

FAIR WORK COMMISSION

Matter No.: C2023/1

Annual Wage Review 2022-23

INITIAL SUBMISSIONS OF THE UNITED WORKERS' UNION

Introduction

1. The United Workers' Union ('**UWU**') makes these submissions for the Annual Wage Review ('**AWR**') 2022-23 on behalf of our membership.
2. UWU supports the position of the Australian Council of Trade Unions and calls on the Fair Work Commission ('**FWC**') to award an increase of 7% to the national minimum wage and minimum rates in all modern awards, thus delivering cost of living relief to our lowest paid workers.
3. In respect of employees in the accommodation and food services industry covered by the *Hospitality Industry (General) Award 2020* ('**HIGA**'), the *Restaurant Industry Award 2020* ('**RIA**') and the *Registered and Licenced Clubs Award 2020* ('**RLCA**'), UWU submits that there are no exceptional circumstances that warrant a delay in the timing of any increase to minimum rates in those awards.

Gender equality

4. UWU covers workers in a broad range of industries and occupations, a significant proportion of whom are award-reliant workers. Our coverage includes workers in hospitality, community, home care and disability services, contract cleaning, childcare and food manufacturing, among others. Collectively, workers in these industries comprise approximately 35% of all award-reliant workers.¹

¹ Fair Work Commission, *A profile of employee characteristics across modern awards*, Appendix A, Table A1, March 2023.

5. The majority (58.1%) of employees covered by modern awards are women.² In the areas of UWU's coverage, women comprise:
- (a) 60% of employees covered by the *Cleaning Services Award 2020*;
 - (b) 61.4% of employees covered by the RIA;
 - (c) 65.8% of employees covered by the HIGA;
 - (d) 69.3% of employees covered by the *Social, Community, Home Care and Disability Services Industry Award 2010*; and
 - (e) 96.1% of employees covered by the *Children's Services Award 2010*.³
6. At present, there remains a gender pay gap in average weekly ordinary time earnings ('**AWOTE**') among all employees of 13.3%.⁴
7. In UWU's submission, an award of a 7% increase to the national minimum wage and minimum rates in all modern awards will be likely to contribute to closing the gender pay gap, and therefore meet the minimum wages objective in s 284(1)(aa) of the *Fair Work Act 2009* (Cth) ('**FW Act**'), by significantly benefitting women covered by modern awards relative to men in the broader economy.

Economic conditions

8. The Australian economy remains resilient despite the high levels of inflation presently being felt. This inflation is having a significant effect on working people. The present economic conditions strengthen the case that the FWC should award a significant increase to wages.

² Ibid, p. 18.

³ Ibid, Appendix B, Table B1.

⁴ Fair Work Commission, *Statistical report – Annual Wage Review 2022-23 version 1*, Table 11.1, March 2023.

9. Annual growth in gross domestic product ('**GDP**') was 2.7% in the year to December 2022, above the five-year average of 2.3%. Positive growth was experienced in each of the last five quarters.⁵
10. All industries other than agriculture, forestry and fishing and manufacturing experienced positive annual growth in gross value added ('**GVA**'). The highest annual growth in GVA was in accommodation and food services (+20.3%), transport, postal and warehousing (+13%) and arts and recreation services (+10.1%) indicating a rebound in these sectors since the onset of the COVID-19 pandemic.⁶
11. Company gross operating profits (seasonally adjusted) have increased 16% year on year to December 2022.⁷
12. Measures of productivity (GVA per hour worked, GDP per hour worked and GDP per capita) fell over the last few quarters.⁸ The ABS notes in respect of the decline in GDP per hour worked that this was a reflection of "... the distortionary impacts of COVID-19 on workforce composition unw[inding]". The ABS also noted that "labour productivity over the last three years remained up 0.7 per cent."⁹ Real net national disposable income rose in the December quarter of 2022.¹⁰
13. A major impact on the economy in the past 12 to 18 months has been the sharp rise in inflation. Annual consumer price index ('**CPI**') growth reached 7.8% in the December quarter of 2022. The trimmed mean and weighted median measures reached annual growth of 6.9% and 5.8% respectively in the same quarter. Underlying inflation is presently 6.3%.¹¹

⁵ Ibid, Chart 1.1.

⁶ Ibid, Chart 1.5.

⁷ ABS, *Business Indicators, Australia*, December 2022.

⁸ Fair Work Commission, *Statistical report – Annual Wage Review 2022-23 version 1*, Chart 2.1, March 2023.

⁹ ABS, *12 things that happened in the Australian economy during the last quarter*, 1 March 2023.

¹⁰ Fair Work Commission, *Statistical report – Annual Wage Review 2022-23 version 1*, Chart 2.1, March 2023.

¹¹ Fair Work Commission, *Statistical report – Annual Wage Review 2022-23 version 1*, Tables 4.1 and 4.2, March 2023.

14. The impacts of inflation are being acutely felt by employees. The employee living cost index, which in contrast to other measures of inflation factors into its basket of goods mortgage interest increases, reached a record high annual growth of 9.3% in the December quarter of 2022.¹²
15. Essential or non-discretionary items, which comprise a larger proportion of expenditure for low-income households, have risen even further than CPI. Food and non-alcoholic beverages have risen 9.2%, housing 10.7% and transport 8% in the 12 months to the December 2022 quarter. Overall, the ABS's measurement of non-discretionary inflation shows it has exceeded CPI growth at 8.4% to the December quarter 2022.¹³ These dynamics give rise to 'inflation inequality' whereby low-income households are disproportionately affected by inflation.¹⁴
16. There are also some signs that inflation is beginning to recede. The monthly CPI indicator shows annual growth in CPI reducing from 8.4% year on year in December 2022 to 6.8% year on year in February 2023.¹⁵ Whilst a relatively new dataset, the monthly CPI indicator has been shown to be a reasonable early indicator of the quarterly CPI outcome.¹⁶
17. Profits share of total factor income reached a record high of 32.6% in the June quarter of 2022. On the other hand, the wages share of total factor income reached a record low of 48.8% in the same quarter.¹⁷

¹² ABS, *Selected Living Cost Indexes, Australia*, Table 1, December 2022. The index commenced in June 1998.

¹³ ABS, *Consumer Price Index, Australia*, December 2022.

¹⁴ Jaravel X (2021), *Inflation Inequality: Measurement, Causes, and Policy Implications*, Annual Review of Economics, Vol. 13, pp. 599-629, available at <http://dx.doi.org/10.1146/annurev-economics-091520-082042>.

¹⁵ ABS, *Monthly Consumer Price Index Indicator*, February 2023.

¹⁶ RBA, *Statement on Monetary Policy – Box B: The Introduction of a Monthly CPI Indicator for Australia*, November 2022.

¹⁷ ABS, *Australian National Accounts: National Income, Expenditure and Product*, Table 24, December 2022. The index commenced in September 1959.

18. The household saving ratio declined to 4.5%, below pre-pandemic levels, due to rises in household consumption and a fall in gross disposable income.¹⁸
19. The levels of inflation in the economy have not been driven by significant increases in labour remuneration. In the December 2022 quarter, annual growth in the wage price index ('WPI') was 3.3% and annual growth in AWOTE was 3.4%, both well below inflation.¹⁹
20. The labour market remains strong. The unemployment rate (3.5%), underemployment rate (5.9%) and participation rate (66.6%) are lower (in the case of the participation rate, higher) than they were at the time the 2021-22 AWR was decided.²⁰ However, the strength of the labour market has not translated into greater employee power to drive significant wage increases to keep up with the cost of living, as evidenced by the sluggish growth in WPI and AWOTE described above.
21. Stanford (2023) states that the present inflation in the economy is instead attributable to a record growth in corporate profits, which the author says is responsible for 69.1% of the inflation beyond the RBA's target range of 2.5%±0.5%, compared to labour compensation which is responsible for just 18.1% of the above-target inflation.²¹
22. The real value of the national minimum wage declined by 2.5% despite the FWC granting a 5.2% increase in the 2021-22 AWR.²² Award minimum rates, which in the 2021-22 AWR received wage level-dependent increases of between 4.6 and 5.2%, would be subject to equal or higher declines in real value than the national minimum wage has been in the past year.

¹⁸ Ibid.

¹⁹ Fair Work Commission, *Statistical report – Annual Wage Review 2022-23 version 1*, Table 5.1, March 2023.

²⁰ ABS, *Labour Force, Australia*, February 2023.

²¹ Stanford J (2023), *Profit-Price Spiral: The Truth Behind Australia's Inflation*, <https://futurework.org.au/wp-content/uploads/sites/2/2023/02/Profit-Price-Spiral-Research-Report-WEB.pdf>, 23 February 2023.

²² Fair Work Commission, *Statistical report – Annual Wage Review 2022-23 version 1*, Table 9.1, March 2023.

23. Taken together, all of this paints a grim picture of the economic impacts currently being felt by workers: a real decline in the value of labour remuneration, sluggish growth in wages which has not kept up with the cost of living, a significant increase in prices associated with inflation caused primarily by business profits growth, mortgage rate increases and falling employee power which has been unable to reverse these declines.
24. This AWR will directly impact the rates of remuneration paid to employees in a position of little bargaining power and at the bottom end of employee remuneration in the economy. It is imperative that the FWC takes this opportunity to rebalance the economic equation towards workers.
25. In the 2021-22 AWR, the FWC took a somewhat cautious approach to the increases it granted to award-reliant workers, stating:
- We acknowledge that the increases we have determined will mean a real wage cut for some award reliant employees. This is an issue that can be addressed in subsequent Reviews.²³
26. No doubt the FWC was minded to be cautious given that the economy had only just begun its emergence after the COVID-19 pandemic. However, that is not the case today. The overwhelming evidence is of a resilience in the economy and a post-pandemic renaissance for business.
27. The economic evidence strengthens our case that the FWC should award a significant wage increase to workers to help alleviate the inflationary pressures they are experiencing, and we submit that this should be an increase of 7% to the national minimum wage and minimum rates in all awards.

²³ *Annual Wage Review 2021-22* [2022] FWCFB 3500 at [196].

Increased cost of living impacts on workers

28. The UWU conducted surveys and structured conversations with over 500 Award-dependent workers into worker sentiment as part of our preparations for this submission. Worker sentiment taken from this work aligns with the macroeconomic analysis above.²⁴ In short, cost of living increases, particularly in rent, mortgage interest, food and energy bills, have led to workers choosing to make sacrifices in their welfare and healthcare, and taking on greater levels of debt to get by on a day-to-day basis.
29. Commonly expressed experiences from respondents included:
- (a) Working two or more jobs or increased hours of work;
 - (b) Drawing on savings or selling goods to pay for everyday expenses;
 - (c) Reducing spending on essential items;
 - (d) Falling behind in the payment of bills;
 - (e) Borrowing money from family or friends.

Case Study 1 – Rachel

Rachel works full-time in the Health industry in Western Australia and is paid an hourly rate between \$25 and \$29 per hour.

Rachel states:

Three children in school - two working parents, our rent has gone up another \$60 this year, food prices up, fuel prices up, everything is up. We are both full-time workers juggling our

²⁴ Note, the UWU does not rely on the survey or conversation data as quantitative or qualitative evidence, but rather as an indicator of sentiment among respondents.

*family and still living week-to-week with no chance of buying a home of our own. **I have used Afterpay to get gift cards to pay for groceries, used Foodbank over Christmas** so our family had a wonderful Christmas and my children can see why Mum and Dad both have to work 40+ hours a week.*

Case Study 2 – Thomas

Thomas is a full-time employee in Hospitality in New South Wales. Thomas earns between \$21 and \$25 per hour.

Thomas states:

*Over the last year or so cost of living for me has become an insurmountable challenge, accumulating to mean genuine impacts on my health and quality of life. The most recent hit to my household budget has been my fixed-term mortgage rate expiring, leading to a 5%+ jump in my interest rate. **This has caused incredible amounts of stress, sleepless nights, skipped meals and meant I've skipped doctors' appointments and purchasing medication.** On top of my full-time job, it's now looking as if I will need another job. Alternatively I could sell my home or try to find help from a charity to be able to eat every week or to get the medication I need.*

30. Foodbank Australia CEO Brianna Casey states that 1.3 million children live in food-insecure households in Australia. Of those food-insecure households, 54 per cent of them had someone in paid work.²⁵

²⁵ Evidence of Ms Brianna Casey, Senate Select Committee on the Cost of Living, 1 February 2023.

Case Study 3 – Nat

Nat is a part-time disability worker employed under the *Social, Community, Home Care and Disability Services Industry Award 2010* in the ACT. Nat states:

*My pay rate is not enough to make ends meet as **I have to put my health aside so that I can afford food over the table.** This affects me physically and mentally as well as reducing the overall quality of life for my family. I am constantly stressed about my financial situation as a result of not being able to keep up with everyday living costs and my medical bills.*

*The living costs have increased so much that **I do not have any money to go and see my specialist for my health issues as often as I should.** But when I do, **I have needed to rely on my credit card to pay for my medical expenses** just because I don't have any spare money to pay for them. I am struggling to pay back that debt.*

I am a young mother of two children as well and all the baby related costs have also been really hard to keep up with despite me working part-time and my husband working full-time.

I believe that with a wage increase, I would be able to at least afford to pay off my debt quicker and give me some relief.

Case Study 4 – Worker responses

How do low wages impact you and your family? How do you make ends meet? What sacrifices do you have to make? If you are a parent, what does your current pay rate mean for your children? Have you had to rely on assistance from a charity organisation?

*Yes **I have relied on charity to get food and help pay electricity and gas** as my rent increased \$100 a week which was my money for those bills. (Full-time Cleaner, NSW)*

*I've had to **take money out of my super several times just to be able to afford food and pay my normal bills**... We have resorted to not eating some meals just so that we have money for bills. (Full-time Early Childhood Educator, Qld)*

*We live in the Pilbara and the rates on everything just keeps going up. We have also just moved house because the place we were renting has just gone up for sale and we can't afford to buy because the prices are way too high. So **we are now paying more in rent**, which will probably end up going up in a few months. (Full-time Teacher Aide, WA)*

*I'm always late with bills. **I go without food sometimes. I have used a food bank at various times.** (Part-time Cleaner, Qld)*

*Low wages mean **I have to decide whether healthcare issues are urgent enough to justify the costs.** I know taking care of my health now is important for long term wellbeing, but when an appointment with health professionals costs so much more than I earn, **I find myself delaying treatment.** (Part-time Teacher Aide, Qld)*

*Our health has declined, and **we are now not able to even pay rent sometimes or pay bills.** (Full-time Call Centre Worker, SA)*

*With the **increase in rental prices and increased costs of products that go above the inflation rate**, it has forced me to move out of Melbourne to a regional area to try and sustain myself as I had been able to do in past years. (Casual Hospitality Worker, Vic)*

31. In the UWU's submission, the FWC should take particular care to account for the difficult circumstances being faced by workers in the present high-inflation economic environment. The FWC must take action to increase wages for workers and provide them with relief.

Timing of any increase for the accommodation and food services industry

32. In the 2020-21 and 2021-22 AWRs the FWC decided to delay increases in respect of a number of modern awards, including the HIGA, RIA and RLCA. The FWC's basis for delaying increases to these awards was that exceptional circumstances existed such that the default timing of 1 July in s 287(1) of the FW Act should not apply. For the reasons which follow, the UJU submits that there are no longer exceptional circumstances which justify a delay in the timing of any increase to minimum rates in the HIGA, RIA and RLCA.

Economic recovery in the accommodation and food services industry

33. In the 2021-22 AWR, the FWC considered research conducted by Professor Jeff Borland on the economic recovery of industries since the onset of the COVID-19 pandemic. In that review, Professor Borland stated about the accommodation and food services industry:

...

- **Almost recovered:** Industries where the number of jobs and activity remain marginally below the level prior to the onset of COVID-19 (in the case of jobs, 1 to 2 per cent below the level prior to COVID); and

...

Having reviewed my previous report, the data presented in the preceding sections of this this (sic) report and made my own investigation of those data, my revised recommended classification of industries into the same set of clusters as of May 2022 is:

...

Almost recovered: Accommodation and food services

...

Accommodation and food services

Recommendation: Shift to almost recovered cluster.

Number of filled jobs is below level prior to COVID-19 but vacancy rate is higher. Labour Accounts data on total jobs (filled plus vacancies; March quarter 2020 to December quarter 2021) indicates an increase of 3.6 per cent relative prior to COVID-19. GVA remains below level prior to COVID-19.²⁶

34. The FWC declined to accept Professor Borland's assessment, stating:

In the current Review, Professor Borland recommends that the Accommodation and food services sector be allocated to the 'Almost recovered' category. We disagree. On most measures the Accommodation and food services sector is clearly in the 'lagging recovery' category:

Table 9: Indicators for Accommodation and food services, percentage changes

3 July 2021 to 16 April 2022	June quarter 2021 to December quarter 2021		
Payroll jobs	Gross Value Added	Income	Operating Profits
-10.1	-6.1	-5.8	-22.7

We are satisfied that there are exceptional circumstances justifying a delayed variation determinations in respect of the Accommodation and food services sector (with the exception of the *Fast Food Industry Award 2010*). The *Alpine Resorts Award 2020* is also aligned with this sector and was the subject of a deferred operative date in last year's Review. The combination of factors applying to these awards, the material set

²⁶ Fair Work Commission, *Industry note – Industry analysis*, 26 May 2022.

out in the information note and the operative date arising from last years' Review, is exceptional and justifies a delay until 1 October 2022.²⁷

35. On the economic measures that the FWC considered as substantial in justifying a delay to the increase of minimum rates during the 2021-22 AWR, present data shows:

- (a) Between 3 July 2021 and 11 February 2023, the weekly payroll jobs index for the accommodation and food services industry increased by 3.5%;²⁸
- (b) Between the June quarter 2021 and December quarter 2022 in the accommodation and food services industry:
 - (i) Gross value added increased by 11.8%;²⁹
 - (ii) Income from sales of goods and services increased by 23.5%;³⁰
and
 - (iii) Company gross operating profits increased by 23.4%.³¹

36. Additionally, in respect of the accommodation and food services industry:

- (a) Between the September quarter 2021 and the December quarter 2022, gross value added increased in all quarters;³²
- (b) Between the March quarter 2020 and the December quarter 2022, filled jobs increased by 12%;³³

²⁷ *Annual Wage Review 2021-22 [2022]* FWCFB 3500 at [258] to [259].

²⁸ ABS, *Weekly Payroll Jobs and Wages in Australia*, Table 9, week ending 11 February 2023.

²⁹ ABS, *Australian National Accounts: National Income, Expenditure and Product*, Table 6, December 2022.

³⁰ ABS, *Business Indicators, Australia*, Table 6, December 2022.

³¹ *Ibid*, Table 11.

³² ABS, *Australian National Accounts: National Income, Expenditure and Product*, Table 6, December 2022.

³³ ABS, *Labour Account Australia*, Table 9, December 2022.

- (c) Between the May quarter 2021 and the November quarter 2022, employment increased by 7.1%;³⁴
- (d) Between the May quarter 2021 and the November quarter 2022, hours actually worked increased by 11.3%;³⁵ and
- (e) Between the May quarter 2021 and the November quarter 2022, the job vacancy rate increased by 1.47 percentage points.³⁶

37. In the UWU's submission, the economic data indicates that the accommodation and food services industry has substantially recovered since the onset of the COVID-19 pandemic. The pent-up post-lockdown spending in hotels, cafes and restaurants has contributed to significant growth in the industry in the past year. Demand for labour in the industry is outstripping the number of available workers, leading to an increase in the job vacancy rate. This is unsurprising given the historically low unemployment rate in the economy and the fact that workers in the industry on average earn less than workers in all other industry areas.³⁷

38. The economic data no longer supports a justification that exceptional circumstances apply to the accommodation and food services industry.

Second wage rise within 12 months does not give rise to exceptional circumstances

39. The UWU submits that an operative date of 1 July 2023 for any wage increases to the HIGA, RIA or RLCA does not by itself give rise to exceptional circumstances in respect of those awards in this AWR.

³⁴ ABS, *Labour Force, Australia, Detailed*, Table 04, January 2023.

³⁵ *Ibid*, Table 11.

³⁶ ABS, *Job Vacancies, Australia*, Table 4, November 2022 & ABS, *Labour Force, Australia, Detailed*, Table 04, January 2023. The job vacancy rate is calculated as job vacancies as a proportion of job vacancies plus total employment.

³⁷ ABS, *Average Weekly Earnings, Australia*, Tables 10g and 10i, November 2022. The average weekly total earnings of a person in the accommodation and food services industry was \$691.30 per week (cf. the next lowest average in retail trade of \$820.70). The average weekly ordinary time earnings of a full-time adult employee in the industry was \$1,293.80 (cf. the next lowest average in other services of \$1,333.20).

40. As the FWC noted in the 2021-22 AWR:

In respect of the remaining modern awards we are not persuaded that there are exceptional circumstances such as to warrant a delayed operative date in the variation determinations arising from this Review. We acknowledge that an operative date of 1 July 2022 will mean that businesses covered by some of these modern awards will face 2 minimum wage increases within a 12-month period. But those businesses have had the benefit of the delayed operative date arising from the 2020–21 Review. The timing issue is not, of itself, sufficient to warrant a finding of exceptional circumstances. To determine otherwise would create a self-perpetuating mechanism whereby the exception became the rule.³⁸

HIGA – re-calibration of loaded rates of pay

41. In September 2021, the FWC determined to insert into the HIGA, Schedule I – Loaded Rate Arrangements, providing for “loaded rates” of pay.³⁹

42. In the decision, the FWC stated:

Finally, we turn to the proposition that the loaded rates will need to be ‘recalibrated’ in the event that there is an increase in the quantum of the split shift allowance following an Annual Wage Review decision. Commissioner Bissett will convene a conference of all interested parties following the publication of the 2021-22 Annual Wage Review decision to discuss whether the loaded rates require adjustment to ensure that employees are not worse off.⁴⁰

43. On 26 July 2022, Commissioner Bissett issued a Statement containing analysis prepared by Commission staff, taking into account the impact of the AWR 2021-22, the resultant adjustment of the split shift allowance and its impact on the loaded rates

³⁸ *Annual Wage Review 2021-22* [2022] FWCFB 3500 at [260].

³⁹ *Application by Australian Hotels Association* [2021] FWCFB 5371.

⁴⁰ *Ibid*, [58].

provided for in Schedule I of the HIGA. The analysis suggested that some employees would be worse off following the AWR decision.⁴¹

44. On 25 August 2022, Commissioner Bissett provided a report to the Full Bench, summarising the responses to the Statement and outlining a proposal for the recalibration of the loaded rates percentages in Schedule I.⁴²
45. In the event that the FWC is minded to increase minimum rates of pay in the HIGA in the AWR 2022-23, the consequent adjustment of the split shift allowance may once again impact on the appropriateness of the loaded rates percentages in Schedule I.
46. UWU respectfully submits that the FWC should adopt the same approach to this issue as was taken in 2022, namely that:
 - (a) FWC staff are engaged to analyse the loaded rates percentages using the same methodology; and
 - (b) A report is issued and parties' views are sought; and
 - (c) If necessary, loaded rates percentages in Schedule I are re-calibrated in line with the timing of any such increase to minimum rates in the HIGA.

Conclusion

47. Workers who rely on the national minimum wage and modern awards are hurting in the present economic circumstances. The UWU calls on the FWC to award an increase to the national minimum wage and minimum rates in all modern awards of 7%, to help the lowest-paid workers in the economy and provide real cost of living relief.

⁴¹ *Application by Australian Hotels Association* [2022] FWC 1967.

⁴² Report to Full Bench by Commissioner Bissett re Application by Australian Hotels Association in AM2021/73, <https://www.fwc.gov.au/documents/sites/award-flexibility-hospitality-retail/am202173-report-fwc-250822.pdf>, 25 August 2022.

48. An award of 7% in this AWR will allow for the maintenance of a safety net of fair minimum wages and a decent standard of living for working people.

**Filed on behalf of the
United Workers' Union
31 March 2023**