all the circumstances, we propose a modest wage increase of **2.5%**. This equates to an increase of about **$19.30 per week** in the National Minimum Wage (**NMW**) (bringing it to $791.90 per week) and about **$22.50** at the base trade level. When the proposed 2.5% wage increase is considered alongside the **0.5% Superannuation Guarantee (SG) increase** that is operative from 1 July 2022 and the equivalent of a **1.3% increase in pre-tax income** that an employee on the NMW will receive in coming months as a result of the announced increase in the Low and Middle Income Tax Offset (**LMITO**), our proposal would result in the equivalent of a **4.3% increase** in pre-tax remuneration for low paid employees.

As set out in our initial submission, we propose a delayed operative date for wage increases in relevant awards in the aviation and tourism sector, the accommodation and food services sector, the arts and recreation services sector and the retail trade sector, consistent with the approach in last year's Annual Wage Review decision. 'Exceptional circumstances' still exist in these industries, justifying a delayed operative date.

Consistent with longstanding past practice, it is appropriate that the Panel take into account the increase to the SG, the removal of the $450 per month threshold for SG eligibility, and changes to both taxation levels and tax transfer payments when determining the quantum of any minimum wage increase in the Annual Wage Review. As the Panel has consistently stated, the effect of taxes and transfers on disposable incomes of the low paid are relevant to the needs of the low paid and their relative living standards.

The ACTU has proposed a wage increase of 5.5%. Such an increase would add substantially to the risks of entrenching inflation and greater increases in interest rates. It would have adverse impacts on the economy, on unemployment, on underemployment and on sentiment, and would be a setback for many low income households.

2. Economic developments and points in response to economic arguments in the ACTU submission

In this section we examine recent economic developments both domestically and globally and we respond to a number of economic arguments raised in the initial ACTU submission.

2.1 Inflation and monetary policy developments

The major domestic economic developments since the initial submissions to the Panel are the increase in the CPI unveiled by the ABS in its release of 27 April 2022[1] and the RBA's 3 May 2022 announcement[2] of a change in the stance of monetary policy. The change in monetary policy was further elaborated in the RBA's statement of 7 May. [3]

These represent a change to the economic outlook and to the immediate risks facing the Australian economy.

A significant proportion of the current rise in inflation is due to temporary factors, as the war in Ukraine compounds COVID-related energy price pressures and disruptions in global supply chains. Nevertheless, measures of underlying inflation also rose (the trimmed mean measure rose by 1.4 per cent and the weighted median measure by 1 per cent for the March quarter compared with the CPI rise of 2.1 per cent for the quarter).

The change in inflation has prompted the Reserve Bank to raise its inflation forecasts. The change in underlying inflation between the Bank's February and May Statements on Monetary Policy is summarised in Table 1.

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[1] https://www.abs.gov.au/statistics/economy/price-indexes-and-inflation/consumer-price-index-australia/mar-2022

[2] https://www.rba.gov.au/media-releases/2022/mr-22-12.html

[3] https://www.rba.gov.au/publications/smp/2022/may/

Table 1: Reserve Bank's Forecasts of Underlying (trimmed mean) Inflation

	Dec 2021	June 2022	Dec 2022	June 2023	Dec 2023	June 2024
May 2022 Forecasts	2.6*	4.5	4.6	3.6	3.1	2.9
February 2022 Forecasts	2.6	3.25	2.75	2.75	2.75	2.75

Source: RBA, Statement on Monetary Policy, May 2022 (* the December 2021 figure is the actual data and not a forecast in the May 2022 Statement)

The Reserve Bank's response to the rise in underlying inflation and to reports of growing wage pressures was to take an earlier and larger first step towards the "normalisation" of monetary policy and to foreshadow further steps in the months ahead as it removes the monetary policy support put in place to avert a deep crisis as the economy was disrupted by the pandemic.

In taking these steps, the Reserve Bank has repositioned from waiting patiently to actively correcting. Having long maintained that moderate wage outcomes were providing room to test the boundaries of employment growth, the Bank has now demonstrated its clear wariness of growing wage pressures and of the risks that excessive wages growth will entrench both the underlying and temporary price pressures into inflationary expectations and inflation outcomes.

The Reserve Bank is clearly willing to act to address these risks by raising interest rates to take steam out of the economy and the labour market. This implies an increased sensitivity to wage pressures and heightens the likelihood of interest-rate driven disemployment effects flowing from wages pressures.

These important developments lend weight to the argument that the Panel should take a cautious and moderate approach in its considerations in this year's Annual Wage Review.

While the increase in inflation, and indeed the increase in interest rates, have fueled an escalation of calls for large wage increases, these calls have ignored the risks that excessive wage increases will entrench inflation and leave the Reserve Bank with little choice but to put up interest rates by more than they would if wage raises were more moderate.

In contrast, a further period of wage moderation would help contain inflationary pressures and extend the run of job creation and the inroads that have been made into underemployment (both of which would boost household budgets). It would also help address the clear risk that a temporary rise in inflation could become a self-reinforcing cycle of rises in nominal wages and price.

2.2 Global uncertainties

The short period since the initial submissions has seen a sharp escalation of externally driven risks to the domestic economy.

The ongoing and devastating war in Ukraine is raising broader security questions and uncertainties both for Europe and the rest of the world. It is also putting pressures on energy prices and is exacerbating supply chain disruptions in a number of areas including grain, building products, sunflower oil and gases used in the production of semiconductors. It has seen global growth forecasts cut; a sharp upturn in the global inflation outlook; and it has brought forward actions by monetary policy authorities to dampen demand in their respective economies.

A further global development is the response of the Chinese authorities to COVID outbreaks in that country. The lockdowns there are adding an extra layer to the uncertainties over global shipping and are disrupting supply chains within, into and out of China.

These developments come on top of the ongoing uncertainties surrounding further local COVID-related disruptions as winter approaches and as threats lurk from new COVID variants.

2.3 Updates to Ai Group business performance measures

In this section we summarise the insights into the state of the Australian economy as provided by the most recent releases of Ai Group's business performance indices.

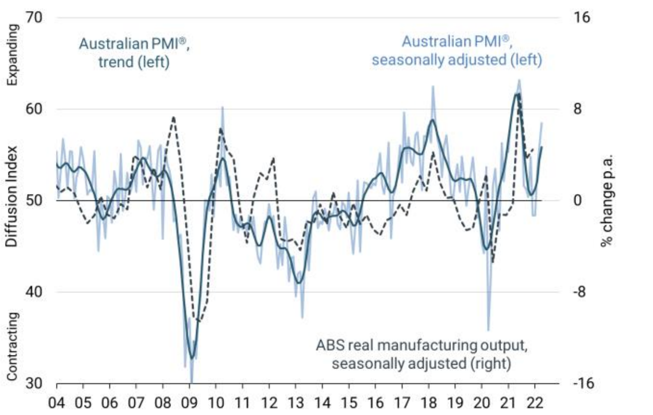
- The Australian Industry Group Australian Performance of Manufacturing Index (Australian PMI®) increased by a further 2.8 points to 58.5 points in April 2022 (seasonally adjusted), indicating a stronger pace of expansion. This was the highest monthly result for the Australian PMI since July 2021 and a third consecutive month of recovery (after two months of moderation) from the severe disruptions of COVID-19. Results above 50 points indicate expansion, with higher results indicating a faster rate of expansion. ABS *Labour Account* indicates that an additional 6.5% jobs were filled in Manufacturing in Q4 2021 over Q3 2021.[4]

- The Australian Industry Group and HIA Australian Performance of Construction Index (Australian PCI®) moderated by 0.6 points to 55.9 points in April (seasonally adjusted). This indicates expansion in activity across the construction sector for a third month, albeit with the rate of growth moderating slightly from March 2022. House builders indicated concern regarding potential interest rate increases and its effect on demand.

- The Australian Industry Group Performance of Services Index (Australian PSI®) rose 1.6 points to 57.8 in April indicating expansion for the services sector (seasonally adjusted). Input costs rose to a series high of 77.8 similar to the March result and the high levels seen pre-GFC in June 2008. The series recorded the fourth consecutive month of expansion following five consecutive months of moderation.

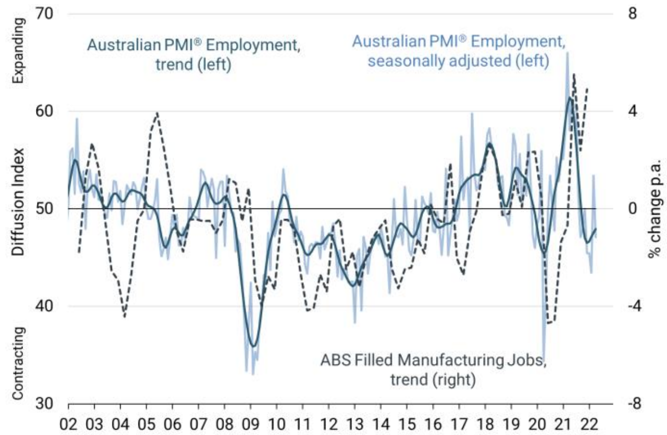
[4] ABS *Labour Account Australia*, December 2021 (released 9 March 2022).

Chart 1: Aust. PMI® and ABS real manufacturing output



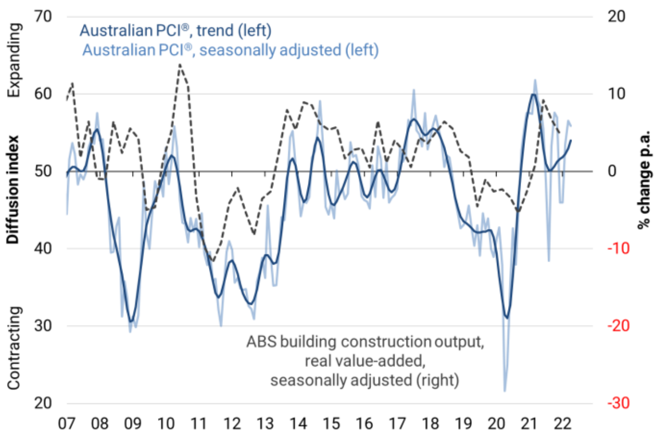
Sources: Ai Group and ABS, *National Accounts*, Dec 2021.

Chart 2: Aust. PMI® employment index and ABS manufacturing employment



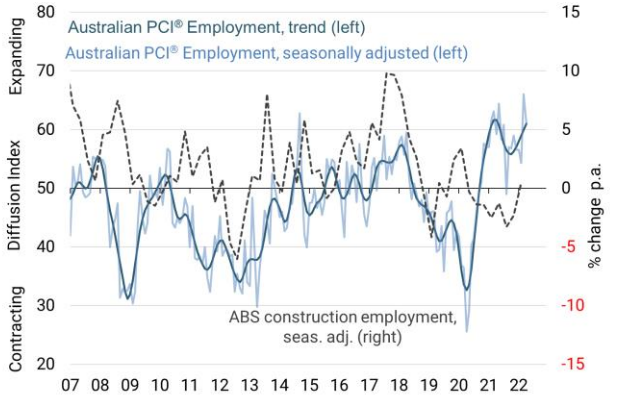
Sources: Ai Group and ABS, *Labour account*, Dec 2021.

Chart 3: Aust. PCI® and ABS real building industry output



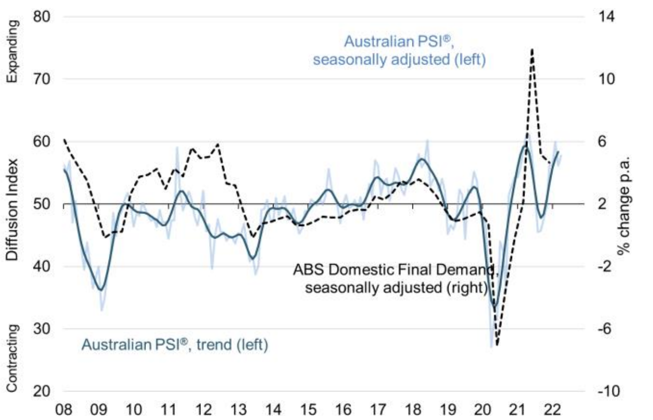
Sources: Ai Group and ABS, *National Accounts*, Dec 2021.

Chart 4: Aust. PCI® employment index and ABS construction employment



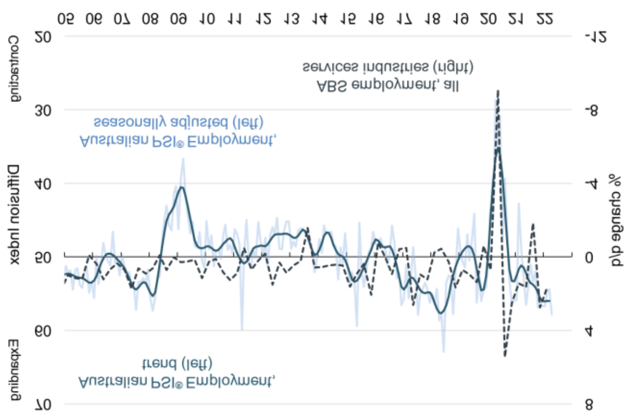
Sources: Ai Group and ABS, *Labour force Ausrtalia, detail,* March 2022.

Chart 5: Aust. PSI® and ABS real domestic final demand



Sources: Ai Group and ABS, *National Accounts*, Dec 2021.

Chart 6: Aust. PSI® employment index and ABS service industries employment



Sources: Ai Group and ABS, *Labour force Ausrtalia, detail,* March 2022.

The changes in Ai Group's performance indices point to the further progress that is being made in making up for the ground lost during the previous two years due to the COVID-related disruptions. They also show rising cost and wage pressures and little capacity in the near-term for expansions in supply to meet strong demand growth.

2.4 Responses to elements of the ACTU submission

Ai Group's position on most of the issues dealt with in the ACTU's submission will be clear from the content of Ai Group's initial submission in the Annual Wage Review. The ACTU has presented an overly optimistic account of the current economic circumstances and outlook.

The 5.5 per cent minimum wage increase proposed by the ACTU is incompatible with the current economic circumstances and outlook, particularly given the sharp increase in inflationary pressures and the greater global uncertainties.

It is likely that an excessive minimum wage increase, such as the one proposed by ACTU, will result in disemployment effects for the economy, strained cash-on-hand positions for businesses, and other negative consequences. The sections below detail our response to the major economic arguments of the ACTU.

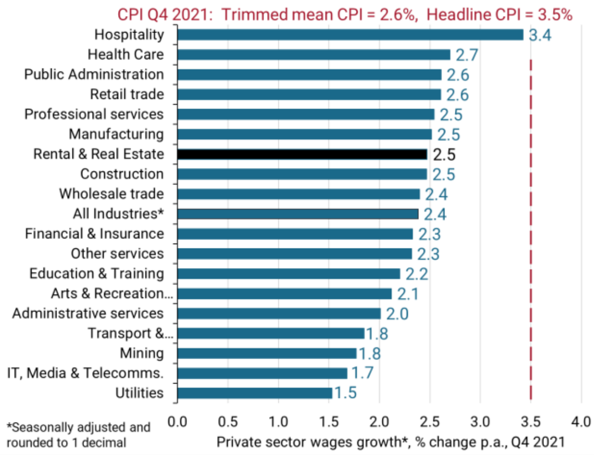
2.4.1 Disemployment effects

The ACTU argues for an increase of 5.5% in the NMW and to award wages claiming that such an increase will not have disemployment consequences. There is significant evidence contrary to this view, and the materials cited by the ACTU are unsuitable to assess the effect of NMW increases *vis-à-vis* disemployment in Australia because most of the materials are irrelevant to the Australian economy.

For instance, the ACTU submission cites Georgiadis and Gavonel (2021)[5] to conclude that increases in the NMW will not have disemployment consequences. The report by Georgiadis and Gavonel (2021) is set in light of the COVID-19 pandemic and the immediate aftermath of Brexit. It examines a singular industry (British care homes). It is unlikely that results from such a restricted observation would have relevance or implications for the entire Australian economy, particularly given that Australia's health care sector has seen a higher increase in the Wage Price Index compared to other sectors (chart 7). Economy wide conclusions cannot be reached on sector based evidence.

[5] Georgiadis A and Franco Gavonel M (2021), *The impact of the National Minimum Wage on the adult social care sector in England in the light of COVID-19 pandemic and Brexit*, report of the Low Pay Commission, Brunel University and University of Exeter, December.

Chart 7: Wage changes by industry, private sector, Q4 2021



Source: ABS, *Wage Price Index*, Q4 2021.

The ACTU submission also references the study conducted by Clemens and Strain (2021)[6] to conclude that NMW increases will not have any significant disemployment consequences but contrarily concedes that there will be disemployment effects of large increases in NMW concentrated among workers in less qualified occupations. Given that most of the occupations reliant on minimum wage increases in Australia are also classified as 'less qualified occupations', a 5.5% increase in minimum wages would have a significant negative impact on employment levels in these occupations.

The ACTU submission also cites Campos-Vazquez and Esquivel (2021)[7] to conclude that NMW increases will not have any significant diemployment effects. The study is based on data from Mexico, again a country with a significantly lower NMW than Australia. It is unlikely that the results are relevant in the Australian context. Furthermore, as Manning (2021) points out, there may be different effects of NMW increases at different levels. Comparisons should be made with similar economies with similar NMW levels. For instance, Marimpi and Koning (2018)[8] conduct a cross-country level analysis on the impact of youth minimum wages on youth employment in 30 OECD countries. They report a substantial negative impact of youth minimum wages on youth employment, as higher minimum wages lead to disemployment, caused by the employer having to meet higher labour costs with existing funds.

Minimum wage increases to the tune of 5.5%, as sought by the ACTU, would result in substantially increased wage pressure for employers, particularly given the cash positions faced by many Australian businesses (chart 8). In February 2022, only 39% of businesses reported that they had enough cash to cover three months more of business operations, down from 43% in May 2021.

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[6] Clemens J & Strain MR (2021), 'The heterogeneous effects of large and small minimum wage changes: evidence over the short and medium run using a pre-analysis plan', *IZA Discussion Paper Series* No. 14747, September.

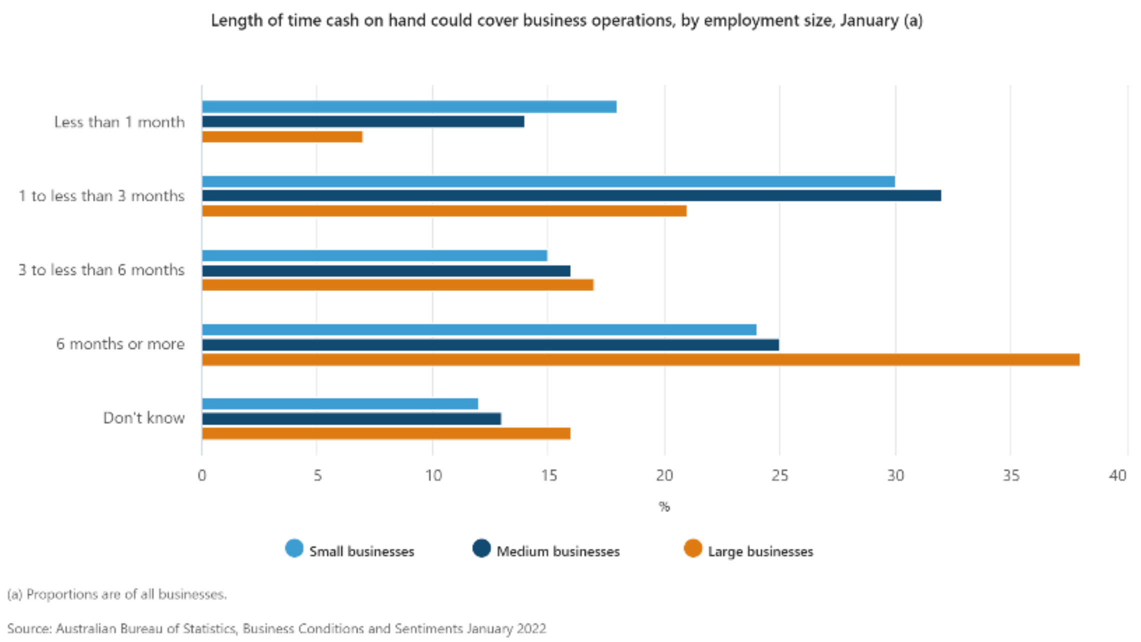
[7] Campos-Vazquez RM & Esquivel G (2021), 'The effect of doubling the minimum wage on employment and earnings in Mexico', *Economics letters*, Vol. 209, Issue C, December, 110124.

[8] Marimpi M & Koning P (2018), 'Youth minimum wages and youth employment', *IZA Journal of Labour Policy*, Vol. 7, Issue 5, January.

This cash position means that businesses will have to make careful judgements on staff levels and hours of work offered. Also, keeping in mind that increases in minimum wages translate into increases in superannuation and other on-costs, it is highly likely that significant increases in minimum wages, such as proposed by the ACTU, would have disemployment consequences.

These disemployment consequences may be further exacerbated by the recent increase in the cash rate from 25 basis points to 35 basis points by the RBA.[9] This will inevitably result in increases in financial and debt servicing costs for businesses, thus further restricting their cash on hand position. Such consequences should be assessed against outcomes that would be achieved with a moderate wage increase.

Chart 8: Length of time that 'cash on hand' can cover operations, Feb 2022



Source: ABS Business Conditions and Sentiment, Feb 2022

2.4.2 Productivity and efficiency

The ACTU makes the argument that increases in minimum wages will result in improvements in productivity and efficiency. The argument rests on the findings of two academic studies: Dustmann et al, (2022)[10] and Manning (2021)[11].

Dustmann et al (2022) rest their conclusions on the effect of a NMW introduction in Germany, where none existed before, whereas in Australia the argument is relating to the effect of an increase in the NMW, not the introduction of one. There are key differences between the

[9] Statement by Philip Lowe, Governor RBA: Monetary Policy Decision. https://www.rba.gov.au/media-releases/2022/mr-22-12.html

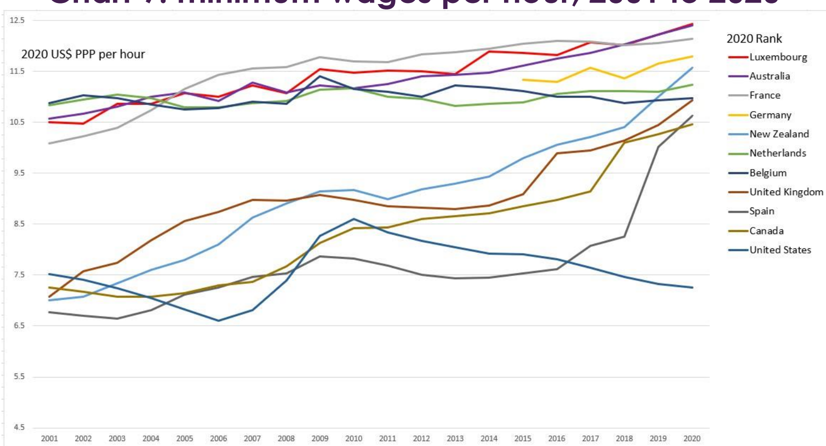
[10] Dustmann C, Lindner A, Schonberg U, Umkehrer M & vom Berge P (2022), 'reallocation effects of the minimum wage', *The Quarterly Journal of Economics*, Vol. 137, Issue 1, February, pp.267-328.

[11] Manning A (2021), 'The elusive Employment Effect of the minimum wage', *Journal of Economic Perspectives*, Vol. 35, No. 1, pp. 3-26.

circumstances of the study and the Australian economy. First, the point of observation in the study was the introduction of a NMW which affected 15% of employers who were paying below the proposed NMW, whereas in Australia, increases in minimum wages affect a considerably wider cross-section of employers. Second, in Germany as a result of those 15% of employers now paying a higher rate, workers were able to find higher paying jobs, i.e., increased worker mobility resulting from a segment paying higher rates, which is the allocative efficiency that the researchers refer to. On the other hand, Australia will already have reaped these benefits with the introduction of minimum wages more than a century ago. Any subsequent increase in minimum wages affects all relevant employers, meaning that there is less scope for favourable allocative effects due to wage discrepancies such as in Germany. Additionally, Dustmann et al (2022) detail other effects of the NMW introduction such as the exit of small businesses from the market, effects that the ACTU has ignored; if they are to believe the allocative effects, surely the impact on business exit would also be relevant. Dustmann et al (2022) also detail other effects of the NMW such as a loss of nonpecuniary job characteristics, and other losses for NMW earners.

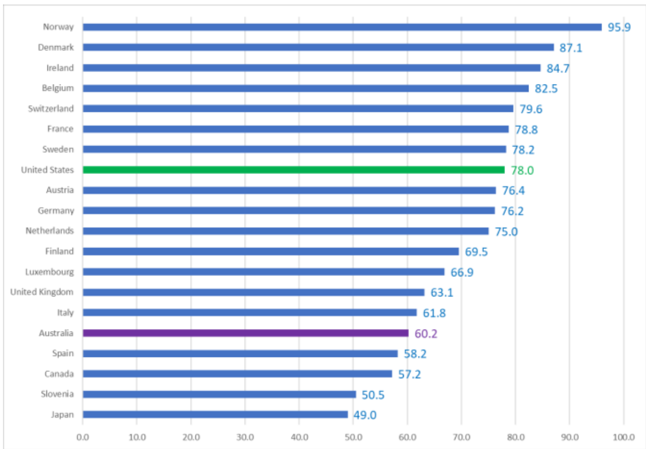
The ACTU submission relies on research conducted by Manning (2021) to conclude that higher minimum wages will lead to productivity benefits. However, the analysis is based on the US economy, and as Manning (2021) later mentions on page 22, “there is some level of the minimum wage at which employment will decline significantly”. The NMW in the US is significantly lower than the NMW in Australia (chart 9). It is not possible to ascertain whether increases in minimum wages in Australia will have a similar effect as in the US, and whether Australian minimum wages are at the level that Manning suggests NMW increases will have adverse consequences. Furthermore, if increases in minimum wages result in increases in productivity then Australia’s labour productivity should be at the highest level among OECD countries to match the position of Australia’s NMW. However, as chart 10 shows, Australia’s labour productivity is significantly lower than most other major OECD countries including the US.

Chart 9: minimum wages per hour, 2001 to 2020



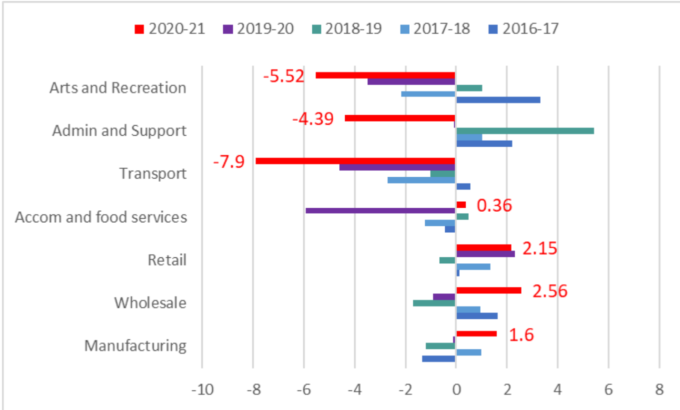
Source: OECD Stat database.

Chart 10: Labour productivity



Source: OECD Compendium of Productivity Indicators, Jul 2021

Chart 11: MFP growth*, selected industries annual % change, 2016 to 2021



* quality adjusted hours worked basis, market sector industries.
Source: Australian Bureau of Statistics, *Estimates of Industry Multifactor Productivity 2020-21 financial year,* Dec 21

2.4.3 Monopsony power

The ACTU attempts to explain the effects of minimum wage increases in a monopsony market in their submission. The argument assumes the existence of a labour market monopsony in Australia; however, the ACTU submission does not identify monopsonists in the Australian labour market. It is highly improbable that a monopsonist exists because the existence of a monopsony would require zero labour substitutability, meaning that a labourer is not able to find any other industry or employer willing to pay for their services. Given the industrial complexity of the Australian economy, strong demand for labour, and historically low unemployment, it is unlikely that such a situation exists. Any hypothetical benefits of minimum wage increases under a monopsony structure are outweighed by the real consequences of excessive national minimum wage increases. Decisions on national minimum wage increases that will affect thousands of businesses and hundreds of thousands of workers should not be made in light of hypothetical scenarios.

2.4.4 Aggregate demand

The ACTU makes the argument that an increase in the NMW of the magnitude that they have proposed would lead to a reduction in the gender pay gap and contribute to an increase in aggregate demand. Putting aside any disemployment effects, increases in minimum wages involve a redirection of funds from employers to employees or households.

Because this is a redirection and not an injection, there are no additional funds going into the economy. This transfer of liquid resources then begs the question on its utilisation. While household spending is an important component of total spending or aggregate demand, so is business spending. An increase in household spending at the cost of non-wage business spending will not increase total spending or aggregate demand.

Furthermore, it is likely that the increase in household spending at the cost of business spending would have a net negative effect on total spending. When minimum wages increase, so too do the superannuation payments paid on behalf of employees by employers. The impact of payroll tax is similar and additional. Additional payroll tax is paid both on the higher wages and the additional superannuation contributions. As an illustration[12], if the average rate of payroll tax was 2 per cent, for every increase of $100 paid as a result of the increased minimum wages, employers' costs would rise by $112.71 ($100 + $10.50 in super plus 2% of 110.50 in payroll tax = $112.71).

The additional superannuation and payroll tax are transfers of funds that the business could have deployed in ways that would have added to domestic demand. Instead, these funds are withdrawn from domestic demand and are instead channelled into consolidated revenue and superannuation accounts.

Further, the income tax and transfer payment impacts on people receiving increases in minimum wage rates are even more substantial. Effective marginal tax rates include the marginal tax rates in the personal income tax scale as well as the Medicare Levy and the shade-in and shade-out rates for a variety of tax offsets in addition to the impacts on any income tested transfer payments. Table 2 below illustrates the dimensions of the marginal tax rates faced by individuals earning between 50 per cent and 150 per cent of the current NMW for a full year. They do not include the impacts of the withdrawal of income support payments which are discussed further below.

Table 2 shows that for many low wage earners working full-time, an additional dollar in pre-tax wages, while subtracting well more than a dollar from the pre-tax spending power of their employer, can add as little as 64 cents to the employee's disposable income.

Table 2: Effective Marginal Tax Rates faced by Low Wage Individuals

Proportion of NMW wage	Annual income ($)	Effective Marginal Tax Rate
50%	19,652	0.0%
60%	23,582	29.0%
70%	27,512	29.0%
80%	31,443	21.0%
90%	35,373	21.0%
100%	39,303	18.5%
110%	43,233	18.5%
120%	47,164	28.5%
130%	51,094	36.0%
140%	55,024	36.0%
150%	58,955	36.0%

[12] Rates of payroll tax vary across Australian jurisdictions and many employers are not liable because of the payroll tax thresholds. We use the 2 per cent figure simply as an illustration even though most employers liable to payroll tax face rates well in excess of 2 per cent.

While the aggregate effect across all employers and all households would be complex to calculate, the amount of extra cost to employers as a group (and therefore the loss of employers' spending power) must be substantially greater than the increase in disposable income received by the household sector.

We recognise that the actual macroeconomic impact of a rise in minimum wage rates necessarily needs to be assessed against the macroeconomic impact of the alternative course of action: if minimum wage rates were not raised (or not raised by the same extent) what would the macroeconomic outcome be?

This will depend on the extent to which businesses and other employers would otherwise have used the revenue for other purposes, whether profits would be affected, as well as the distribution policies of businesses and the tax treatment of distributed earnings. There is, in short, a considerable range of alternatives with an equally wide range of alternative macroeconomic impacts.

In disputing the generality of the assertion that minimum wage rises will add to aggregate demand, our focus has been on situations where the extra wages paid (plus super and payroll tax) mean that other business expenditure is not undertaken. We do not claim this is the only alternative class of impacts, but we do suggest it is an important class of impacts and one that is likely to be strongly represented in any particular overall alternative path.

For completeness, some points can be made about the business tax implications of this set of alternatives.

In many cases where other business expenditure is displaced, there is simply a substitution of one deductible expense for another, the business's tax position would remain unchanged. There would be no additional business income tax paid if the minimum wage rise did not occur.

Moreover, if the additional spending was on non-wage expenses, the superannuation and payroll tax leakages from aggregate demand do not apply. Nor do the leakages from aggregate demand resulting from personal income tax and the withdrawal of income support payments. As a consequence, the impact on aggregate demand of the alternative deployment of the same funds would be considerably greater.

Admittedly, if the alternative expenditure was on capital equipment which is generally not deductible in full, the tax impact would normally be more complex than the substitution of one set of deductible expenses for another. However, in the present circumstances, with the wide availability of immediate expensing of capital expenditure until the middle of 2022, this difference does not apply, and capital expenditure can be considered equivalent to other deductible business costs from a tax point of view.

In summary, our argument is that across a wide range of the alternatives to an increase in minimum wages, the macroeconomic impact will be greater than if minimum wage rates were increased. Consequently, the notion that a rise in minimum wage rates will result in an increase in aggregate demand, should not be supported as a general proposition.

2.4.5 Gender pay gap

The ACTU submission argues:

> *"The majority of low-paid award-reliant workers are women. Therefore, increases to award wages, particularly those which exceed bargained outcomes, increase the value placed on women workers and the work they perform, thereby contributing to addressing the systemic gender-based undervaluation of female-dominated work."*

Ai Group contends that the motivation to increase the value placed on women workers and the work they perform, as raised by the ACTU, would be more appropriately pursued through the Equal Remuneration and Work Value provisions in the *Fair Work Act 2009* (**FW Act**). The latter is the basis of a current application before the Commission to increase minimum wages in the *Aged Care Award 2020*, being a modern award covering a sector employing a large number of women.

In respect of the Panel's approach to gender pay equity and the valuation of women's work, Ai Group refers to the Panel's *Annual Wage Review 2016-2017 Decision* where it was observed that:

- Modern award minimum rates are structured to provide equal remuneration for work of equal or comparable value both within and across awards.[13]

- The grant of a uniform percentage adjustment to the NMW and modern award wage rates would be the approach most consistent with the equal remuneration principle.[14]

- In relation to the gender pay gap, women are disproportionately represented among the low paid and hence an increase in minimum wages is likely to promote gender pay equity, although a moderate increase in minimum wages would be likely to have a relatively small effect on the gender pay gap.[15]

- The other mechanisms available under the FW Act, such as bargaining and equal remuneration provisions, provide a more direct means of addressing the gender pay gap.[16]

These points were also confirmed in the Panel's *Annual Wage Review 2017-2018 Decision* and more recently in the *2020-2021 Decision*.

In addition, there are a variety of other policy settings and interventions that would address key structural barriers hindering pay outcomes for women. These include addressing the high levels of gender segregation along industry and occupational lines by pursuing greater gender balance across tertiary and vocational training disciplines and greater Government investment in more

[13] *Annual Wage Review 2016-2017 Decision,* [642].

[14] *Annual Wage Review 2016-2017 Decision,* [676].

[15] *Annual Wage Review 2016-2017 Decision,* [677].

[16] *Annual Wage Review 2016-2017 Decision,* [677].

accessible and affordable early childhood education care. Ai Group is a strong proponent of these public policy responses.

The performance of targets relating to improving female employment and income must be evaluated in light of the composition of the workforce. Recent years have witnessed a significant improvement in female employment with such employment accounting for 61% of employment growth since 2015. Table 3 below summarises the changes in employment by gender and by full-time and part-time positions in Australia over the period from March 2015 to March 2022 (ABS seasonally adjusted series). It shows that:

- The total increase in employment in this period was 1.7 million people
- 61% of the increase (1,036,000) in employment was of females.
- Female full-time employment increased by 702,000 and female part-time employment increased by 334,000.
- Male full-time employment increased by 448,000 and male part-time employment increased by 215,000.
- These increases had clear impacts on workforce shares of females and males.
- The proportion of female full-time employment to total employment rose by 2.1 percentage points (from 24.6% to 26.7%) while the share of male full-time employment in total employment fell by 2.3 percentage points (from 44.7% to 42.4%).

Table 3: Changes in Composition of Employment 2015 – 2022

Change from March 2015 - March 2022		
	Employed	**Share of employment (percentage points)**
Full time Males	448.1	-2.3
Full time Females	701.8	2.1
Part time Males	215.0	0.4
Part time Females	334.4	-0.2
Total Employment	1,699.2	
Female share of growth	*61.0%*	

Source: ABS, Labour Force, Australia (6202.0) April Release.

3. The needs of the low paid

In Ai Group's Submission of 1 April, we drew attention (in Section 5) to the considerable gap between economy-wide earnings measures based on average full time adult ordinary time hours and average total earnings in the period from November 2020 to November 2021. We found that this large gap was mainly due to the large increase in hours worked, closely linked to the relatively fast growth of full-time employment. This was particularly evident for females. We argued that the broader earnings measure was relevant to the assessment of the needs of the low paid and the degree to which additional hours worked contributed to the ability of wage earners to meet those needs.

In Sections 4 and 5 of the initial ACTU submission considerable weight is placed on those industries in which there is a high incidence of award only employees. The ACTU claims a high degree of overlap between award reliant employees, employees in industries with relatively high densities of award only employees, and relatively low paid employees.

The ACTU's observations prompted us to examine an industry breakdown of the gap between the two earnings measures referred to above. There was a risk that the economy-wide data on the earnings gap that we used in our initial submission was driven by the experience in industries with low densities of award only employees. Such a concentration could be seen to lessen the relevance of our argument to the Panel's consideration of the needs of the low paid. On the other hand, if there was a strong representation of industries with high densities of award only employees among those for which the average total earnings were greater than the Average Weekly Ordinary Time Earnings (**AWOTE**) measure, this would increase the relevance of our argument to the Panel's considerations in relation to the needs of the low paid.

In Table 8 of the ACTU submission (paragraph 144), industries are ranked by the density of award only employees. In Table 4 below, data from the ACTU submission are presented listing those industries with densities above the All Industries density of award only employees of 24.7% in 2021.

Table 4 Density of Award Reliance by Industry (non-managerial employees) 2021

Industry	Density of award only employees in industry (2021)
Accommodation and food services	63.0
Administrative and support services	44.9
Other services	42.1
Health care and social assistance	34.3
Retail trade	30.8
Arts and recreation services	28.3
Rental, hiring and real estate services	25.3
All Industries	24.7

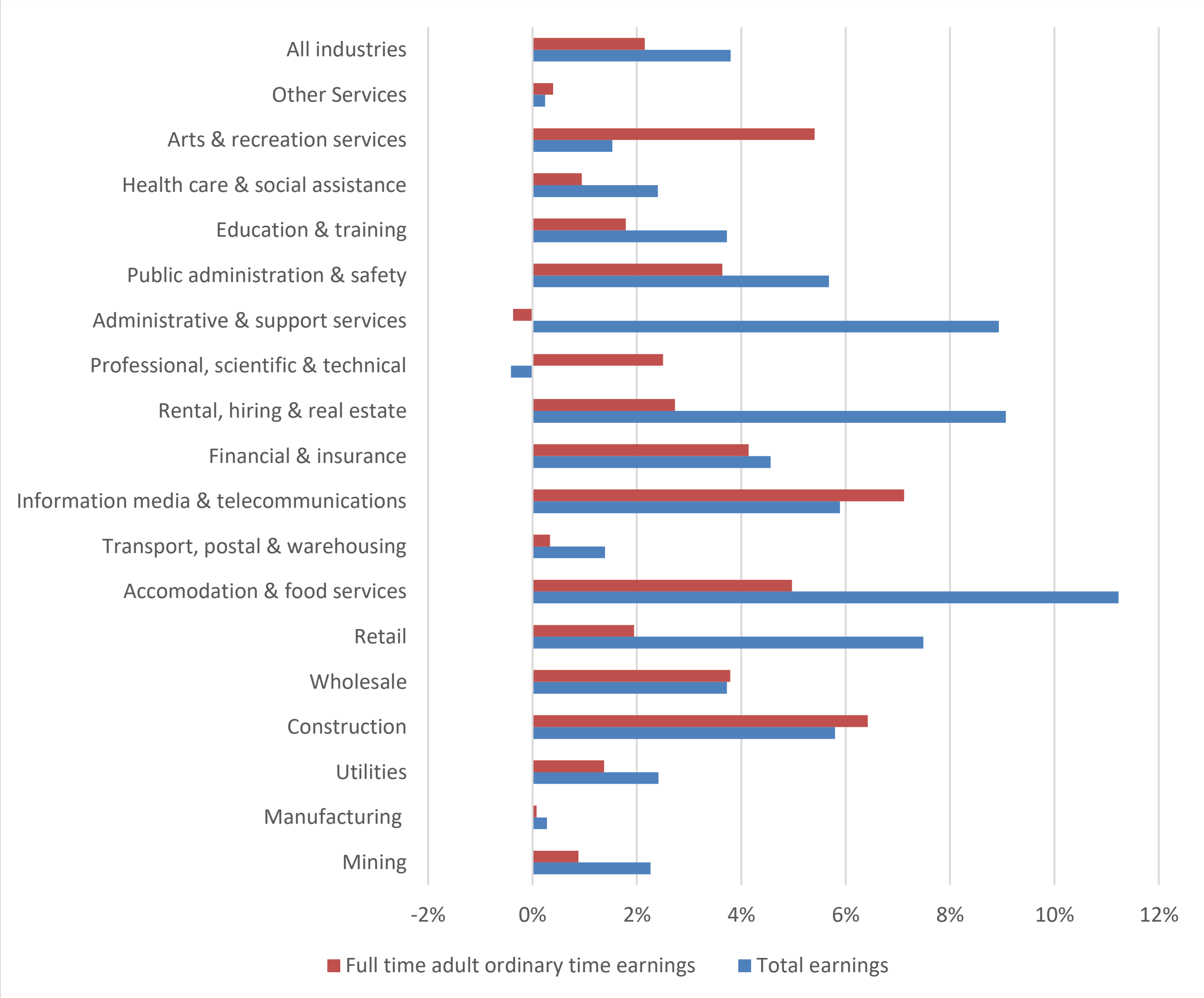
Source: ACTU Submission, April 2022 (Table 8).

Chart 12 below summarises the gaps between AWOTE and average total earnings for all industries for the workforce as a whole (persons) for the period November 2020 to November 2021.

It shows that industries with relatively high densities of award only employees were very well represented among those that experienced relatively higher growth in average total earnings. Employees in the accommodation and food services; administration and support services; rental, hiring and real estate services; and retail trade industries experienced the highest growth in total earnings and the largest gaps between the average total earnings and the AWOTE measure of earnings growth. These industries all have relatively high densities of award only employees. The health care and social assistance industry which also has a relatively high density of award only employees also experienced a higher growth in average total earnings than in AWOTE for that industry.

This experience was not uniform across industries with relatively high densities of award only employees with employees in both the other services; and arts and recreations services industries not sharing in the economy-wide gap between average total earnings and AWOTE.

Chart 12: Change in AWOTE and Total Earnings by Industry November 2020 to November 2021: Persons

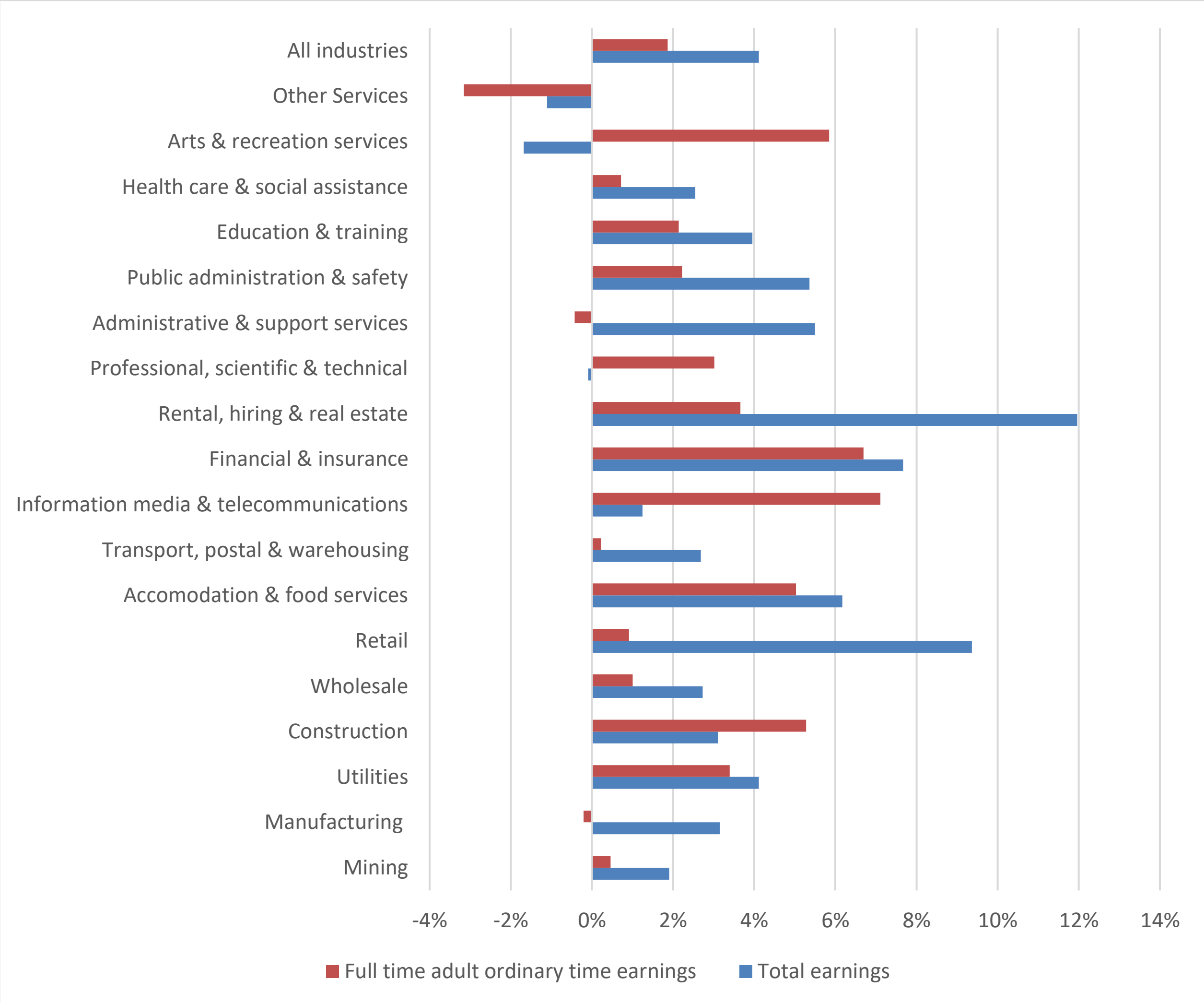


Source: ABS, 6302.0 Average Weekly Earnings, Australia, February 2022.

Despite this lack of uniformity, the industry breakdown of the ABS earnings data provides a very strong assurance that employees in industries with high densities of award only employees were at the forefront of the economy-wide pattern which saw average total earnings outstrip the AWOTE measure of earnings growth. As we argued in our initial submission this was largely due to the relatively rapid growth of full-time positions in the workforce.

In our initial submission, we noted that this pattern was distinctly more evident for female employees than for male employees. In Chart 13 below we present the industry breakdown of earnings measures for female employees.

Chart 13: Change in AWOTE and Total Earnings by Industry November 2020 to November 2021: Females



Source: ABS, 6302.0 Average Weekly Earnings, Australia, February 2022.

As for employees in general, for female employees, those in industries with relatively high densities of award only employees were very well represented in the industries with high total earnings growth relative to the growth in AWOTE for that industry. This provides further strong assurance of the relevance of our original argument about the importance of average total earnings growth to the considerations of the Panel in relation to the needs of the low paid.

4. Response to the ACTU, ACCER and AMWU submissions on the concept of a 'living wage'

The ACTU, ACCER and AMWU have each included statements in their respective submissions indicating that the Expert Panel is statutorily obliged to set the National Minimum Wage (**NMW**) at the level of a 'living wage'.

At paragraph [22] of the ACCER Submission, the assertion is made that the 'safety net' relevant to the minimum wages objective in s.284 of the FW Act has the purpose of providing a "decent minimum wage for those who receive it". At paragraph [38], the ACCER submission states that the "the appropriate definition of 'safety net' is an order that ensures that every cohort of workers is in advance of at least the 60% poverty line".

Similarly, at paragraph [2] of the ACTU Submission, the following statement is made:

> *Australian unions and their members believe that the national minimum wage (NMW) should be a living wage. It should reduce poverty and inequality, improve the absolute and relative living standards of workers that rely on awards, and reduce the gap between award and agreement rates of pay. This is the position taken by the ACTU Congress - our three-yearly democratic decision-making forum where the views of all 1.6 million members are represented.*

The AMWU has also sought a substantial increase in the NMW, partially on the basis of its claim that such an increase is needed as the "minimum wage no longer constitutes a living wage in Australia".

These claims, to the effect that the statutory function of the Expert Panel is to set the NMW at the level of a 'living wage', are misguided and have already been dealt with by the Commission in past Annual Wage Reviews. In the context of the *Annual Wage Review 2018-19*, the Australian Catholic Bishops Council (**ACBC**) proposed an inquiry to determine the appropriate margins for skills and responsibilities at the C10 level in the *Manufacturing and Associated Industries and Occupations Award 2010* and at Level 1 (graduate employee) in the *Professional Employees Award 2010*. This proposal was directed toward the object of establishing "the appropriate margins for skills and responsibilities for those workers in skilled positions, based on the NMW being set so as to provide a <u>Living Wage for unskilled workers</u>".[17]

Ai Group did not support the ACBC's proposal and we made the following statements in our reply submission on 12 April 2019:[18]

> *The ACBC's proposed inquiry is directed at the establishment of a 'Living Wage'. This is not an object in the FW Act. There is currently no universally accepted definition of this term and to urge the Expert Panel to carry out an inquiry with an ultimate purpose of applying*

[17] *Annual Wage Review 2018-19*, ACBC Submission 15 March 2019, [91].

[18] *Annual Wage Review 2018-19*, Ai Group Reply Submission 12 April 2019 p 20.

> *an increase to the NMW and modern award minimum wages which is in line with a 'Living Wage' would be a waste of resources and potentially take the Panel outside of its powers under Part 2-6 of the Act.*
>
> *The 'safety net of fair minimum wages' which the Expert Panel is directed to maintain under s.284 is neither designed, nor intended to act, as a Living Wage. Any perceived shortfalls in the NMW or modern award minimum wages should be viewed in light of the impact of the 'tax transfer system'. This has been long recognized by the Expert Panel, as evinced by the following passage from the Annual Wage Review Decision 2013/14:*
>
>> ***[357]*** *The tax-transfer system has a significant role to play in alleviating the impact of earnings inequality and supporting the living standards of low-paid workers. Wages do not entirely determine the living standards of the majority of individual wage earners who live in households with others. We agree with the view expressed in the past three review decisions that:*
>>
>>> *"minimum wages and the tax transfer system are both relevant to the maintenance of an effective safety net for the low paid: each has its part to play. Wages play a particularly important role in the maintenance of disposable incomes for households not receiving income support payments."*
>>
>> ***[358]*** *The effect of taxes and transfers on disposable incomes of the low paid is relevant to the needs of the low paid and their relative living standards. This is so in relation to both specific changes in the tax-transfer system at the time of a particular annual wage review and assessing broader information in relation to measures of the income of the low-paid expressed as a proportion of overall median or average incomes. Consideration of the effect of changes in the tax-transfer system on the absolute or relative circumstances of the low paid must be made in the particular circumstances that apply.*

On 30 May 2019, President Ross issued a Statement declining to conduct the ACBC's proposed inquiry.[19] The Commission has clearly expressed the position that wages are not the only mechanism to address the needs of the low paid. Relevantly, the Expert Panel has, in past Reviews, rejected formulaic approaches involving the adoption of real wage maintenance.[20]

Although the ACCER Submission acknowledges at paragraph [35] of its submission that its interpretation of the term 'safety net' does not align with that of the Expert Panel in past Reviews, it claims that such authority is not presently binding.

As noted in our primary submission, the Expert Panel has taken the appropriate view that differently constituted Expert Panels should evaluate the evidence and submissions before them in accordance with a consistent and stable interpretation of the legislative framework. Justice

[19] [2019] FWC 3761.

[20] *Annual Wage Review Decision 2017-18*, [44].

requires consistent decision making unless a difference can be articulated and applied.[21] ACCER's submission does not include any arguments or other material that should lead the Expert Panel to depart from its previous conclusions on the statutory framework.

5. Response to the ACTU's submission regarding the encouragement of collective bargaining

At paragraph [274] of the ACTU's submission, reference is made to the number of current agreements having fallen since September 2018 whilst the number of employees covered by those agreements rising over the same period. The ACTU claims that this is indicative of a "pattern whereby employers are choosing to rationalise the structure of their industrial arrangements by entering into fewer enterprise agreements with wider scopes of coverage" and is not suggestive of a decline in collective bargaining.

We dispute the conclusions reached by the ACTU in this regard. As noted in Ai Group's main submission in these proceedings, since 2010 there has been a significant decline in both the number of current agreements and in the number of employees covered by collective agreements. The Attorney-General's Department's *Trends in Federal Enterprise Bargaining* report for the December 2021 Quarter reveals that from 2010 to 2021, the proportion of the workforce with a rate of pay set by an award has grown from 15.2% to 23%.[22]

The General Manager of the FWC's recently released *Report into developments in making enterprise agreements under the FW Act: 2018-2021* further identified a decline in agreement making. The report noted:[23]

> *In the current reporting period, there were fewer enterprise agreements approved (12 307 compared with 13 449) and employees covered (1 942 329 compared with 2 129 508) than the previous reporting period.*

The General Manager's report stated that there were fewer agreements approved across most industries in the 2018-21 reporting period than the previous reporting period and the number of employees covered by enterprise agreements approved declined in this reporting period for most industries.[24] Whilst the number of agreements and the number of employees covered by agreements increased in a minority of industries, this was not indicative of the whole. As such, it should be plain that the ACTU's assertion that current statistics are merely suggestive of a preference for agreements with a wider scope of coverage is not correct.

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[21] Annual Wage Review Decision 2017-18 [58].

[22] Attorney General's Department, *Trends in Federal Enterprise Bargaining Report – December Quarter 2021*, p.13.

[23] Fair Work Commission, 'General Manager's report into developments in making enterprise agreements under the Fair Work Act 2009 (Cth): 2018–21' (Report) p. 36.

[24] Fair Work Commission, 'General Manager's report into developments in making enterprise agreements under the Fair Work Act 2009 (Cth): 2018–21' (Report) p. 37 - 38.

At paragraph [276] of its primary submission, the ACTU states that the Panel cannot be satisfied that any decline in enterprise bargaining is in any way related to the past decisions of the Panel. Even if this statement is accepted by the Panel, this should in no way dissuade the Commission from exercising appropriate caution in setting the NMW and modern award minimum wages in consideration of the impact an excessive increase may have on the ailing enterprise bargaining system. The Commission has previously stated that the minimum wage is an element of the incentive to bargain and "whilst the gap between the NMW and modern award minimum wages and bargained wages is likely to increase the incentive for employees to bargain, a large gap may be a disincentive for employers to bargain".[25]

Beyond a mere assertion at paragraph [284] of its primary submission, the ACTU has not demonstrated that an excessively large wage increase of 5% (since updated to 5.5%) would not negatively impact bargaining. An excessive increase of 5.5% may generate a disincentive to bargain for employers who lack the capacity to offer additional increases over this amount to satisfy the 'better off overall test'.

Response to Questions on Notice

Question 5 (to all parties)

An information note describing the relevant announcements from the 2022–23 Budget has been prepared by staff of the Commission and published on the Commission's website. Parties are invited to comment on these measures.

Ai Group's response

Ai Group agrees that the measures listed in the Information Note are relevant to this year's Annual Wage Review. In our initial submission we provided an analysis of the impacts of the increase in LMITO to be made available to taxpayers early in the 2022-23 year. We argued that this measure would be favourable to the disposable incomes of low paid Australians. We argued in that submission that this measure and the increase in the Superannuation Guarantee from 1 July 2022 should be taken into account in this year's Review.

The annual adjustment to Medicare Levy low-income thresholds is also relevant to the living standards of some low-paid members of low-income households.

Further, the temporary reduction in the fuel levy is relevant in that it will reduce the costs of living faced by the low paid as for other Australians in the June and September quarters of 2022 and will be reflected in consumer price data for these quarters. These impacts are set to be unwound in the December quarter of 2022 as the relief from fuel excise is withdrawn.

[25] [2012] FWAFB 5000, [122].

The Cost of Living payment will assist many households including households with members who are low-paid employees.

The measures listed as "Support for businesses" in the Information Note include the encouragement for small businesses to undertake certain expenditure on employee training and the extension of the subsidy for employers to encourage them to take on new apprentices. The measures also include the incentive for small businesses to undertake certain expenditure on technology upgrades. Ai Group has supported these measures.

Question 6 to ACCI (other parties invited to comment)

In its initial submission, ACCI stated that:

> ***There is a clear case for exceptional circumstances for customer facing service industries, in the accommodation and food services, arts and recreation and retail sectors, as well as tourism related businesses in the transport sector. It could be argued that the current situation for these industries and the outlook is far worse than it was at the time the Panel made its decision in 2021.***

What evidence or data can be provided to show that the current situation for these industries is worse than at the time of the Annual Wage Review 2020–21?

Other parties are invited to comment on this.

Ai Group's response

In Section 11.2 of Ai Group's main submission (pages 56-60), statistical data is provided in support of an argument for a delayed operative date for any increase to award wages in the aviation and tourism sector, the accommodation and food services sector, the arts and recreation services sector and the retail trade sector.

ABOUT THE AUSTRALIAN INDUSTRY GROUP

The Australian Industry Group (Ai Group®) is a peak employer organisation representing traditional, innovative and emerging industry sectors. We are a truly national organisation which has been supporting businesses across Australia for nearly 150 years.

Ai Group is genuinely representative of Australian industry. Together with partner organisations we represent the interests of more than 60,000 businesses employing more than 1 million staff. Our members are small and large businesses in sectors including manufacturing, construction, engineering, transport & logistics, labour hire, mining services, the defence industry, civil airlines and ICT.

Our vision is for thriving industries and a prosperous community. We offer our membership strong advocacy and an effective voice at all levels of government underpinned by our respected position of policy leadership and political non-partisanship.

With more than 250 staff and networks of relationships that extend beyond borders (domestic and international) we have the resources and the expertise to meet the changing needs of our membership. We provide the practical information, advice and assistance businesses need. Our deep experience of industrial relations and workplace law positions Ai Group as Australia's leading industrial advocate.

We listen and we support our members in facing their challenges by remaining at the cutting edge of policy debate and legislative change. We provide solution-driven advice to address business opportunities and risks.

OFFICE ADDRESSES

NEW SOUTH WALES

Sydney
51 Walker Street
North Sydney NSW 2060

Western Sydney
Level 2, 100 George Street
Parramatta NSW 2150

Albury Wodonga
560 David Street
Albury NSW 2640

Hunter
Suite 1, "Nautilos"
265 Wharf Road
Newcastle NSW 2300

VICTORIA

Melbourne
Level 2 / 441 St Kilda Road
Melbourne VIC 3004

Bendigo
87 Wil Street
Bendigo VIC 3550

QUEENSLAND

Brisbane
202 Boundary Street Spring Hill
QLD 4000

ACT

Canberra
Ground Floor,
42 Macquarie Street
Barton ACT 2600

SOUTH AUSTRALIA

Adelaide
Level 1 / 45 Greenhill Road
Wayville SA 5034

WESTERN AUSTRALIA

South Perth
Suite 6, Level 3 South Shore Centre 85
South Perth Esplanade
South Perth WA 6151

www.aigroup.com.au