



FAIR WORK COMMISSION

ANNUAL WAGE REVIEW 2020-21

Reply Submission and Responses to Questions on Notice

20 April 2021

RESTAURANT & CATERING INDUSTRY ASSOCIATION

PO Box 121, SURRY HILLS NSW 2010 **T:** 1300 722 878 **F:** 1300 722 396 **E:** info@restaurantcater.asn.au
www.rca.asn.au

The Restaurant and Catering Industry Association

1. Restaurant & Catering Industry Association (the “**R&CA**”) welcomes the opportunity to make a further submission and respond to the questions on notice for the *Annual Wage Review 2020-21*. The R&CA is the national industry association representing the interests of more than 48,000 restaurants, cafés and catering businesses across Australia. The café, restaurant and catering sector is vitally important to the national economy, generating over \$35 billion in retail turnover each year as well as employing 580,000 people.
2. The R&CA delivers tangible outcomes to small businesses within the hospitality industry by influencing the policy decisions and regulations that impact the sector’s operating environment. The R&CA is committed to ensuring the industry is recognised as one of excellence, professionalism, profitability and sustainability. This includes advocating the broader social and economic contribution of the sector to industry and government stakeholders, as well as highlighting the value of the restaurant experience to the public.

R&CA’s Position

3. On 26 March 2021, R&CA filed its main submission in the *Annual Wage Review 2020-21* (**R&CA’s March 2021 Submission**).
4. R&CA’s March 2021 Submission highlighted the detrimental impacts on the Australian economy, including industry operators, as a result of the continued challenges arising from the COVID-19 pandemic. The abrupt opening and closing of state borders in response to COVID-19 outbreaks have been detrimental to the food and accommodation industry.
5. The R&CA reiterates the key themes in the R&CA’s March 2021 Submission that on 1 February 2021, minimum wages were increased by 1.75% for Group Three Awards including Accommodation and Food Services. The R&CA has a particular interest in the *Restaurant Industry Award*, *Hospitality Industry (General) Award* and the *Fast Food Industry Award*.
6. The R&CA reinforces the view of its members, the restaurant and hospitality industry in Australia that it would be unreasonable, in the current circumstances, for the modern award wages and the minimum wage for Group Three Awards to be increased again as this would adversely impact small and medium sized businesses who have recently been affected by the recent increase on 1 February 2021.

7. The R&CA emphasises its position previously stated in the R&CA's March 2021 Submission that given this recent increase on 1 February 2021, that there be no increase in the minimum wage for Group Three Awards.

Annual Wage Review or Bi-Annual Wage Review?

8. However, if in the alternative, the Commission decides that a quantum increase greater than 0% is to take effect, the R&CA submits that the timing for any increase in the minimum wage for the Industry Awards covered under the Group Three tier, should continue and follow the precedent set from the *Annual Wage Review 2019-20*.
9. The outcomes of the Annual Wage Review and subsequent adjustment should take effect twelve (12) months after the previous date within which the prior increase took effect to ensure consistency and minimise disadvantage for Group Three awards, namely on 1 February 2022.
10. Given the recent increase on 1 February 2021, another increase greater than the quantum of 0% on 1 July 2021, will provide immense economic pressure for the restaurant and hospitality industry who increased their minimum wages only five (5) months earlier.
11. As the name would suggest in "Annual Wage Review", it would be crippling for the restaurant and hospitality industry to have an annual wage review and an effective increase in wages, not annually, but essentially, bi-annually within (five) 5 months. Though the review is annual, if the outcome were to be bi-annual in effect, businesses covered by Group Three Awards would face a significant disadvantage. Therefore, the impact of another wage increase should take effect from 1 February 2022 at the earliest.

COVID-19 update since March 2021

12. Since our R&CA March 2021 Submission, the purported economic bounceback that was expected for 2021 and the restaurant industry has been impeded by:
 - a. Continued snap lockdowns for restaurants and cafes;
 - b. A lagging vaccination program rollout impeded by logistical challenges, vaccine suspensions and continued public health concerns about side effects; and
 - c. Cessation of government support in the form of the JobKeeper program from 31 March 2021 without alternative support for the beleaguered restaurant and café industry.

13. Business uncertainty for industries in Group Three Awards has been reinforced in recent impediments since the R&CA's March 2021 Submission, when on 1 April 2021 after the cessation of JobKeeper, snap lockdown restrictions were in place for residents in Greater Brisbane in Queensland and restrictions on Byron Bay in NSW due to single digit cases of community transmission of COVID-19. This resulted in the cancellation of BluesFest at an estimated cost of \$100 million to the Byron Bay economy and a \$50 million impact on the Greater Brisbane economy, highlighting the challenges of the restaurant and café industry in a post-JobKeeper environment.
14. The continued lagging rollout of COVID-19 vaccinations throughout Australia due to logistical challenges and public safety concerns in relation to side effects for certain vaccinations have also hindered and substantially delayed the expected timeline for the vaccine rollout. The vaccination program was the foundation for the subsequent economic recovery which has been delayed as a consequence.
15. In December 2020, the Restaurant & Catering Industry Association (R&CA) revealed in the R&CA Industry Benchmarking Report 2020 (the Report) that business confidence had dropped significantly as a result of the Pandemic, with industry outlook at an all-time low over the next twelve (12) months. The Report stated that 1 in 3 restaurants and cafes failed to turn any profit in the 2019-2020 financial year and most business owners expect profitability to decrease or flatline over the next 12 months. Preliminary information has indicated that as many as 10% of those business have already closed their doors permanently, with more are expected to once data following the cessation of the JobKeeper scheme is released over the coming months.
16. R&CA also recognises and emphasises that the legislated superannuation guarantee will rise in July 2021 from 9.5% to 10%. R&CA submits that this increase will effectively increase the operating expense and cost for employers, which will be borne entirely by the employer who are already under financial distress.
17. The expiration of commercial lease moratoriums, lagging vaccine rollout, side-effects and public health uncertainty in 2021, cessation of JobKeeper on 31 March 2021 and the looming superannuation guarantee increase in 1 July 2021 to 10% make it demonstrably difficult for restaurants and cafes to survive any further increases in operating costs.
18. To reiterate, there was a recent increase in the annual wage on 1 February 2021 for Group Three Awards and the attempt to re-align the awards on 1 July 2021 with another increase would unduly punish restaurants and hospitality for being an industry

that was significantly and disproportionately affected by lockdowns and shutdowns due to the COVID-19 pandemic.

Question on Notice 1.1

19. Question 1.1 of the Panel's questions on notice, is as follows:

In the Annual Wage Review 2019–20 (2019–20 Review), the majority decision of the Expert Panel was to increase modern award minimum wages in 3 groups based on industry clusters. Depending on the modern award and the industry cluster it was allocated, the increases to modern award minimum wages occurred on 1 July 2020, 1 November 2020 and 1 February 2021. A number of parties have indicated how the Expert Panel should approach the different operative dates of increases to modern awards based on the 3 clusters in their initial submission to this Review.¹ All parties are invited to comment on how the Expert Panel should deal with the different operative dates from the 2019–20 Review.

20. It is the submission of the R&CA that the Expert Panel should deal with the different operative dates from the 2019-20 Review in a manner that is consistent in order to promote business confidence and certainty. Consistency begins by following the precedent set out in the 2019-20 Review and continuing this approach. Group Three Awards that were allocated increases to modern award minimum wage on 1 February 2021 were provided an operative date later than their Group One or Group Two counterparts because they were industries that were disproportionately affected by COVID-19 public health orders such as shutdowns and the inability to operate in a pandemic, such as the impossibility for waiters to work from home.
21. The delay in the commencement date of the *Annual Wage Review 2019-20* with Group Three Awards on the 1 February 2021 recognised the crisis faced by these industries during the COVID-19 pandemic. It would be unrealistic and punitive to expect this industry to be re-aligned with other sectors in Australia by bringing forward their next annual review outcome in 5 (five) months when the industry attempts to recover and catchup in the current two-speed economy.
22. Any attempt to realign the three operative dates into one, by moving forward the next application date for Group Three Awards who faced a recent increase on 1 February

¹ ABI submission, 26 March 2021 at pp. 2, 3, 25; ACTU submission, 26 March 2021 at paras 4(k), 35–51; Ai Group submission, 26 March 2021 at p. 59; NRA submission, 26 March 2021 at paras 5.1.1–5.1.10; R&CA submission, 26 March 2021 at para. 26.

2021 to be aligned with Group 1 Awards with the next potential increase on 1 July 2021 would be excessive. This would be a punitive measure on Group Three Awards in what is essentially a bi-annual wage increase, with two increases in five months, when the challenges of the industries in Group Three are still evident in a COVID-19 impacted economy. Group Three Awards should not be punished by being aligned with Group One or Two, merely because they were given a later operative date of 1 February 2021 in the *Annual Wage Review 2019-20*, which was granted with the intent to support them as they were recognised as industries that were disproportionately affected by COVID-19 and continue to be affected in 2021.

Question on Notice 1.2

23. Question 1.2 of the Panel's questions on notice, is as follows:

In the Annual Wage Review 2019–20 (2019–20 Review), the majority decision of the Expert Panel was to increase modern award minimum wages in 3 groups based on industry clusters. Depending on the modern award and the industry cluster it was allocated, the increases to modern award minimum wages occurred on 1 July 2020, 1 November 2020 and 1 February 2021. A number of parties have indicated how the Expert Panel should approach the different operative dates of increases to modern awards based on the 3 clusters in their initial submission to this Review.² All parties are invited to comment on how the Expert Panel should deal with whether there should be any changes to the composition of the 3 industry clusters identified in the 2019–20 Review, giving consideration to movements in the change in employee jobs and total wages presented in the report by Professor Jeff Borland³ and the most recent data shown in the Fair Work Commission's Statistical report—Annual Wage Review 2020–21.⁴

24. It is the submission of R&CA that Group Three Awards including Accommodation and Food Services, such as the *Restaurant Industry Award*, *Hospitality Industry (General) Award* and the *Fast Food Industry Award* should be retained.

² ABI submission, 26 March 2021 at pp. 2, 3, 25; ACTU submission, 26 March 2021 at paras 4(k), 35–51; Ai Group submission, 26 March 2021 at p. 59; NRA submission, 26 March 2021 at paras 5.1.1–5.1.10; R&CA submission, 26 March 2021 at para. 26.

³ Borland J (2021), [An assessment of the economic effects of COVID-19](#), Version 2, Fair Work Commission Research report 1/2021, 17 February.

⁴ Fair Work Commission (2021), *Statistical report—Annual Wage Review 2020–21*, Version 4, 6 April.

25. The challenges of COVID-19 have continued to be unrelenting on this sector in 2021 with the abrupt opening and closing of State borders which is likely to be a feature of 2021 and detrimental to the restaurant and café industry.
26. The operational requirements of restaurant and cafe businesses have significantly and permanently changed as a result of the Pandemic. Everyday Australians who own and run restaurants, cafés and catering businesses are faced with the increased operational costs and bureaucratic burdens from being expected to be well versed in constantly evolving public health orders, adjusting to takeaway options for food delivery, the logistical burdens of enforcing check in requirements and iterative “COVID-safe” business models.
27. This is supported by references in the report by Professor Jeff Borland⁵ who recognised that the Upper cluster of industries most adversely affected by COVID-19 included Accommodation and food services.
28. The R&CA submits that this position is reinforced by the most recent data shown in the Fair Work Commission’s *Statistical report—Annual Wage Review 2020–21*⁶ in Table 3.8 which demonstrates that the factors significantly impacting the accommodation and food services businesses in February 2021, included 80% of businesses who were concerned about COVID-19 restrictions which was the highest for all industries and significantly above the average of 41% for all other industries. The inability to meet financial commitments over the next three months as of March 2021 in Table 3.10 were consistently higher for the Accommodation and food services industry when compared to all other industries with data such as Very Difficult (11%), Difficult (18%) and Neutral (37%). This highlights the precarious and volatile business environment faced by the restaurant and hospitality industry covered by Group Three Awards.
29. Therefore, the *Restaurant Industry Award*, *Hospitality Industry (General) Award* and the *Fast Food Industry Award* should be retained in Group Three as they continue to face the disproportionate consequences from the continued setbacks and obstacles of the attempted economic recovery from the devastating impacts of COVID-19.

Conclusion

⁵ Borland J (2021), [An assessment of the economic effects of COVID-19](#), Version 2, Fair Work Commission Research report 1/2021, 17 February.

⁶ Fair Work Commission (2021), *Statistical report—Annual Wage Review 2020–21*, Version 4, 6 April.

30. With consideration to all the above and the ongoing challenges of COVID-19 on the food and accommodation industry, the R&CA advocates that the minimum wage be granted a 0% annual increase for Group Three Awards.
31. If in the alternative, a quantum increase greater than 0% is granted, it is the R&CA's view that it would be unreasonable, in the current circumstances, for the minimum wages for Group Three Awards to be increased from 1 July 2021 as this would adversely affect small and medium sized businesses who have only recently been impacted by the recent wage increase on 1 February 2021 and face a concurrent legislated superannuation increase on 1 July 2021.
32. The R&CA submits that the Commission follow the precedent set in the *Annual Wage Review 2019-20*, that any potential increase for Group Three Awards be annual in effect on 1 February 2022 as this is 12 months after the previous date within which the prior increase took effect, to ensure consistency and reduce the punitive impact on a struggling sector of the economy.
33. R&CA submits that the Expert Panel should continue with the different operative dates and that the *Restaurant Industry Award*, *Hospitality Industry (General) Award* and the *Fast Food Industry Award* be retained in Group Three Awards.

We thank the Commission for considering our submission. If you wish to discuss R&CA's views further, do not hesitate to contact the Industrial Relations Department by email on ir@rca.asn.au or on 1300 722 878.

Regards



Wes Lambert CPA FGIA MAICD

Chief Executive Officer

Restaurant and Catering Australia