

Federal Opposition

Submission to the

Fair Work Commission Annual
Wage Review 2017-18

13 March 2018

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Introduction – The Opposition’s Proposal

1. The last decision of the Fair Work Commission Minimum Wage Panel (the Panel) found that there are around 2.3 million employees (22.7 per cent of employees) directly affected by the Panel’s decision, with increases also flowing on to other employees.
2. The Federal Labor Opposition (the Opposition) is proposing that the Panel provide a fair and economically responsible real increase in the National Minimum Wage (NMW) that recognises:
 - flat-lining wages, rising cost of living pressures and record high levels of household debt relative to incomes, continuing and persistent earnings inequality, and the gender pay gap;
 - the policies of the Abbott-Turnbull Government including cuts to payments and rising health costs; and
 - the threat these pose to consumer demand and the broader economy.
3. The Opposition notes evidence from comparable economies that demonstrates that significant increases in the minimum wage can be sustained without costing jobs.
4. The Opposition argues that the flexibility afforded by the minimum wage objectives allows the Panel to give weight to cost of living pressures faced by the low paid in making its determination this year, particularly in light of stagnant wages growth.

Legislative parameters

5. The Fair Work Act 2009 (the Act) requires the Panel to review the NMW and modern award minimum wages and make a NMW Order.¹
6. We note that in doing so the Panel is to be guided by the statutory objectives of “establish(ing) and maintain(ing) a safety net of fair minimum wages”² and ensuring

¹ *Fair Work Act (2009)* s 285.

² *Ibid* s 284.

that “modern awards, together with the National Employment Standards, provide a fair and relevant minimum safety net”.³

7. As the Panel has previously found, “the notion of fairness is at the heart” of these statutory objectives and “fairness in this context is to be assessed from the perspective of the employees and employers covered by the NMW or the modern award in question”.⁴
8. In determining the NMW Order the Panel is required to take into account:
 - the performance and competitiveness of the national economy, including productivity, business competitiveness and viability, inflation and employment growth;
 - promoting social inclusion through increased workforce participation;
 - relative living standards and the needs of the low paid;
 - the principle of equal remuneration for work of equal or comparable value;
 - providing a comprehensive range of fair minimum wages to junior employees to whom training arrangements apply and employees with a disability.⁵
9. Further, in reviewing modern award minimum wages, the Panel must take into account:
 - relative living standards and the needs of the low paid;
 - the need to encourage collective bargaining;
 - the need to promote social inclusion through increased workforce participation;
 - the need to promote flexible modern work practices and the efficient productive performance of work;
 - the need to provide additional remuneration for employees working overtime, unsocial, irregular or unpredictable hours, weekends or public holidays;
 - the principle of equal remuneration for work of equal or comparable value;
 - the likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden;

³ Ibid s 134.

⁴ Fair Work Commission, *Annual Wage Review 2016-17 Decision* [2017] FWCFB 3500, 27 [128] (*‘Wage Review 2017’*).

⁵ *Fair Work Act (2009)* s 284.

- the need to ensure a simple, easy to understand, stable and sustainable modern award system for Australia that avoids unnecessary overlap of modern awards; and
- the likely impact of any exercise of modern award powers on employment growth, inflation and the sustainability, performance and competitiveness of the national economy.⁶

10. These legislative parameters provide a balanced set of criteria for the Panel’s deliberations and underpin the importance of a strong minimum wage as a safety net and a cornerstone of fairness, social inclusion and living standards.
11. The Opposition agrees with the Panel’s conclusion that “... [the] legislative scheme [is] remedial or beneficial. It is intended to create a regulatory instrument which intervenes in the market setting minimum wages, to lift the floor of such wages.”⁷ We also recognise that the Panel concluded that the task of the Panel is to “strike a balance between competing interests”.⁸
12. However, it is not inevitable that each of the matters that the Panel is required to take into account are, in all circumstances, in competition. Indeed, in the current context of stagnant wage growth and declining enterprise agreement making, many of the social, economic and collective bargaining considerations before the Panel argue in favour of increasing the NMW.
13. The Opposition also agrees with the Panel that “no particular primacy is attached to any of the considerations... [and] that the weight to be attributed to a particular statutory consideration may vary from year to year depending on the social and economic context in a particular Review”.⁹
14. The Panel should have particular regard in making this year’s decision to the impact of Abbott-Turnbull Government policy settings on relative living standards and to the needs of the low paid.

⁶ Ibid s 134.

⁷ *Wage Review 2016-17*, 28 [135].

⁸ Ibid 30 [141].

⁹ Ibid 13 [50].

Economic Considerations

15. The Australian economy is not delivering for working and middle-class Australians. While global economic conditions are buoyant and continuing to improve, this is not translating into better outcomes for Australian households. This largely reflects the combination of flat-lining wages, rising cost of living pressures and record high household debt-to-income levels.
16. In particular, persistently low wages growth has been identified as a key risk to household consumption and the broader Australian economy.

Flat-lining wages

17. Wages growth is still sitting around record lows at 2.1 per cent over the year to December.¹⁰ Real wages are also stagnating with nominal wages growth (2.1 per cent) barely exceeding inflation (1.9 per cent) over the year to December.¹¹ Further, compensation per employee did not grow at all in the December quarter, and was only 1.8 per cent higher over the year, according to the latest National Accounts.¹²
18. CBA has recently argued that “overall income growth has run at the sort of pace normally seen in a recession. Parts of the economy have effectively experienced an “income recession””.¹³
19. There is no single cause of wage stagnation. It reflects both cyclical and structural factors.
 - Over the past year, GDP growth has slowed and remains well below trend, with the economy growing by 0.4 per cent in the December quarter and a sluggish 2.4 per cent over the year.

¹⁰ Australian Bureau of Statistics (ABS), *Wage Price Index Australia* (December 2017) cat. no. 6345.0.

¹¹ ABS, *Consumer Price Index* (December 2017) cat. no. 6401.0.

¹² ABS, *Australian National Accounts: National Income, Expenditure and Product* (December 2017) cat. no. 5206.0.

¹³ Commonwealth Bank of Australia (CBA), Global Markets Research, ‘The wages recession – what is CBA data telling us?’ (1 Feb 2018).

https://www.commbank.com.au/content/dam/commbank/corporate/research/publications/economics/economic-issues/australia/2018/020218-Wages_Recession.pdf

- There is spare capacity in the labour market from weak demand. Nearly 1.1 million people are underemployed and more than 720,000 people are unemployed¹⁴, with high pockets of unemployment in many regional areas¹⁵
- Structural changes in the labour market have disadvantaged some of the lowest paid workers, with the proportion of employees working on a casual basis increasing from 23.5 per cent in August 2012 to 25.1 per cent in August 2017, including growth in the proportion of full-time casual employees from 10.3 per cent to 11.6 per cent.¹⁶
- According to the ABS over the year to August 2017, “the median weekly earnings of male full-time casual employees actually fell by 1 per cent and remained unchanged for female full-time casual employees”.¹⁷
- A significant proportion of the jobs growth over the past year has come from the top five award reliant industries: one quarter of the jobs growth over the past year has been concentrated in health care and social assistance (28.8 per cent award reliance)¹⁸ and the retail (34.5 per cent award reliance)¹⁹ and accommodation and food services industries (42.7 per cent award reliance)²⁰ collectively contributed to another quarter.²¹

20. Wages growth has remained around record lows despite the 3.3 per cent increase in minimum and award wages that commenced on 1 July 2017 and directly affected nearly 1 in 4 employees. The impact of this decision on overall wages growth has been less than expected, according to the RBA.²²

¹⁴ Fair Work Commission (FWC), Statistical report—Annual Wage Review 2017–18 (8 March 2018), Table 6.1. <https://www.fwc.gov.au/documents/sites/wagereview2018/statistical-reporting/statisticalreport.pdf>

¹⁵ Labour Market Information Portal, *Unemployment Rate by Labour Force Region* http://lmip.gov.au/default.aspx?LMIP/LFR_SAFOUR/NSW_LFR_LM_byLFR_UnemploymentRate

¹⁶ ABS, *Characteristics of Employment* (August 2017) cat. no. 6333.0.

¹⁷ ABS, (Media Release, 26 February 2018) cat. no. 6333.0.

¹⁸ FWC, above n 15, 34, Table 7.1.

¹⁹ Ibid.

²⁰ Ibid.

²¹ ABS, *Labour Force, Australia, Detailed, Quarterly* (November 2017) cat. no. 6291.0.55.003.

²² Reserve Bank of Australia, *Statement on Monetary Policy*, February 2018, 35.

Impact of stagnant wages on economic growth

21. The RBA, the Government and many major forecasters have warned that sustained weakness in household incomes and wages is a key risk to consumption growth and the overall economic outlook:

- The RBA Governor has described Australia as experiencing a “crisis of low pay”²³ and the latest RBA Statement on Monetary Policy notes that the “outlook for household income growth continues to represent a significant uncertainty for the consumption forecasts.”²⁴
- According to the 2017-18 Mid-Year Economic and Fiscal Outlook, “Uncertainties around the forecast for household consumption remain. Household consumption growth has slowed over the past year and there is a risk that continued subdued income growth may result in slower consumption growth than forecast”.²⁵
- According to CBA, “the weakness in wages growth is a significant economic risk” and the “weakness in household incomes remains a major threat to consumer activity.”²⁶

22. Sustained record low wages growth has put acute pressure on households which also face rising cost of living pressures, particularly the cost of essentials. For example, over the past year:²⁷

- electricity prices have risen by 12.4 per cent – around 6 times greater than wages growth;
- health prices have risen by 4 per cent – 2 times greater than wages growth;
- education costs have risen 3.2 per cent – 1.5 times wages growth; and
- residential house prices have increased by more than 8 per cent – four times faster than wages growth.

²³ Australian Broadcasting Corporation (ABC), ‘Reserve Bank boss Philip Lowe urges workers to push for pay rises’ (29 June) <http://www.abc.net.au/news/2017-06-29/rba-governor-philip-lowe-goes-marxist/8662228>

²⁴ Reserve Bank of Australia, *Statement on Monetary Policy* (February 2018), 64.

<http://www.rba.gov.au/publications/smp/2018/feb/pdf/statement-on-monetary-policy-2018-02.pdf>

²⁵ The Australian Government, *2017-18 Mid-Year Economic and Fiscal Outlook* (December 2017), 20.

²⁶ CBA, above n 14.

²⁷ ABS, *Consumer Price Index, Australia* (December 2017) cat. no. 6401.0; *Wage Price Index, Australia* (December 2017) cat. no. 6345.0.

23. At the same time, many households face high levels of debt, with household debt at record highs as a share of disposable income.²⁸
24. The Reserve Bank Governor, Philip Lowe, has highlighted debt and cost of living as issues for households, noting that “the household sector is also dealing with higher levels of debt relative to income. Higher electricity prices are also affecting household budgets.”²⁹
25. The combination of weak wages growth, rising cost of essentials and high household debt has contributed to households drawing down on their savings to fund current consumption. This is reflected in the sharp decline in the household savings ratio, which has fallen to its lowest level in around a decade, at 2.7 per cent.³⁰ This suggests that recent growth in consumption may not be sustainable without an improvement in wages growth.
26. Household consumption represents around 55-60 per cent of the Australian economy and is therefore a critical driver of growth.³¹ While consumption made a solid contribution to growth in the December quarter, many economists have warned this may be temporary, given the weakness in retail figures in January and persistently low wages growth.³²
27. Many economists have recently argued that increases in wages are necessary to for sustainable economic growth and prosperity going forward. According to the Reserve Bank Governor, “stronger growth in real wages would also boost household incomes and create a stronger sense of shared prosperity.”³³

²⁸ Reserve Bank of Australia, ‘Chart Pack – Household Sector’ (7 March 2018) <http://www.rba.gov.au/chart-pack/household-sector.html>

²⁹ Peter Martin and Eryk Bagshaw, ‘RBA Governor Philip Lowe says wage growth too low, rates to climb but not yet’, *The Sydney Morning Herald*, 11 August 2017 <https://www.smh.com.au/business/the-economy/rba-governor-philip-low-wage-growth-too-low-rates-to-climb-but-not-for-some-time-20170810-gxtb2l.html>

³⁰ ABS, *Australian National Accounts: National Income, Expenditure and Product* (December 2017) cat. no. 5206.0.

³¹ Ibid.

³² UBS, *Australian Economic Perspectives, ‘Consumption rebound unlikely to continue, given fading household wealth effect & still weak wages’* (9 March 2018).

³³ Gareth Hutchens, ‘Australia’s Reserve Bank Governor Urges Businesses to lift wages’, *The Guardian* (online), 8 February 2018 <https://www.theguardian.com/business/2018/feb/08/australias-reserve-bank-governor-urges-businesses-to-lift-wages>

Affordability of an increase in the minimum wage – productivity

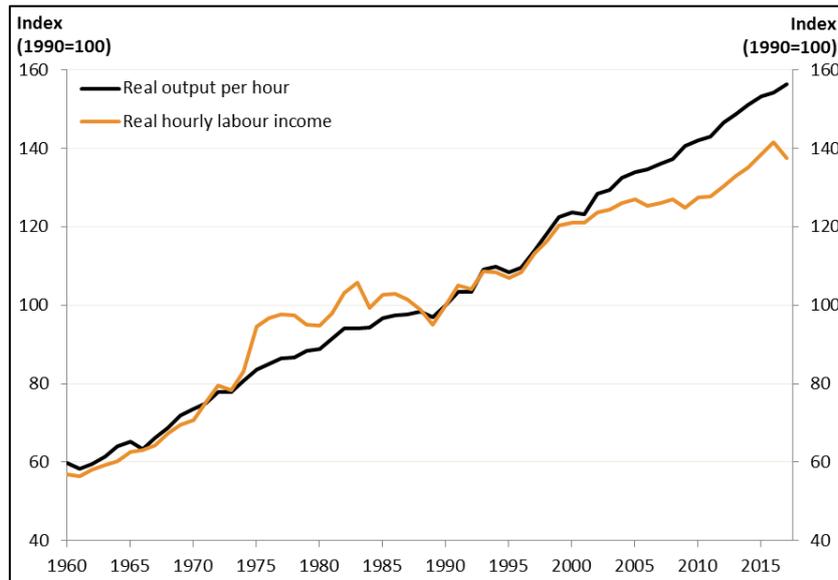
28. The Opposition believes that increases in labour productivity should support increases in real wages. While labour productivity has exhibited weaker growth over the past twelve months, there has nonetheless been a widening of the gap between labour productivity and real wages over the long term. Record low wages growth over the past several years has exacerbated this trend.
29. In the 2016-17 Annual Wage Review (AWR), the Panel noted that “over the last 5 years, the real value of the NMW and modern award rates has grown by less than half the rate of growth of labour productivity, at 4.3 per cent.”³⁴ Treasury has also noted that there is a “disconnect between labour productivity and real wages”.³⁵
30. Further, the Reserve Bank Governor recently noted, that even if productivity growth were to be around the average of recent years, “a faster rate of wage increase should still be possible.”³⁶
31. As the chart below shows, labour productivity has outstripped growth in real wages over the past two decades. Whereas real labour income tracked (or even briefly exceeded) productivity growth in the four decades from 1960, a decoupling has been marked since the early 2000’s. Real labour income would be roughly 20 percentage points higher (based on 1990 levels) had labour income growth tracked productivity growth.

³⁴ *Wage Review 2016-17*, 21 [91].

³⁵ The Australian Government the Treasury, *Analysis of wage growth* (November 2017), 57.

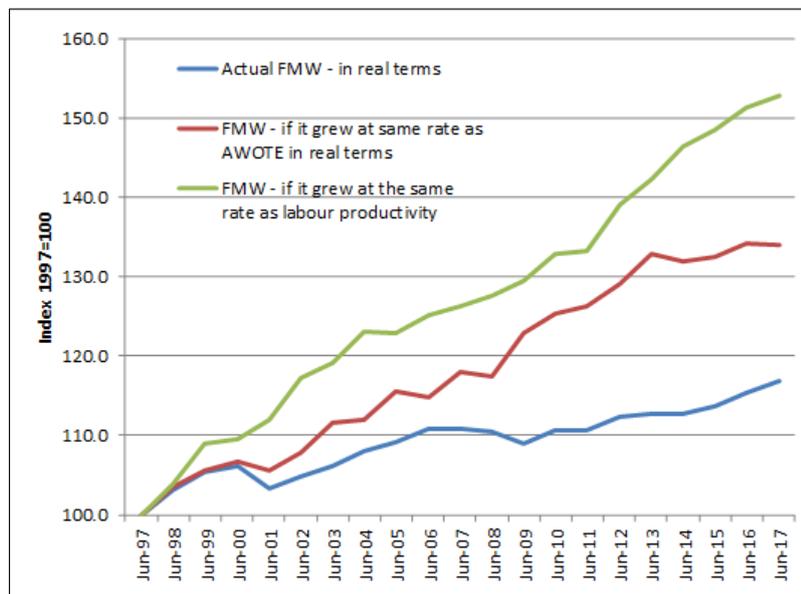
³⁶ Gareth Hutchens, above n 33.

Chart 1: Real productivity versus real labour income³⁷



32. Additionally, the graph below shows that the real value of the minimum wage is far lower than it would have been had it grown at the rates either Average Weekly Ordinary Time Earnings or Labour Productivity in the past two decades.³⁸

Chart 2: Real Minimum Wage value – actual and comparable growth scenarios



³⁷ Source: Updated, based on ACTU calculations (M Cowgill, 2013, *A Shrinking Slice of the Pie*) on ABS 5204, ABS 6291.0.55.001, Butlin 1977. Chart shows real total factor income per hour, compared to real labour income per hour, including employers' social contributions and the imputed labour income of the self-employed. Both series are deflated using the GDP implicit price deflator.

³⁸ ABS, *Characteristics of Employment, Australia* (August 2017) cat. no. 6333.0; *Average Weekly Earnings* (November 2017) cat. no. 6302.0 ; *Australian National Accounts: National Income, Expenditure and Product* (December 2017) cat. no. 5602.0 ; *Consumer Price Index* (December 2017) cat. no. 6401.0.

33. Further, there is evidence that higher minimum wages will improve productivity. According to the International Labour Organization, higher minimum wages are associated with greater labour productivity, lower turnover in staff, an increase in productivity-enhancing training, and firm and macro-level efficiency gains.³⁹

Affordability of an increase in the minimum wage – business profitability and viability

34. Stagnant wages have occurred alongside stronger growth in company profits, which have grown at 4.3 per cent over the past year – twice the rate of wages growth. CBA explains that over the past year, income has “flowed mainly to company profits and government revenues. Households are yet to receive any real benefit.”⁴⁰
35. Despite small business employees disproportionately relying on NMW and awards, at the time of writing, the latest data shows that profit margins grew more rapidly for small businesses than across all businesses in 2015–16 and for the annual average over the 5 years to 2015–16.⁴¹
36. The Panel in its 2016-17 determination noted that consistent with these profit outcomes, bankruptcy rates remain quite low and the entry of new businesses exceeded the exits by a margin that exceeds that of 2015.⁴² The AWR 2017-18 Statistical Report (the Statistical Report) finds a continuation of that trend for 2016-17, notwithstanding last year’s 3.3 per cent increase to the NMW.⁴³
37. Wages are a component of the “real unit labour cost” for businesses. Real unit labour costs are around 5 per cent below their December 2007 levels.⁴⁴
38. According to the December 2017 Sensis Business Survey, a lack of sales remains overwhelmingly the most cited barrier to taking on new employees for small and

³⁹ International Labor Organisation, ‘Minimum Wages and Labour Productivity’ (2015) http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/genericdocument/wcms_476157.pdf

⁴⁰ Commonwealth Bank of Australia, above n 14.

⁴¹ ABS, *Australian Industry 2015-16* (May 2017) cat. no. 8155.0 .

⁴² *Wage Review 2016-17*, 11 [40].

⁴³ FWC, above n 15.

⁴⁴ *Ibid.*

medium sized businesses (at 41%).⁴⁵ In contrast, the survey found the number of small and medium businesses citing labour costs as a barrier to taking on new employees had declined from 9% (Dec. 2016) to 7%.⁴⁶

Relative living standards and the needs of the low paid

39. The Opposition notes the Panel’s distinction between relative living standards and the needs of the low paid. The former comparing “living standards of workers reliant on the NMW and modern award minimum rates”⁴⁷ with other non-managerial workers. The latter requiring “an examination of the extent to which low-paid workers are able to purchase the essentials for a ‘decent standard of living’ and to engage in community life, assessed in the context of contemporary norms”.⁴⁸

Relative living standards

40. The Opposition notes that the Panel accepts that the minimum wage bite is “an important indicator of relative living standards and wage inequality”.⁴⁹

41. As the Opposition indicated in our previous submission,

... twenty years ago the minimum wage was 63 per cent of the median wage. Now it is 54 per cent. The decline is even starker relative to AWOTE: 52 per cent to 45 per cent over twenty years.⁵⁰

42. Further, as the Opposition has previously stated:

the decline in the minimum wage, relative to the wages of a typical worker, reflects the increase in earnings inequality that has occurred in Australia over the past generation. From 1975 to 2014, real wages increased by 72 per cent for the top tenth of earners, but by 23 per cent for the bottom tenth of earners. If cleaners and

⁴⁵ Sensis, *Sensis Business Index December 2017* (released 6 February 2018), 19.

⁴⁶ Ibid.

⁴⁷ *Wages Review 2016-17*, 13 [52].

⁴⁸ Ibid [53].

⁴⁹ Ibid 17 [69].

⁵⁰ Federal Opposition, Submission to the *Fair Work Commission Annual Wage Review 2017*, 29 March 2017, [45] ; OECD Statistics March 2017: <https://stats.oecd.org/Index.aspx?DataSetCode=RMW>

retail staff had enjoyed the same wage gains as financial dealers and surgeons, they would be earning an extra \$16,000 a year.⁵¹

43. As previously noted, earnings inequality in Australia is growing. As observed by the Panel, “Australian levels of inequality of household disposable income remains relatively high by OECD standards.”⁵²
44. The Opposition reiterates its previous observation that the OECD, the World Bank and the IMF have all focused on the connection between economic growth and equality. Rising inequality is linked to the fragility of growth. Growth spells are shorter in unequal economies and income re-distribution can assist in stabilising sustainable growth.⁵³
45. The Opposition notes that in the Panel’s Annual Wage Review in 2016-17 the Panel concluded that under the current law it was neither possible to set a target to be reached over time, nor to determine an increase which could be phased in over time. That to do so would effectively prioritise relative living standards and the needs of low paid over other considerations.
46. The Panel did, however, accept “the need to periodically assess the medium and long term consequences of successive Review decisions and have recognised that these decisions have both an immediate and cumulative impact”⁵⁴
47. While the bite has closed somewhat in the past three NMW decisions, it is primarily because wages growth is at record low levels.
48. Annual wage growth remains low. Currently at 2.1 per cent, it is only marginally above the previous year’s low of 1.9 per cent – the weakest since the ABS began collecting this data in 1997.

⁵¹ Leigh, A., 2015, “Fair gone? How governments can guard against growing inequality”, ANZSOG/VPSC Victoria Lecture Series, Melbourne, 19 February 2015, available at:

http://www.andrewleigh.com/fair_gone_how_governments_can_guard_against_growing_inequality

⁵² *Wages Review 2016-17*, 16 [63].

⁵³ Federal Opposition Submission to the *Fair Work Commission Annual Wage Review 2017* (29 March 2017), [52].

⁵⁴ FWC, *Preliminary hearing of the Annual Wage Review 2016-17* [2017] FWCFB 1931, [73].

Needs of the low paid

49. The Opposition notes Table 16.1 of the Statistical Report which outlines estimated average weekly expenditure for employee households in the bottom quintile of equivalised household disposable income for 2015-16.
50. The data confirms lower-income households spend a high proportion of their income on particular necessities (electricity, medical care). For example, households in the lowest quintile spend 3.3% of household income on energy, compared to 2.5% for average households.⁵⁵ However, these expenditures have risen in price above inflation annually, and the series may not appropriately capture the shifting composition of expenditure year-to-year (the previous series was for 2009-10).
51. As such, the Opposition draws the Panel's attention to the calculation of the "Real" Living Wage (a voluntary living wage calculated by the Resolution Foundation) which is determined in two steps. The first is through community consultation as to what goods and services a particular family type needs to spend money on, and then a costing of each of those elements of the budget. To determine a single living wage, different household types are weighted according to their prevalence amongst minimum wage workers.⁵⁶ The context of this approach, including its voluntary nature, and the differences in the UK income support system, mean that the Opposition is not suggesting that it is directly applicable. Rather it is presented to illustrate that there may be more timely ways of considering the needs of the low paid than data which is published every 5 years by the ABS.

Tax and transfer system

52. The Abbott-Turnbull Government has consistently argued that the best way to address the needs of the low-paid is through the tax and transfer system.

⁵⁵ *Wages Review 2016-17*, 17 [65].

⁵⁶ Connor D'Arcy and David Finch, 'Calculating a Living Wage for London and the rest of the UK' (November 2017) *Resolution Foundation Briefing*.
<https://www.livingwage.org.uk/sites/default/files/Living%20Wage%20calculation%20paper.pdf>

53. The Opposition agrees that the tax and transfer system has a significant role to play in alleviating the impact of earnings inequality and supporting the living standards of low paid workers.

54. The Opposition therefore welcomes the Panel's conclusion that "the changes to the tax-transfer system in the past two budgets have reduced the financial assistance that is provided for low-income families with children."⁵⁷

55. In particular the Panel has taken into account:

- abolition of the Schoolkids Bonus in July 2016 (worth \$430 per annum for each primary school student and \$856 per annum for each secondary school student)
- freezes to the base and maximum rate of Family Tax Benefit (Part A) and the maximum rate of Family Tax Benefit (Part B)
- maintaining the nominal value of income areas for working age and parent payments at their current levels for 3 years
- cessation of the Income Support Bonus in 2016

56. Since that decision the Opposition has estimated that the legislated freeze to Family Tax Benefit A, for example, will have the following impact:

- a family on \$60,000 with two primary school age children will be around \$440 worse off in 2018-19; and
- a single parent family on \$50,000 with two high school children will be around \$540 worse off in 2018-19.

57. Further changes to child care subsidies that will leave around 279,000 families worse off, including thousands of families on low incomes.

58. Additionally, low paid workers face material increases to their out-of-pocket healthcare costs including:

- an average increase of 22% over four years in out-of-pocket costs for GP services to \$35.76;⁵⁸

⁵⁷ *Wages Review 2016-17*, 17 [65].

⁵⁸ Department of Health, Quarterly Medicare Statistics (12 February 2018)

<http://www.health.gov.au/internet/main/publishing.nsf/Content/Quarterly-Medicare-Statistics>

- an average increase of 32% over four years in out-of-pocket costs for specialist attendance, rising to an average of \$73.78 per attendance;⁵⁹
- these increases have occurred at a time when the patient rebates for these services has been frozen;
- average private health insurance premiums have increased by 5.34% since 2014;⁶⁰
- health costs have increased at close to 4% year on year, partly driven by rising medical costs;⁶¹ and
- while the rebate for MBS items has been frozen, the MBS and PBS safety net thresholds and PBS co-payments have continued to be indexed, leading to greater out-of-pocket health costs for many low paid and vulnerable Australians.

59. The Opposition notes that the Panel has restated that it will not take account of measures not yet legislated but nonetheless notes the following changes still appear in the Government's budget:

- abolition of the Energy Supplement to new recipients – a cut of \$14.10 per fortnight for single pensioners or \$365 a year. Couple pensioners would be \$21.20 a fortnight worse off or around \$550 a year worse off;
- changes to the Pension Education Supplement and Education Entry Payment; and
- a scheduled increase to the Medicare Levy in 2019 of 0.5 percentage points (to 2.5 per cent) which will result in approximately an extra \$181 annually for a minimum wage worker.⁶²

Impact on low paid workers of the Government's policy on penalty rates

60. In the 2016-17 Annual Wage Review, the Panel accepted that the Penalty Rates decision formed "part of the broad factual matrix against which the Review is conducted".⁶³

⁵⁹ Ibid.

⁶⁰ Department of Health, Average premium increases by insurer by year,

<http://www.health.gov.au/internet/main/publishing.nsf/content/privatehealth-average-premium-round>

⁶¹ ABS, *Consumer Price Index, Australia* (Sept 2016), cat. no. 6401.0.

[http://www.ausstats.abs.gov.au/ausstats/meisubs.nsf/0/BFE8DFADEF985CA25805700171374/\\$File/6401_0_sep%202016.pdf](http://www.ausstats.abs.gov.au/ausstats/meisubs.nsf/0/BFE8DFADEF985CA25805700171374/$File/6401_0_sep%202016.pdf)

⁶² ATO [Medicare Levy Calculator](#) (single, no spouse or dependents).

⁶³ *Wages Review 2016-17*, 9 [30].

61. The Opposition has estimated that as a result of the Turnbull Government's failure to support The Opposition's legislation to protect penalty rates, low-paid workers who have had Sunday and Public Holiday penalty rates cut were up to \$1,378 worse off over the 2017-18 financial year. This is based on a comparison of what a worker could have earned had they received the 3.3 per cent increase in minimum and award wages, but not had their Sunday penalty rates cut.

- Under the Pharmacy Industry Award, workers have been left up to \$1,378 worse off.
- Under the General Retail Industry Award, workers have been left up to \$1,031 worse off.
- Under the Hospitality Industry (General) Award, workers have been left up to \$984 worse off.
- Under the Fast Food Industry Award, workers have been left up to \$843 worse off.

Table 1: How much did a worker lose last year as a result of the cut to penalty rates?

	Vic	NSW	Qld	Tas	WA	SA	ACT	NT
Fast Food Award FT/PT/Casual Level 1	\$843	\$805	\$768	\$813	\$737	\$775	\$843	\$775
Hospitality Award FT/PT Level 1	\$790	\$754	\$719	\$761	\$691	\$726	\$790	\$726
Hospitality Award FT/PT Level 6	\$975	\$932	\$888	\$940	\$853	\$897	\$975	\$897
Retail Award FT/PT/Casual Level 1	\$843	\$805	\$768	\$813	\$737	\$775	\$843	\$775
Retail Award FT/PT/Casual Level 6	\$1,031	\$985	\$939	\$995	\$902	\$949	\$1,031	\$949
Pharmacy Award FT/PT/Casual Level 1	\$843	\$805	\$768	\$813	\$737	\$775	\$843	\$775
Pharmacy Award FT/PT/Casual Pharmacist Manager	\$1,378	\$1,316	\$1,255	\$1,329	\$1,206	\$1,267	\$1,378	\$1,267

62. In the next financial year, cuts to penalty rates will be even higher. To the extent that the Panel did take into account the previous cut, the Opposition submits that it should do so again, noting the cut will become more significant this time.

Equal remuneration

63. The Opposition is committed to promoting gender pay equity and to reducing the gender pay gap in Australia. The Opposition notes the Panel’s conclusion that “women are disproportionately represented among the low paid and hence an increase in minimum wages is likely to promote gender pay equity.”⁶⁴
64. The gender pay gap has been between 15 and 19 per cent over the last three decades. A significant contributing factor to the size of this gap is the fact that women are more likely to be employed in low paid industries and jobs,⁶⁵ and are more likely than their male counterparts to be award reliant.⁶⁶
65. Women who rely on awards earn around 10 per cent less per hour than men who rely on awards, due to the lower award rates in occupations with majority female workforces.⁶⁷
66. The numbers of women that achieve pay rises through enterprise agreements are likely to have contracted even further recently as a result of the overall decline in enterprise agreement coverage in the public and the private sectors.⁶⁸ It is therefore likely that more women than ever are now reliant on the NMW and award wages.
67. Several international studies show minimum wages reducing the gender wage gap by elevating the “sticky floor”⁶⁹. The United States National Economic Council found that prospective increases in the federal minimum wage would reduce the gender pay gap.⁷⁰

⁶⁴ *Wages Review 2016-17*, 19 [78].

⁶⁵ KPMG, ‘She’s Price(d)less: The Economics of the Gender Pay Gap’ (October 2016), *Update Report prepared for Diversity Council Australia and the Workplace Gender Equality Agency*, 32.

⁶⁶ ABS, *Employee Earnings and Hours, Australia* (Mar 2016), cat. no. 6306.0.

⁶⁷ Barbara Broadway and Roger Wilkins ‘Probing the Effects of the Australian System of Minimum Wages on the Gender Wage Gap’ (Working Paper No 31/17, Melbourne Institute, December 2017).

⁶⁸ Department of Jobs and Small Business, *Trends in Federal Enterprise Bargaining*, September quarter, 2017.

⁶⁹ Helen Robinson, ‘Regional Evidence on the Effect of the National Minimum Wage on the Gender Pay Gap’, *Regional Studies*, 39:7, (2005); Boll et al, ‘Potential effects of a statutory minimum wage on the gender pay gap – a simulation-based study for Germany’, SOEP papers, no. 766, (2015); Dex et al, ‘Effects of Minimum wages on the Gender Pay Gap’, *National Institute Economic Review*, no. 173, (2000)

⁷⁰ National Economic Council, the Council of Economic Advisers, the Domestic Policy Council, and the Department of Labor, ‘The Impact of Raising the Minimum Wage for Women: And the Importance of Ensuring a Robust Tipped Minimum Wage’, The White House, Washington, 2014

68. The Melbourne Institute has found that the existing Australian award system mitigates the gap. More generally, increasing wage compression, including through minimum wages, has been shown to reduce the gender pay gap.⁷¹
69. Increasing award and minimum wages is therefore critical to reducing the gender pay gap.
70. While the Panel accepted in the 2016-17 Review decision that addressing the gender pay gap is an appropriate consideration,⁷² it nonetheless suggested that “...there are also other mechanisms available under the Act for providing more direct means of addressing the issue of the gender pay gap, such as through bargaining and the equal remuneration provisions in Part 2-7”.⁷³
71. To date there has only been one successful Equal Remuneration Order case under Part 2-7 of the Act, and no successful case in the low-paid bargaining stream. The Turnbull Government has taken no steps to address the underutilisation of these mechanisms, so the AWR is a critical mechanism available under the Act to address gendered undervaluation of work and to reduce the gender pay gap through increasing the wages of low-paid women.
72. The take home pay of many low-paid women has already been reduced by cuts to penalty rates. Women are more likely than men to be employed in the hospitality, retail, fast food, and pharmacy industries,⁷⁴ and they make up more than half of the Sunday retail, accommodation and food services workforces.⁷⁵ It follows that women will be disproportionately impacted by the Penalty Rates Decision.
73. Section 284(1)(b) requires the Panel to give consideration to promoting social inclusion through workforce participation. In 2014 Australia committed to the G20 target to reduce the gender gap in labour force participation by 25 per cent by 2025. Critical to reaching this target is a steady commitment to improving incentives for

⁷¹ Lawrence M. Kahn, ‘Wage compression and the gender pay gap’. (2015)

⁷² *Wages Review 2016-17*, 165 [665].

⁷³ *Wages Review 2016-17*, 167 [675].

⁷⁴ FWC, *4 Yearly Review of Modern Awards – Penalty Rates* [2017] FWCFB 1001, 164 [743]; 331 [1464]; Table 34, at 169; Table 44, at 280; Table 67, at 339; Table 70, at 391.

⁷⁵ ABS, *Characteristics of Employment, Australia* (August 2017) cat. no. 6333.0.

women to work. One important incentive to work is adequate remuneration, particularly for women in low-paid jobs.

74. The Opposition notes that the Turnbull Government's submission to the 2016-17 AWR drew upon selective analysis of the HILDA survey to assert that a significant proportion of low-paid employees are found in high-income households, thus mitigating against increasing the NMW.⁷⁶ The proposition to be taken from the Turnbull Government's submission is that low-paid workers, particularly women, do not need a pay rise because they can rely on the earnings of other members of their household.
75. The Opposition rejects this flawed proposition. We note that according to the HILDA survey, more than half of low paid workers are in low income households, and that only 13.6 per cent of low paid workers are in the top two household income deciles. In any event, all workers are entitled to receive fair remuneration for the work they do, regardless of their living arrangements.
76. It should not have to be said that women are entitled to be paid according to the value of the work that they do, not according to the income of their spouse. An outdated and paternalistic assumption that female workers are supported by the income of their parents, partners or spouses is no justification for maintaining NMW and award wage settings which do not provide a fair and relevant safety net for women.

Encouraging Collective Bargaining

77. The Panel notes that is required by the modern awards objective, and the objects of the Act to take account of the impact of any decision on collective bargaining. The Panel has observed that higher minimum wages discourages bargaining by workers, but lower minimum wages can discourage bargaining by employers.⁷⁷

⁷⁶ Australian Government Submission to the *Fair Work Commission Annual Wage Review 2017*, 29 March 2017, [10], [14] and [45]. Available at:

<https://www.fwc.gov.au/documents/sites/wagereview2017/submissions/ausgovsub.pdf>

⁷⁷ *Wages and Growth 2016-17*, 20 [83].

78. The 2017 September quarter saw only 680 enterprise agreements approved – the lowest in a quarter since 1995.⁷⁸ This is part of a longer term trend observed in the previous Panel decision.
79. In May 2008 (the year before the commencement of the Act), 16.5 per cent of the workforce was covered by awards and 39.8 per cent by collective agreements (both state and federal).⁷⁹
80. Collective agreement coverage peaked in May 2010, at 43.4 per cent of employees.⁸⁰
81. The decline in the percentage of employees covered by agreements accelerated in 2014, falling to 36.4 per cent of all employees (with 30.2 per cent of employees covered by federal agreements) by May 2016.⁸¹ During this period the number of employees covered by collective agreements also declined for the first time.⁸²
82. Between 2010 and 2014, the decline in collective agreement coverage was mostly attributable to a decline in non-union agreements. However, since then, union agreement coverage has declined, while non-union coverage has remained relatively stable.⁸³
83. Data from the Department of Employment Workplace Agreement Database records that employee coverage by current federal agreements rose from 23 per cent in 2009 to over 27 per cent in 2010 (most likely as the result of the establishment of a single federal system). Coverage peaked at 28.8 per cent of all employees in 2011, before declining steadily to 21.9 per cent in 2016. There has also been a decline in the number of employees covered by current federal CAs, from a peak of 2.65 million in 2011 and 2012, to 2.2 million in June quarter 2016.⁸⁴

⁷⁸ Department of Jobs and Small Business, *Trends in Federal Enterprise Bargaining* (September 2017).

⁷⁹ Since 2002, the collective agreement coverage had remained around 40 per cent.

⁸⁰ Anthony Forsyth and Andrew Stewart submission to the *2012 Fair Work Act Review*, 11.

https://submissions.employment.gov.au/empforms/archive/fair-work-act-review-2012/Documents/Forsyth_AnthonyandStewart_Andrew.pdf

⁸¹ Department of Jobs and Small Business, *Trends in Federal Enterprise Bargaining* (September 2017), 4.

⁸² David Peetz and Serena Yu, (2017) 'Explaining recent trends in collective bargaining' (Research Report 4/2017, Fair Work Commission, February 2017), 6.

⁸³ Peetz, D and Yu, S (2017) *Explaining recent trends in collective bargaining*. Fair Work Commission Research Report 4/2017 (commissioned by the Fair Work Commission for the Annual Wage Review 2016–17), 6.

⁸⁴ For an explanation as to why EEH estimates of CA coverage are higher than WAD estimates, see David Peetz and Serena Yu, above n 84, 5.

84. By September 2017, the number of employees covered by federal enterprise agreements had fallen further, to 1.76million.⁸⁵
85. Meanwhile wage increases in new federal enterprise agreement fell to 2.2 per cent in the September 2017 quarter, down from 3.4 per cent in the 2016 September quarter. Private sector agreements wage rises hit a 25 year low of 2.4 per cent and public sector agreements were historically low, at 2.0 per cent.⁸⁶
86. Further, in the industrial environment more broadly, we have seen termination of agreements at twice the long-term average.
87. Taken together, this evidence points to a decline in bargaining that suggests that the gap between agreement rates and award rates is large enough so as to discourage bargaining by employers. It therefore warrants that this consideration fall on the side of an increase to the minimum wage.

Promoting Social Inclusion through Increased Workforce Participation

88. The Panel's interpretation of this consideration is that it generally relates to maintaining employment opportunities for low-paid workers. The Opposition notes that in the 2016-17 Annual Wage Review the Panel observed that recent research, particularly in the United Kingdom:

...has fortified our view that modest and regular wage increases do not result in disemployment effects. Further that research suggests that the Panel's past assessment of what constitutes a 'modest' increase may have been overly cautious, in terms of its assessed disemployment effects.⁸⁷

89. The Turnbull Government maintains that increases to wages are a threat to employment. These claims rely on the overly simplistic constructions of labour 'supply

⁸⁵ Department of Jobs and Small Business, above n 82, Table 4.

⁸⁶ Ibid, Table 1.

⁸⁷ *Wages Review 2016-17*, 5 [14].

and demand'; a formulation which economists note is based on based on the assumption of 'perfect competition' in labour markets.⁸⁸

90. The weight of evidence does not support the Turnbull Government's view:

- The Centre for Economic and Policy Research found the "weight of that evidence points to little or no employment response to modest increases in the minimum wage".⁸⁹
- Meta-analyses have found no statistically significant negative employment effects of the minimum wage. For example, Doucouliagos and Stanley's meta-analysis concluded that their findings "...corroborate [Card and Krueger's] overall finding of an insignificant employment effect (both practically and statistically) from minimum-wage raises".⁹⁰

91. Evidence from the UK is that "if anything, the relationship between minimum wages and employment is estimated to be positive".⁹¹ The Opposition notes that since the last Annual Wage Review, the UK Low Pay Commission (LPC) has published further data on the Conservative Government's progress in their plan to increase the minimum wage (called the National Living Wage) to 60 per cent of median wages.

92. The introduction of the NLW resulted in an increase from £6.50 to £7.20 in April 2016 (10.8 per cent)⁹², to £7.50 in April 2017 (4.2 per cent)⁹³ and to £7.83 (4.4 per cent) in April 2018.⁹⁴ There were 1.5 million people (6.4 per cent of workers) covered by the

⁸⁸ Dale Belman & Paul J. Wolfson, 'What Does the Minimum Wage Do?' (2014) *Upjohn Institute for Employment Research*; Alison L. Booth & Pamela Katic, 'Estimating the Wage Elasticity of Labour Supply to a Firm: What Evidence Is There for Monopsony?' (September 2010) *IZA DP No. 5167*.

⁸⁹ John Schmitt, 'Why Does the Minimum Wage Have No Discernible Effect on Employment?' (2013) *Centre for Economic and Policy Research (CEPR)*, 1.

⁹⁰ *Ibid*, 4.

⁹¹ Richard Dickens, Stephen Machin & Alan Manning, 'The Effects on Minimum Wages on Employment: Theory and Evidence from the UK' (1994) *NBER Working Paper #4742* (NBER).

⁹² Low Pay Commission, 'The National Living Wage: A summary of the LPC's findings on the £7.20 introductory rate', Autumn 2016, available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/579747/The_NLW_-_summary_of_LPC_findings_on_introduutory_rate.pdf

⁹³ Low Pay Commission, Letter to the Secretary of State from the Chair of the Low Pay Commission, 31 October 2016, available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/571777/Letter_from_LPC_Chair_2017_NLW_NMW_rates.pdf

⁹⁴ Low Pay Commission, 'National Minimum Wage Low Pay Commission analysis', December 2017, p. 1

NLW in 2017⁹⁵ and up to 7 million people received a larger pay rise in 2017 than they would have done absent the NLW increase⁹⁶.

93. At the time the policy was announced by the Conservative Government, their Office for Budget Responsibility estimated that the NLW could mean jobs growth of around 1 million jobs by 2021, instead of 1.1 million jobs.⁹⁷ However, after two substantial increases in the NLW, by 2017 the UK economy had already created 1.1 million jobs. Further, employment in the UK reached record high levels in 2017, including in the sectors where the NLW was prevalent. The unemployment rate also fell to the lowest level since 1975.⁹⁸

94. While employers told the LPC that their response to the NLW increases was most commonly to reduce profits, the LPC found that in fact “corporate profitability does not seem to have declined, and insolvencies are low in low-paying sectors”.⁹⁹

95. The Opposition also notes that since the last wage review, O’Brien, Markey & Pol (2018) conducted an empirical analysis of the short run employment effects of the Fair Work decision on penalty rates, testing four hypotheses. They sought to find, as a result of the Fair Work Commission Penalty Rates Decision, evidence of increases in the likelihood of working a Sunday; the mean number of Sundays worked per month; the mean Sunday hours worked; and the mean weekly working hours for affected employees.

96. This analysis found a statistically significant decrease in the proportion of Award employees working Sundays in the time analysed, contrary to the hypothesis.¹⁰⁰ There was a statistically significant decline in the mean number of Sundays worked, contrary to the hypothesis of an increase. The researchers were unable to find statistically

⁹⁵ Ibid 4.

⁹⁶ Ibid 6.

⁹⁷ The OBR estimated 1.1 million jobs would be created between 2015 and 2021 and that the NLW could result in 20,000 – 110,000 fewer jobs than there otherwise would have been. Low Pay Commission, ‘National Minimum Wage Low Pay Commission analysis’, December 2017, p. 1

⁹⁸ Low Pay Commission, above n 95, 3.

⁹⁹ Ibid 10.

¹⁰⁰ Martin O’Brien, Ray Markey, Eduardo Pol, ‘The Short Run Employment Impact of the FWC Penalty Rates Decision’ (Paper presented to the 14th Western Economic Association International Conference, Newcastle 11th January 2018), 11.

significant evidence of an improvement to number of Sunday hours worked, nor improvement in average weekly hours.¹⁰¹

97. While this is obviously early data, the Opposition asks the Panel to consider these findings, and the further analysis these researchers plan to undertake over time. It may offer some utility in testing the view that a reduction in wages leads to an increase in hours worked by existing employees, and an increase in employment. This argument was largely accepted by the Fair Work Commission when it reduced Sunday penalty rates for a number of awards.

¹⁰¹ Ibid.