

Working for business.
Working for Australia



2019-20 Annual Wage Review

First Submission of the Australian Chamber of Commerce and Industry

March 2020



Australian
Chamber of Commerce
and Industry

WORKING FOR BUSINESS.

WORKING FOR AUSTRALIA

Telephone 02 6270 8000

Email info@australianchamber.com.au

Website www.australianchamber.com.au

CANBERRA OFFICE

Commerce House

Level 3, 24 Brisbane Avenue

Barton ACT 2600 PO BOX 6005

Kingston ACT 2604

MELBOURNE OFFICE

Level 2, 150 Collins Street

Melbourne VIC 3000

SYDNEY OFFICE

Level 15, 140 Arthur Street

North Sydney NSW 2060

Locked Bag 938

North Sydney NSW 2059

ABN 85 008 391 795

© Australian Chamber of Commerce and Industry 2020

This work is copyright. No part of this publication may be reproduced or used in any way without acknowledgement to the Australian Chamber of Commerce and Industry.

Disclaimers & Acknowledgements

The Australian Chamber of Commerce and Industry has taken reasonable care in publishing the information contained in this publication but does not guarantee that the information is complete, accurate or current. In particular, the Australian Chamber is not responsible for the accuracy of information that has been provided by other parties. The information in this publication is not intended to be used as the basis for making any investment decision and must not be relied upon as investment advice. To the maximum extent permitted by law, the Australian Chamber disclaims all liability (including liability in negligence) to any person arising out of use or reliance on the information contained in this publication including for loss or damage which you or anyone else might suffer as a result of that use or reliance.

CONTENTS

1.	INTRODUCTION	1
1.1	Position / Proposed Minimum Wage Adjustment	3
1.2	Historical Precedents for the Unprecedented	4
1.3	Legislative Considerations	6
1.4	Core Contentions	8
2.	ECONOMIC OUTLOOK	12
2.1	Australian forecasts	12
2.2	Bushfires	13
2.3	COVID-19 (Coronavirus)	14
2.4	International Environment / Global forecasts	23
3.	ECONOMIC CONSIDERATIONS	24
3.1	Economic growth	24
3.2	Disposable Income	27
3.3	Productivity	28
3.4	Unit labour costs	30
3.5	Inflation	31
3.6	Business Competitiveness and Viability (Including Profits)	33
3.7	Small business	34
3.8	Conclusion	34
4.	WAGES GROWTH	36
4.1	Introduction	36
4.2	Legislative considerations	36
4.3	Wages Data	40
4.4	Wage increases in enterprise agreements	42
4.5	Wages Growth	43
4.6	Effect of excessive increases in NMW and award minimum wages	44
4.7	Wage growth in comparable economies	45
4.8	Conclusion	47
5.	LABOUR MARKET CONSIDERATIONS	48
5.1	Employment and Hours Worked	49
5.2	Unemployment	50
5.3	Long-term unemployment	51
5.4	Participation	52
5.5	Employment by Gender	53
5.6	Apprenticeships and traineeships	54
5.7	Underemployment	55
5.8	Labour market transitions	55
5.9	Employment Effects	57
5.10	Conclusion	57

6.	LIVING STANDARDS / NEEDS OF THE LOW PAID	59
6.1	Introduction	59
6.2	Award reliant employees and the low paid	60
6.3	Real Earnings	62
6.4	Household Disposable Income	62
6.5	Relative earnings and earnings inequality	64
6.6	Income and wealth inequality	65
6.7	The Gini Coefficient	66
6.8	Budget Standards and the Needs of the Low Paid	67
6.9	Poverty and poverty lines	68
6.10	Financial stress and deprivation	69
6.11	Conclusion	69
7.	AGREEMENT MAKING	70
7.1	Numbers of new and in-term agreements	70
7.2	Wage increases	73
7.3	Implications for setting the NMW / award minimum wages	73
8.	OTHER CONSIDERATIONS / SETTINGS	76
8.1	Equal remuneration and the Gender Pay Gap	76
8.2	Transitional Instruments	77
8.3	Junior Employees	79
8.4	Apprentices and Trainees	79
8.5	Employees with Disability	79
8.6	Piece Rates	80
8.7	Casual Loadings	80
8.8	Special National Minimum Wages	80
8.9	Wording of conclusions / orders concerning commencement	81
9.	ABOUT THE AUSTRALIAN CHAMBER	84

1. INTRODUCTION

1. The 2019-20 annual wage review takes place in the context of events rarely seen in history, particularly not in the post-federation, industrialised, contemporary history of our nation and world.
 - a. Late last year / early this year we saw the devastating impact of the bushfires that swept through much of the east coast and parts of South Australia.
 - b. Added to this, the health, economic and jobs crisis caused by the COVID-19 pandemic is of significant, if not unparalleled proportions, and is growing by the hour.
 - c. It is increasingly clear that Australia and the world is yet to feel the full effects of the COVID-19 pandemic, the magnitude and duration of which remain unclear. It is quite simply already the greatest health and economic crisis to face our nation outside the two world wars.
2. Australia faces extraordinary and challenging times. The COVID-19 public health crisis is increasingly spilling over into the Australian economy, businesses and jobs, impacting on all facets of Australia's economy and labour market. It is the largest policy challenge since the Global Financial Crisis, and is rapidly dwarfing that crisis, threatening domestic and global recession or worse.
3. Australia confronts the crisis as the 13th largest economy in the world, as a G20, highly developed economy, with high living standards and high levels of health and well-being. However, we also confront this crisis with the world's highest or near highest labour costs, poor productivity, and a declining collective bargaining system. As the World Economic Forum has noted, Australia ranks 95th for 'Flexibility of wage determination', out of a total of 141 countries, behind Russia (17), Yemen (49), and well behind New Zealand (22), the United Kingdom (30) and Canada (40).
4. The public health status of the virus has rapidly shifted and continues to do so hourly. In turn, the Federal and State Governments continue to update public health measures, including travel bans, restrictions on gatherings, and self-isolation requirements, making operating conditions very challenging for businesses, and indeed impossible where they are directed to close. This in turn has a massive and rapid economic and jobs impact.
5. Many of the businesses that are subject to merited and necessary health-based restrictions determined by the historic National Cabinet arrangement are in award reliant industries. It is hotels, cafes and restaurants, and personal services that are closed; these industries that are most directly impacted, and these industries that must pass on the full amount of any increase in awarded from these reviews.
6. Stand-downs, redundancies, reductions in hours and business closures are occurring very rapidly, far more rapidly than anyone can keep track of. Inquiries to ACCI member organisations have increased, and are dominated by queries about business existence, capacity to retain, stand down or lay off staff, and scope to decrease labour costs, as well as queries on restrictions and forced closures.
7. The situation is evolving daily, and in the unique circumstances we find ourselves, this adds up to a materially different annual wage review in 2020 than those that have preceded it.

8. Twenty-eight years of uninterrupted economic growth is clearly at an end, terminated by health and economic factors beyond the control of any Australian Government or any domestic policy approach.
9. The relevance and importance of this annual wage review to the economic and social future of Australia could not be greater. When jobs and businesses are at risk like never before, labour costs matter like never before.
10. It is more important than ever that Australia gets minimum wage setting right in 2020. The potential effects of this review are fundamental to retaining employment, retaining businesses and services, and ensuring the Australian economy is not further damaged during such uniquely challenging times. The decision in this review will also be critical to recovery, and the trajectory and pace of Australia recovering jobs, recovering business and recovering economically to a positive new normal.
11. The COVID-19 outbreak has created a significant shift in the considerations the Expert Panel must have regard to. As the situation stands at present, there is a clear need for genuine caution and certain consideration of the impact of any wage increases, and the economic and jobs environment in which any increases would take effect. The COVID-19 health crisis, government responses including public movement and other restrictions and stimulus / response packages, and the economic impacts, are evolving on an hourly basis. Businesses and financial markets are having trouble dealing with a rapidly unfolding situation that they have never seen before.¹ In these circumstances, we urge the Expert Panel to take account of the significant uncertainty, and to accept what cannot be known at this point and for this uncertainty, and every indication of down side risks, to be material considerations in decision making on this occasion.
12. Most of the data available at this point reflects the economic situation prior to the COVID-19 outbreak. With such a significant crisis developing and evolving, which will impact Australia and the world for the foreseeable future, the Expert Panel must seek to arm itself with the most up to date data it can in relation to the impacts of COVID-19, including reliable forecasts and estimations of the length of the downturn and long-term economic impacts. Where sufficient facts are not available to the Panel as decision-makers, this warrants delay or where this is not possible, it warrants particular caution and erring on the side of realistic downside assumptions and risks.
13. One critical piece of data, the March quarter ABS Australian National Accounts, which includes estimates of key economic flows in Australia, including GDP, investment, income and saving, will be released on 3 June 2020. This is within the timeframe the 2020 annual wage review decision should be handed down, barring exceptional circumstances as set out in ss.286(2) and 287(4) of the Fair Work Act.
14. The March quarter data will not illustrate the full extent of the economic impact of the COVID-19, as it will only cover the early stages of the economic impact of the forced shut-down of businesses and associated loss of employment. However, it will be a far superior to the December quarter 2019 data included in the statistical report, which was pre-fires, pre-virus, and unquestionably pre the actual economic and jobs reality Australia faces.
15. ACCI urges the Expert Panel to refrain from issuing any decision in this review until after this critical piece of data is released on 3 June. An opportunity to make brief additional submissions based on this data would also be appropriate. ACCI will also provide a short submission separately in relation to the timetable as requested in the Commission's statement [2020] FWC 1544.

¹ See Speech by Governor Philip Lowe, 19 March 2020.

1.1 Position / Proposed Minimum Wage Adjustment

16. Given that the full effect and duration of the COVID-19 outbreak cannot yet be known, and due to the extreme economic, community and labour market uncertainty of early 2020, ACCI is not yet in a position to make a recommendation to the Expert Panel on:
 - a. Whether there should be any increase in the NMW and minimum award wage rates in 2020, or whether the 2020 review should give rise to an order maintaining rather than increasing minimum wages.
 - b. If there were to be an increase, what level may be sustainable, consistent with the applicable statutory considerations, given the massive uncertainty and risks created by the COVID-19 pandemic and its economic and jobs impact.
17. We can however clearly submit that there should certainly not be another real increase, in excess of inflation, in Australian minimum wages, which are the minimum price of retaining jobs and rehiring . A further real increase is clearly not merited and would not be consistent with the Expert Panel's statutory considerations. To be blunt, we say any further inflation plus increase in minimum wages would realise and trigger the economic, jobs and business continuity risks that are so concerning all Australians. These risks may eventuate anyway, but another real increase makes real impacts on jobs, businesses, households and communities far more probable.
18. The Panel as constituted to date has emphasised that each annual review stands alone, based on the balance of considerations and evidence each time. The Panel has explicitly refused any mechanistic or multi-year target or calculation that robs it of this balancing of considerations based on the real economy of the time / as foreseeable in each review.
 - a. To achieve this balance on this occasion requires information we – Panel and parties - don't yet have. To be blunt, the data in the statistical report has been rendered next to useless by the rapidly changing situation in Australia and globally. Old data on the markedly different pre-COVID economy cannot provide a foundation for the range of considerations required of the Panel.
 - b. If we – Panel and parties – cannot get the information needed to determine the range of statutory considerations that must determine these matters, then the Panel must err on the side of substantial caution and proceed on the assumption of downside risks being realised. In a rapidly moving crisis, the assumption must be towards caution and erring against making any increase.
19. We hope to know more in coming weeks about what is actually going on in 2020. ACCI will clarify the outcome that should arise from this review as essential, more up to date information becomes available (to the extent it can be said to accurately characterise the economy and labour market of mid-2020), and soon as possible prior to Panel's consideration.

1.2 Historical Precedents for the Unprecedented

20. As set out above, ACCI cannot at this time and based on what is known and knowable, indicate to the Panel whether it should award any increase in minimum wages and, were that to be the case, what the level of any increase should be, albeit that it is clear that no case can be made for another real, above inflation increase in the current economic circumstances.
21. We can however recollect for the Panel, particularly its newer members, how minimum wage setters have set minimum wages in this country when exceptional and very grave circumstances have confronted our community, placing our economy, jobs and businesses at risk:
22. **GFC Minimum Wage Pause (2009):** In its January 2009 Decision, the then Australian Fair Pay Commission maintained minimum wages, rather than awarding any increase, which was effectively a minimum wage pause between mid-2009 and 1 July 2010. In reaching what was the only awarded minimum wage pause in the past 35 plus years, the AFPC was directly influenced by the rapid onset and impact of the GFC (the most recent analogue to the COVID-19 pandemic, although rapidly being dwarfed by current developments):

Since the 2008 Decision, the economic outlook has changed markedly. Employment growth is slowing, average working hours are falling, and the unemployment rate is expected to rise to 8.5 per cent.

As in previous downturns, the impact of these changes in the labour market will be felt most acutely by low-paid, low-skilled workers.

These are challenging times for the Australian labour market, and caution is warranted in the setting of minimum wages. In the current environment, the ability of employers to offer sufficient work has been curtailed and there is a heightened risk that an increase in regulated minimum wages would reduce employment and working hours.

One consequence of increased job losses and fewer hours of work would be significantly lower living standards for many Australians.

The Commission recognises that consumer prices continue to increase, putting some pressure on household disposable income. However, the Australian Government's changes to the tax/transfer system and its recent fiscal stimulus packages have provided real increases to disposable income for most households and have thus enabled the safety net to be maintained without the risk of increasing unemployment.

For most people, an adequate living standard depends on having sufficient paid work. Unemployment is the chief cause of relative poverty and social exclusion in Australia.

Economic downturns magnify the consequences of unemployment for low-paid, low-skilled workers, with many remaining jobless for extended periods of time and some leaving the labour market altogether. The social consequences of extended joblessness, especially for families, are considerable and well-known. The Commission considers that its decisions should not exacerbate the risk of unemployment for the most vulnerable groups of workers.

The Commission has therefore decided, following its 2009 Minimum Wage Review, that minimum wages will remain at their current levels and not be increased. In making this decision, the Commission has focused on protecting jobs and supporting a stronger recovery in employment as the economy improves.

The Commission notes that the next minimum wage review will be conducted by Fair Work Australia. The Commission considers that, by the next review, the outlook for the economy, and especially the labour market, will be more certain.²

- a. This is how Australian minimum wage setting responded to the GFC; a minimum wage pause.
 - b. We remind the Panel that the statutory considerations the AFPC had regard to were not substantially different to those in the Fair Work Act, and that both minimum wage setting frameworks complied with Australia's ILO treaty obligations under Convention 131. In other words, the statutory parameters demanded consideration of essentially the same economic and labour market factors, in arguably the most analogous 21st Century circumstances to those of 2020.
 - c. In Australia's political and economic history in avoiding the worst impacts of the GFC, particularly for jobs, much is made of deliberate stimulatory spending by the then government, on school halls, home insulation and payments to individual consumers. Under-recognised is the role played by the minimum wage system and the 2009 minimum wage pause in retaining jobs and businesses.
23. **Wages Pause (1981):** In December 1982 in the National Wage Case the then Conciliation and Arbitration Commission introduced a wage pause to last until June 1983³. This was a direct response to a protracted period of industrial unrest, rampant inflation and unemployment.
24. **Great Depression (1931):** In January 1931 the Court reduced 'all' award wage rates, including the basic wage and margins, by 10%, because of the depressed state of the economy in Australia and overseas⁴:

'The evidence submitted by the applicants was to the effect that the fall in the national income had been so serious as to disturb completely the whole economic balance. The primary cause of the present crisis was the rapid fall in prices received for exported surplus primary products admittedly to the extent of £40,000,000 per annum, and the world fall in general price levels. (p.8)

....

The Court refuses to make any variations in the basic wage ... but after much anxious thought it is forced to the conclusion that for a period of twelve months and thereafter until further order a general reduction of wages is necessary. As stated in the Court's judgement on the recent applications for cancellation of railway awards 'an emergency has arisen which calls for immediate re-adjustment in all directions; re-adjustment of costs of government, costs of production and services, rents, dividends, interest, and other returns to capital, and costs of living'. All must adapt themselves to the fundamental fall in national income and national wealth and to our changed trading relationships with other countries.'[2]⁵

² (2009) Australian Fair Pay Commission, Wage-Setting Decision and Reasons for Decision, July 2009, pp.8-9

³ Print F1600 23 December 1982

⁴ Basic Wage Inquiry (1930-1931) 30 CAR 21

⁵ See: <https://www.fwc.gov.au/waltzing-matilda-and-the-sunshine-harvester-factory/historical-material/methods-wage-adjustment/the>

25. It may be the case that if the COVID-19 crisis worsens from this point, that if the curve is not flattened, and the economic and jobs curve starts to look like the infection and fatality curves, that such approaches may need to come into active consideration in 2020.
26. If the ongoing health impact in Australia is comparable to that in Italy, and we suffer a massive shut down of our economy, such options and precedents will need to enter the Panel's consideration.

1.3 Legislative Considerations

27. The Act requires the Panel to take into account a number of considerations as part of its review of modern award minimum wages and the NMW, including the minimum wages objective, the modern awards objective, and the overall objectives of the Act.⁶ The minimum wages objective, as contained in a. 3 of the Act, requires the Panel to take into account the following matters in establishing and maintaining 'a safety net of fair minimum wages':

(a) the performance and competitiveness of the national economy, including productivity, business competitiveness and viability, inflation and employment growth; and

(b) promoting social inclusion through increased workforce participation; and

(c) relative living standards and the needs of the low paid; and

(d) the principle of equal remuneration for work of equal or comparable value; and

(e) providing a comprehensive range of fair minimum wages to junior employees, employees to whom training arrangements apply and employees with a disability.⁷

28. In pursuing a 'fair and relevant minimum safety net of terms and conditions', the following matters must also be taken into account by the Panel, as required by the modern awards objective:

(a) relative living standards and the needs of the low paid; and

(b) the need to encourage collective bargaining; and

(c) the need to promote social inclusion through increased workforce participation; and

(d) the need to promote flexible modern work practices and the efficient and productive performance of work; and

(da) the need to provide additional remuneration for:

(i) employees working overtime; or

(ii) employees working unsocial, irregular or unpredictable hours; or

(iii) employees working on weekends or public holidays; or

(iv) employees working shifts; and

⁶ See ss.3, 284 and 134.

⁷ s.284(1).

- (e) the principle of equal remuneration for work of equal or comparable value; and*
- (f) the likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden; and*
- (g) 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*
- (h) the likely impact of any exercise of modern award powers on employment growth, inflation and the sustainability, performance and competitiveness of the national economy.⁸*

29. The Panel attempts to balance these objectives applying broad judgment rather than a mechanistic approach.⁹ The Panel has consistently noted that while it identifies the issues that have impacted its decisions, it does not quantify the weight given to particular considerations.¹⁰
30. In undertaking this exercise of broad judgment, the Panel considers the relevant statutory criteria in the context of the prevailing economic and social environment.¹¹ It has described its approach as assessing changes over the past year and to consider longer term trends.¹² In explaining the reason for this approach the Panel has said:¹³

We pay particular attention to trends, because of the volatility in some of the economic indicators 30 and routinely look to developments over the medium and longer term, as well as to changes over the past year. The longer-term perspective reduces our reliance on contemporary data that can be volatile and subject to revision. It also enables us to see the cumulative effects of the annual changes that we focus on, including our own decisions.

31. The Panel has also acknowledged the need to periodically assess the medium- and long-term consequences of successive decisions, recognising that its decisions have both an immediate and cumulative impact.¹⁴
32. What should the Panel make of this balance of considerations in the unique and rapidly changing circumstances of 2020?
- a. In regard to the s.3(a) and (b) considerations, the COVID-19 pandemic precludes the Panel having sufficient certainty on economic and labour market considerations upon which any real increase, or perhaps any increase at all can be awarded.
 - b. What we do know is negative. There are massive risks to our national economy, businesses, jobs and prices, which have not confronted any minimum wage setter in decades, or at least arguably since the GFC, at which time similar considerations saw the awarding of an effective 12-month minimum wage pause.

⁸ s.134(1).

⁹ [2014] FWCFB 3500, endnotes 8-10.

¹⁰ See, for example, [2019] FWCFB 3500 at [8] and [2017] FWCFB 3500 at paras 15-17.

¹¹ [2017] FWCFB 3500 at para. 7.

¹² [2017] FWCFB 3500 at para. 7.

¹³ [2019] FWCFB 3500 at [25].

¹⁴ [2019] FWCFB 3500 at [25].

- c. The statutory considerations demand additional caution and even outright conservatism in approaching minimum wages in the current near unparalleled, and rapidly changing economic context. To be clear this is the worst, and least certain peacetime situation for a minimum wage setter, certainly since the GFC, but in all likelihood since the Great Depression, occasions which gave rise to zero increases or even minimum wage reductions.
- d. The balance of considerations the Panel has regard to in these reviews, must on this occasion cast serious doubt on the awarding of any increase, which may on proper consideration be quite inconsistent with the fundamental balances reflected in the provisions the Panel has regard to.
- e. A “fair” minimum wage for the purposes of the Fair Work Act in 2020 may well be in the same terms as the preceding / current order, with no increase payable. Any increase in real terms would appear to be quite clearly contrary to the economic and labour market considerations the statute directs the panel to in the current context.

1.4 Core Contentions

- 33. There are a number of key considerations for the Expert Panel in determining its approach in the most important review of the NMW and award wages in Australia in decades, and in the living memory of most Australians. These include in summary:
- 34. **Chapter 2, Economic Forecasts:** In 2019, the Panel preferred the view that “the economy is growing at a slower but still moderately healthy rate which is sufficient to support positive labour market outcomes”,¹⁵ and awarded a 3% increase, reduced from the preceding two years.
- 35. Such a conclusion is unequivocally not available to the Panel in 2020. Australia was facing very difficult economic circumstances stemming from the recent bushfires prior to the pandemic. Now, with COVID-19, Australia (and indeed the world) in facing the worst economic challenge since the Global Financial Crisis, if not since the Great Depression and the Second World War.
- 36. Concerns for our economy, business and jobs are mounting rapidly. Unknowns and downside risks are in increasingly sharp focus, giving rise to (a) substantial changes in the economic policy, away from surplus to stimulus, and (b) genuine concerns for the immediate future of many small and medium-sized businesses, as well as some large businesses, and the jobs they provide. There is the potential for mass job displacement and widespread reductions in consumer and investment confidence, and indications that unparalleled job losses or stand downs have already commenced. This is what the Australian Government, the National Cabinet, and the national policy community of business, unions, social service organisations and others, as well as governments throughout the world are working to combat.
- 37. At this stage, we do not know how long the COVID-19 outbreak and related restrictions will last, nor the impact on the economy and jobs. The full extent of the impact at this stage is therefore unknown and unknowable.

¹⁵ [2019] FWCFB 3500 at [99].

38. **Chapter 3, Economic Considerations:** As set out above, the outbreak of COVID-19 at the beginning of 2020 has created a very high level of uncertainty for the Australian economy. At this stage, any assessment of the likely magnitude of the impact of COVID-19 on the Australian economy is at best estimated and somewhat speculative. No one however is predicting other than a substantial negative outcome for our economy and for jobs – at issue, and likely unknowable, is the duration and extent of such a negative impact. This favours a very cautious approach to any minimum wage increase in 2020, and clearly dictates that the 2020 review and decision can in no way proceed on a business as usual basis.
39. Chapter 3 outlines the economic situation using the most recently available data. In most cases this is based on data for the December quarter 2019 – which reflects the pre-2020 economic environment. Thus, depicting the situation before the full impact of the bushfires, before emergence of COVID-19 and before any signs of the impact on both the international and Australian economy are apparent.
40. This is why it is critical for the Expert Panel to ensure the 2020 wage review decision is not made until at least after the release of critical economic data – the National Accounts statistics relating to the first quarter of 2020 on 3 June 2020, in order to better assess the impact of the virus on the economy. Even then caution will need to be exercised, and there is a real risk that the likely duration of the COVID-19 health crisis and economic impact will still not be clear in June.
41. All Australians hope that we ‘flatten the curve’ but there is a very real prospect we will not know where we are on the infection curve by early June, and therefore where we are on the economic and jobs impact curves. We will not whether the counter measures, restrictions and massive spending from the Australian government and governments throughout the world will be effective in stopping the virus or mitigating its economic and employment impacts.
42. **Chapter 4, Wages:** It is important that the Expert Panel take into account the lower expectations of wages growth, due to the low labour productivity and low inflation environment in Australia over the past five years. In addition, the COVID-19 crisis is likely to depress expectations even further.
43. NMW and award minimum wages growth has outpaced wages growth across the broader economy since 2014, leading to a narrowing of the wage base. In an environment of low labour productivity and low inflation, this is further eroding the weakening economic conditions, contributing to the slack in the labour market (particularly underemployment rates) and holding back employment opportunities for younger lower-skilled employees. These factors can only be expected to deteriorate further under the cloud of significant uncertainty caused by the COVID-19 outbreak. A further increase in the NMW and award minimum wages, particularly in excess of average wages growth and inflation, threatens to exacerbate the situation and further destabilise the labour market.
44. **Chapter 5, Labour Market:** The Panel should accord significant weight to labour market considerations in determining the rate of any minimum wage increase in 2020, and in particular job displacement and unparalleled and immediate risks to jobs across our economy. Prior to the bushfires and the COVID-19 crisis, there were grounds to conclude the labour market continues to strengthen.
45. However, this has changed and changed astoundingly rapidly. The uncertainty, around COVID-19, will weigh very heavily on employment in 2020, with exceptionally high risk that unemployment and underemployment will increase markedly throughout the year.

46. In fact, it seems clear from observation and feedback that unemployment has already spiked, and we are just waiting for the ABS to confirm this. This is expected to have significant and immediate impact on casual employees, a high proportion of whom are on NMW and award minimum wages, and on full and part-time employees to whom award wages apply directly and those close to minimum wage levels.
47. In the current uncertain / clearly negative economic environment, a further increase in the NMW and award minimum wages / a further substantial increase, is likely to exacerbate the almost certain substantial increase in unemployment, underemployment and long-term and youth unemployment. If a substantial increase was ordered, while employees might get a nominal boost in the form of monetary increase (although with no clarity on inflation and prices), in the process many may lose their employment and because the business is unable to pay the level of wages in the face of this crisis.
48. To be clear, an unprecedented number of employers cannot afford keep the people they have. A further increase in minimum wages threatens to only make this equation unfavourable for more employers and more minimum wage employment, putting more jobs at risk.
49. **Chapter 6, Living Standards / Needs of the Low Paid:** The data available indicates that consideration of employee needs, in the context of the wider balance of considerations the Panel has regard to does not compel the awarding of any minimum wage increase where the wider balance of considerations indicates this would be damaging, unduly risky, speculative, or unmerited. More generally, we do not yet know and cannot know how the COVID-19 health, economic and jobs crisis will impact on individual and household finances and the needs of the lower paid. Also relevant to any consideration in this area will be:
 - a. The unparalleled transfer payments to Australians in and out of work.
 - b. Any reductions in household costs as a result of social distancing / isolation (such as external activities and schooling costs), weighed against any additional costs, noting that many employers are meeting the additional costs of working from home (for example some employees will enjoy a temporary subsidisation of mobile phone or internet costs), or for many that such costs will become partially tax deductible for the first time.
50. **Chapter 7, Agreement Making:** Enterprise agreement numbers (new agreements and the total number of agreements in force) are in continuing decline. Any significant increase to award based minimum wages risks a negative impact and creating further disincentives to bargain. More generally, there is as yet no information on the impact on bargaining of the COVID-19 crisis.
51. Essentially, Australia stands at a tipping point in relation to its economic and jobs future. In the tempest of a near unprecedented crisis, and with little clarity on the medium to longer term outlook, it is crucial that economic settings are right.
52. The dangers of further risking jobs are significant and could have long lasting effects. One of the key conclusions employers urge the Expert Panel to reach is the need for a cautious approach, and erring on the side of genuine prudence in light of the known negatives, and known unknowns as the situation evolves.

53. **Chapter 8** addresses the usual range of additional and flow on implications necessary for the Expert Panel to address to deliver its decision, noting that if no increase is awarded (which remains a very real possibility and something ACCI may well commend to the Panel in due course) then a 2020 minimum wage order will still be required¹⁶.

¹⁶ S.285(2)(c) of the Fair Work Act 2009.

2. ECONOMIC OUTLOOK

54. Prior to recent events, expectations were for the economy to improve, albeit modestly, in the year ahead, with most Government and private forecasters predicting GDP growth between 2¼% and 2½%.
55. However, there were a number of downside risks to these expectations not included at the time these forecasts were prepared.
56. This includes the impact of the bushfires that have affected large parts of the east coast and South Australia, which is expected to slow GDP growth by up to 0.4%.
57. Subsequently, COVID-19 has very rapidly emerged as a major economic and jobs crisis both internationally and in Australia. While the full economic and employment impacts are still broadly unknown, the virus has already caused a major disruption to the Australian economy.
 - a. Australia's exports of goods and services with China have been particularly hard hit, with tourism, education and professional services the worst affected, due to the travel restrictions.
 - b. There were also impacts on agricultural commodities, particularly seafood and fresh produce, due to lower demand than anticipated over the Chinese New Year period.
 - c. More recently we have seen a major impact on financial markets, both in Australia and international, in response to fears of a longer-term economic impact.
58. Despite signs the economy was improving at the end of 2019, the lingering impact of the bushfires and the expanding COVID-19 crisis will weigh very heavily on the economy in the year ahead. It is clear economic growth will slow markedly in 2020. This will flow through to employment and wages growth. The balance of these economic considerations suggests now is not the time of a significant increase in the NMW and award minimum wages, and that the merited position may well be no increase for 2020-21.

2.1 Australian forecasts

59. Economic growth fell well short of expectations in 2019, with GDP growth of only 1.9% in the year to December, its slowest rate since the Global Financial Crisis in 2008-09. Our economy was already in a concerning position prior to the bushfires and prior to the COVID-19 virus.
60. The most recent economic forecasts from the Australian Government (through the Mid-Year Economic and Fiscal Outlook - MYEFO) and the Reserve Bank of Australia (RBA), were in December 2019 and early February 2020, before the COVID-19 driven economic crisis was apparent. These were generally positive, expecting modest growth in the year ahead. These forecasts will be substantially weakened by the increasing economic impacts of the COVID-19 crisis – and indeed we anticipate a complete revision of forecasts.

61. These earlier forecasts show GDP growth between 2¼% (MYEFO)¹⁷ and 2½% (RBA)¹⁸, with:
- Inflation expected to remain around 1.9% to 2% over the next two years – slightly below / at the very bottom end of the RBA target range.¹⁹
 - An improving global economy, with the IMF expecting global economic growth to strengthen from 2.9% in 2019 to 3.3% in 2020.²⁰
 - An improvement in consumer confidence underpinned by a recovering domestic housing market, with a flow on to household consumption expenditure, and retail spending — key factors holding back the economy over the past year.
 - Private business investment to remain subdued in 2019-20, with a reliance on Government spending to continue to support investment growth.
62. However, these forecasts are simply no longer relevant. The economy and labour market have changed virtually overnight across recent weeks, and have changed for the worse.
63. As discussed below, the recent devastating impact of the bushfires and the rapidly escalating COVID-19 crisis will weigh heavily on the economy over the remainder of 2020, leading to a marked slowing of economic growth, and potentially an economic recession. On balance, these economic considerations and the inherent risks, favour a genuinely cautious and moderate approach to wages growth, rather than an expansionary approach in this review. Caution and moderation in 2020 may favour no increase in minimum wages in this review.

2.2 Bushfires

64. The devastating impact of the bushfires, which swept through much of the east coast and parts of South Australia this summer were set to weigh heavily on economic growth, even prior to the impact of the Covid-19 pandemic. In addition to the loss of homes, businesses, livestock and forestry assets, significant local infrastructure has been destroyed, including roads, energy, telecommunication and community assets.
65. Many affected communities were looking at a 25 to 50% reduction to their economic activity in the 2019-20 financial year.²¹ For tourism reliant regions in particular, with millions of Australians home bound and lacking confidence, the actual impact will clearly now be much worse.
66. Tourism and agriculture are the sectors most impacted - directly accounting for 16% of total employment in the wider areas. In NSW and Victoria, tourism accounts for 7.2% of overnight visitors and 6.6% of tourism spending nationally. The affected areas also account for a particularly high share of agricultural production, including 22.7% of all dairy cattle in Australia and some significant wine-making regions.

¹⁷ Commonwealth of Australia 2019 *Mid-Year Economic and Fiscal Outlook 2019-20*. December 2019

¹⁸ Reserve Bank of Australia 2020 Statement on Monetary Policy. February 2020

¹⁹ Reserve Bank of Australia 2020 Statement on Monetary Policy. February 2020

²⁰ International Monetary Fund 2020 *World Economic Outlook*. February 2020

²¹ Reserve Bank of Australia 2020 Statement on Monetary Policy. February 2020

67. It could take years to re-establish milking herds, while most winemakers in these regions are unlikely to be able to harvest the grapes and produce a vintage this year, either because vines have been destroyed by the fires or the grapes have been tainted with smoke rendering them unviable for wine production.
68. The NSW South Coast, Victoria's Gippsland and Kangaroo Island are now not going to secure the recovery of tourism and demand they would have relied upon to even start to get back on their feet. It is also not yet clear what the impact of COVID-19 restrictions and changes in individual behaviours and preferences will mean for these regions. We do not yet know, for example, whether the expected tradespeople have remained in the fire impacted regions to continue reconstruction, or whether they have chosen to return home, nor we know whether raw materials and supplies are flowing through to allow reconstruction to proceed.
69. While the full extent of the impact of the bushfires cannot yet be determined, pre-virus estimates by the Reserve Bank indicate that the bushfires will lower GDP growth by 0.1% in 2020, with a 0.2% decline in the December quarter 2019 and March quarter 2020 followed by a small positive contribution over the remainder of the year associated with the recovery and rebuild effort.²² The Panel should proceed on the basis that:
 - a. The declines in growth will be much more significant and longer than previously assessed.
 - b. The shift to a small positive contribution across the second half of the financial year is far from assured, and in fact increasingly improbable.
 - c. The probability / risk of recession is significant, both in Australia and globally.

2.3 COVID-19 (Coronavirus)

70. The full extent of the impacts of the COVID-19 on the Australian economy and global economy more broadly are still unknown as the situation is still evolving by the hour, and relevant economic information revealing the full impact is not yet available.
71. However, it is clear the spread of COVID-19 around the world is having a devastating economic impact, a devastating impact on communities, businesses (particularly small businesses) and employees. There have been major disruptions to economic activity across the world, and to jobs. Globally and in Australia, the economic impact of COVID-19 is likely to be greater than that experienced during the GFC of 2008-09, and likely the greatest peacetime negative impact since the Great Depression.²³
72. The Government has made a number of announcements so far on actions to protecting the Australian community from the spread of COVID-19 (and likely more by the time this is lodged and published).

²² Reserve Bank of Australia 2020 Statement on Monetary Policy. February 2020

²³ Martin Wolf, 'How to stop the global recession becoming a depression', *AFR*, 18 March 2020.

- a. On 13 March 2020, Commonwealth, State and Territory governments agreed to provide public advice against holding non-essential, organised public gatherings of more than 500 people from Monday 16th March 2020.²⁴
- b. On 18 March 2020, the Government announced:²⁵
 - i. All non-essential indoor gatherings of greater than 100 people (including staff) will no longer be permitted from Wednesday 18 March 2020.
 - ii. Outdoor events of more than 500 attendees may not proceed.
- c. On 20 March 2020, the Government announced in addition to the above that for all non-essential indoor gatherings of fewer than 100 people including that in a given occupied space, there must be a density of no more than one person per four square meters of floor space, from 20 March 2020.²⁶
- d. On 22 March 2020, the Government announced that a number of facilities are restricted from opening from midday on 23 March. These include:²⁷
 - i. Pubs, registered and licenced clubs (excluding bottle shops attached to these venues), hotels (excluding accommodation).
 - ii. Gyms and indoor sporting venues.
 - iii. Cinemas, entertainment venues, casinos, and night clubs.
 - iv. Restaurants and cafes are restricted to takeaway and/or home delivery.
 - v. Religious gatherings, places of worship or funerals (in enclosed spaces and other than very small groups and where the 1 person per 4 square metre rule applies).
- e. On 24 March 2020, the Government announced a number of additional prohibited activities and venues, to apply from 11.59pm on 25 March 2020. These include restrictions to businesses and venues across food and drink, retail, beauty and personal care, entertainment, leisure and recreation, residential facilities, outdoor recreation, and non-residential institutions.²⁸
- f. These measures are in addition to the travel bans that were initially in place for Iran and the Republic of Korea (South Korea), before the Government's decision to close its borders to all non-citizens and non-residents from 9pm on 20 March 2017, affecting tourists that may otherwise have frequented Australian businesses.²⁹

²⁴ The Hon. Scott Morrison MP, Prime Minister, Media Statement, '[Advice on coronavirus](#)', 13 March 2020.

²⁵ The Hon. Scott Morrison MP, Prime Minister, Media Statement, '[Update on coronavirus](#)', 18 March 2020.

²⁶ The Hon. Scott Morrison MP, Prime Minister, Media Statement, '[Update on coronavirus](#)', 20 March 2020.

²⁷ The Hon. Scott Morrison MP, Prime Minister, Media Statement, '[Update on coronavirus measures](#)', 22 March 2020.

²⁸ The Hon. Scott Morrison MP, Prime Minister, Media Statement, '[Update on coronavirus measures](#)', 24 March 2020.

²⁹ <https://www.pm.gov.au/media/border-restrictions>

- g. From 9pm on 20 March 2020, travel to Australia was restricted to Australian citizens, residents and immediate family members.
73. The restrictions are rapidly evolving and further announcements are expected in the coming days. It has been reported that NSW, Victorian and the ACT will move to stage three restrictions, involving largely confining people to their homes.³⁰
74. Philip Lowe, Governor of the RBA said of COVID-19 and the subsequent restrictions:³¹
- The coronavirus is first and foremost a public health issue, but it is also having a very major impact on the economy and the financial system. As the virus has spread, countries have restricted the movement of people across borders and have implemented social distancing measures, including restricting movements within countries and within cities. The result has been major disruptions to economic activity across the world. This is likely to remain the case for some time yet as efforts continue to contain the virus.*
75. Countless businesses are operating at a significantly lowered capacity, either due to the social distancing requirements, or due to a lack of customers who have chosen to avoid public outings. Others have significantly reduced hours, for reasonings including closing the business for periods to conduct cleaning. Others are shut entirely. Many businesses, in particular those that have been forced to shut their doors now have little to no revenue coming in, so they do not have enough cash flow available to pay their bills, wages, rent and other outputs.
76. There has also been major disruptions to economic activity across the world. This is likely to remain the case for some time yet as efforts continue to contain the virus.

Impacts on particular sectors

77. COVID-19 has affected industries across the board. With the outbreak and the related containment measures in place, many businesses are reporting a significant loss of income, with many reporting they now have no turnover and therefore zero income.³²
78. The ABS released the results of the first Business Impacts of COVID-19 survey on 26 March 2020³³.
- a. Approximately half of the Australian businesses surveyed (49%) had experienced an adverse impact as a result of COVID-19 during the mid-March data collection period and 86% of businesses expected to be impacted in future months.
- b. It is important to note however that the collection period pre-dated the Australian Government's announcement of Phase 1 Social Distancing Measures, meaning that the next survey is likely to show worsened results.³⁴
- c. As at the time of the survey, adverse impacts were most prevalent in accommodation and food services with over three quarters of businesses (78%) already reporting impacts and 96% of businesses reporting that they expected impacts in coming months.

³⁰ Phillip Coorey, 'Eastern States poised to implement lockdowns', AFR, 25 March 2020.

³¹ <https://www.rba.gov.au/media-releases/2020/mr-20-08.html>

³² See, for example, ABC, 'Coronavirus measures in Victoria send hospitality industry 'to the brink of collapse'', 19 March 2020.

³³ 5676.0.55.003 - Business Indicators, Business Impacts of COVID-19, March 2020.

³⁴ 5676.0.55.003 - Business Indicators, Business Impacts of COVID-19, March 2020.

79. The virus has the potential to substantially impact on Australia's exports of goods and services. Export sectors particularly vulnerable are tourism, education and professional services, due to the travel restrictions.
80. The first round of travel bans introduced in February 2020, restricting entry from China to only Australian citizens and permanent residents, caused a major disruption to the beginning of the University year. Universities Australia estimated up to 100,000 Chinese students were unable to enter Australia to begin their studies in the first semester.³⁵ This estimate was before the blanket travel bans were implemented on 19 March 2020 limiting in-bound travel to only citizens and permanent residents of Australia.
81. Similarly, the tourism and the arts sector has been severely impacted by the sharp decline in tourists.
- The Queensland Tourism Industry Council (QTIC) has estimated that as of mid-February the impact of COVID-19 on Gold Coast tourism was greater than \$100 million, with over 3,500 businesses on the Gold Coast impacted.³⁶
 - This is a greater impact on Gold Coast tourism than experienced in the wake of SARS and the Global Financial Crisis. The impact will intensify the longer the travel bans continue and self-isolation practices are enforced for everyone (citizens and permanent residents) still able to enter the country.
 - QTIC estimated losses to Gold Coast Tourism could exceed \$1 billion.
 - The Gold Coast is just one (albeit a major) destination for overseas tourists in Australia, thus the overall impact to tourism and the overall economy is likely to be in the range of several billion dollars.
 - Tourism is of course strongly linked to award reliance and the direct impact of any increases awarded in these reviews.
82. The airline industry has been significantly affected, with the fallout from COVID-19 being described as "the single biggest shock that global aviation has ever experienced".³⁷ Two days after reducing domestic flights by 60% and international flights by 90%, Qantas has announced it will suspend overseas services altogether by the end of the month. It will stand down two-thirds of its workforce, amounting to 20,000 people, until at least the end of May.³⁸ Senior Group Management and the Board have increased their salary reductions from 30% to 100% until at least the end of this financial year, joining the Chairman and Group CEO in taking no pay.³⁹
83. Virgin Airlines is suspending all international services from 30 March to 14 June 2020,⁴⁰ and is reducing domestic capacity by 90%.⁴¹ It is standing down 8,000 of its 10,000 staff.⁴²

³⁵ ABS News 19 February 2020 - <https://www.abc.net.au/news/2020-02-19/coronavirus-travel-ban-hits-universities-students-stuck-in-china/11975938>

³⁶ Brisbane Times 18 February 2020 - <https://www.brisbanetimes.com.au/politics/queensland/coronavirus-tourism-rescue-package-as-queenslanders-remain-in-quarantine-20200218-p541tf.html>

³⁷ ABC, 'Coronavirus could see some airlines go bankrupt, but stimulus should help Qantas and Virgin', 18 March 2020.

³⁸ Robyn Ironside, 'Coronavirus: Qantas stops international flights, stands down workers', *The Australian*, 19 March 2020.

³⁹ Qantas, Media Release, 'Qantas Group outlines customer and employee impact of coronavirus-related network cuts', 19 March 2020.

⁴⁰ ABC, 'Virgin airlines grounds international fleet amid coronavirus pandemic', 18 March 2020.

⁴¹ ABC, 'Coronavirus sees Virgin Australia slash domestic capacity, Tigerair suspends flights, 8,000 workers to be stood down', 25 March 2020.

⁴² ABC, 'Coronavirus sees Virgin Australia slash domestic capacity, Tigerair suspends flights, 8,000 workers to be stood down', 25 March 2020.

84. Domestic airline Regional Express entered a trading halt on Tuesday and said it would not last six months under the current conditions.⁴³
85. The supply chains and web of industries directly reliant upon air travel is significant.
86. Taxi drivers are reporting that with airports virtually shut, there are very few fares.⁴⁴
87. Flight Centre announced that it will close 250 of its stores across Australia due to the business impact from the spread of COVID-19 and increased travel restrictions which meant demand softened significantly, with the timeframe for recovery being unclear.⁴⁵
88. Hotel revenues are also set to plummet over the coming months, as booking cancellations surge following bans on travel and large gatherings and the axing of major events. Data tracked by hotel analysts STR show revenue per available room (revPAR), the key industry metric of occupancy rate multiplied by average daily rate, fell by 15% in Sydney and Melbourne last month compared with February last year.⁴⁶
89. The downturn intensified into March, when the China travel ban was extended to Iran and South Korea, followed by Italy on 10 March. On 19 March the Government announced travel restrictions on all in-bound travel, with only citizens and permanent residents able to enter Australia.
90. STR figures show that in the first week of March, Sydney revPAR fell by 18% year on year. Melbourne was down 20%. The average price of a night's accommodation has also fallen.⁴⁷ As at 18 March 2020, over the next 90 days in Sydney and Melbourne, average occupancy for properties deteriorates, as cancellations outweigh new bookings.⁴⁸ Based on the past seven days, future demand has not only stopped – it has gone backwards.⁴⁹
91. This analysis was undertaken before any additional restrictions were placed on hotels, and before any proposals to transform hotels to hospitals.
92. There is a rapidly rising toll in cancelled shows, festivals and events, job losses, venue closures and lost revenue. The shutdown of events in response to COVID-19 has cost the live performance industry thousands of jobs and hundreds of millions of dollars in lost income.⁵⁰
93. Estimates in the early stage of restrictions indicated that a one month ban on all non-essential gatherings of more than 500 people would result in \$180 million in lost revenue, jumping to over half a billion dollars in the wake of a three month ban.⁵¹ As this estimate was undertaken prior to more stringent bans on non-essential gatherings, the outlook is now even more dire.
94. In Melbourne alone, where March is traditionally one of the busiest months, 149 events had been cancelled in the first two weeks (as at 17 March 2020), due to the ban on large gatherings.⁵²

⁴³ Lucas Baird, 'Government may need to do more: Virgin Australia boss', AFR, 18 March 2020.

⁴⁴ Robert Gottlieb, 'Coronavirus: These are the economic changes we need now', The Australian, 19 March 2020.

⁴⁵ Lisa Allen, 'Coronavirus: Flight Centre stands down 3,800 Australian workers', The Australian, 26 March 2020.

⁴⁶ See Larry Schlesinger, 'Hotels staring into the abyss as cancellations outweigh new bookings', AFR, 18 March 2020.

⁴⁷ See Larry Schlesinger, 'Hotels staring into the abyss as cancellations outweigh new bookings', AFR, 18 March 2020.

⁴⁸ See Larry Schlesinger, 'Hotels staring into the abyss as cancellations outweigh new bookings', AFR, 18 March 2020.

⁴⁹ See Larry Schlesinger, 'Hotels staring into the abyss as cancellations outweigh new bookings', AFR, 18 March 2020.

⁵⁰ Live Performance Australia, Media Release, 'Death knell for Live Performance Industry without targeted industry package', 22 March 2020.

⁵¹ See Live Performance Australia, Media Release, 'LPA calls for urgent confirmation from government on timeframe for ban on public events and emergency industry support package', 15 March 2020.

⁵² ABC news, 'Victoria enters state of emergency as coronavirus pandemic sees Melbourne universities take classes online', 17 March 2020.

95. Bars, pubs and restaurants are now forced to close or offer take-away only.
96. This is not just impacting restaurant turnover, but also staffing requirements, as although businesses may be able to continue to employ kitchen staff, it will be difficult to retain front of house staff. This has broader implications as front of house staff are typically casual and/or part-time. The restaurant and catering sector also has a very high proportion of NMW and award minimum wage employees.
97. In relation to the retail industry, the impact has been mixed. ABS released its preliminary estimate for Australian retail turnover for the month of February on 18 March 2020.⁵³ Australian retail turnover rose 0.4%, based on preliminary figures, in February 2020, seasonally adjusted, according to the latest ABS Retail Trade figures. The preliminary figures indicate a rise in turnover in the food and related sectors was offset by falls in clothing, footwear and personal accessories and other retailing sectors. While some businesses (e.g. those that rely on tourism) reported that COVID-19 negatively impacted turnover, a range of other businesses saw limited impacts from COVID-19 in February. This was a special data release in response to the COVID-19 crisis, with the data subject to revision when the final monthly Australian retail turnover numbers are published on 3 April, 2020. Since the ABS report, a number of retailers have temporarily closed their stores in response to COVID-19.⁵⁴

Wider economic impact

98. Most modelling of the economic impact of COVID-19 to date has been based on the SARS outbreak in 2003. However, the characteristics and impacts of the viruses are different, with COVID-19 more contagious, but less lethal than SARS. Authorities have been slower, or unable, to contain COVID-19, such that, as of 27 March the number of infections (over 480,000) is more than 60 times that of SARS and the number of deaths (more than 22,000) is more than 27 times.⁵⁵ With COVID-19 continuing to spread, the impact can be expected to be many multiples that of SARS.
99. Also, Australia's reliance on trade with China has changed dramatically since 2003, so the impact on the Australian economy is likely to be much greater than that experienced during the SARS epidemic. In 2003, Australia exports to China represented just 8.4% (\$9.1 billion) of total exports and our imports from China were only 11% (\$14.3 billion). Our dependence on China has grown dramatically over the intervening 16 years, such that in 2019, Australia's exports to China represented over 38% (\$150 billion) and our imports from China have increased to 26% (\$79 billion). Note, with this growth we have also seen a dramatic shift in the trade balance, with a 50% deficit in 2003 becoming almost a 100% surplus in 2019.⁵⁶
100. On 12 March 2020, based largely on the direct effect of lower international students and tourism expenditure, the COVID-19 outbreak was expected to detract at least ½ of a percentage point from economic growth in Australia in the March quarter 2020.⁵⁷
 - a. This is on top of the estimated deduction from growth from the bushfires of 0.2 percentage points across the December and March quarters.⁵⁸

⁵³ ABS 8501.0.55.008 - Retail Trade, Australia, Preliminary, February 2020 (released 18 March 2020).

⁵⁴ See, for example, Sue Mitchell, 'Smiggle owner Premier stands down 9000, Accent shuts 522 stores', AFR, 26 March 2020.

⁵⁵ <https://www.health.gov.au/news/health-alerts/novel-coronavirus-2019-ncov-health-alert/coronavirus-covid-19-current-situation-and-case-numbers#across-the-world> accessed at 27 March 2020.

⁵⁶ ABS 5368 - International Trade in Goods and Services, Australia, Dec 2019. 6 February 2020

⁵⁷ See Australian Government, Economic Response to the coronavirus, 12 March 2020.

⁵⁸ See Australian Government, Economic Response to the coronavirus, 12 March 2020.

- b. This can only have got markedly worse in the subsequent fortnight.
101. PwC conducted modelling showing that the pandemic could generate negative economic outcomes in all countries and regions on the basis that COVID-19 lowers both output and productivity. In over a year, Australia's GDP could fall by A\$34.2 billion, or 1.3%.⁵⁹ This would be clearly recessionary territory with all that entails for jobs, businesses and communities.
 102. KPMG Australia has conducted modelling of the impact of COVID-19 on the Australian economy. Without the Government's \$17.2 billion stimulus package announced on 12 March 2020, KPMG estimated GDP in 2020 to be around 0.9% lower than it otherwise would have been if not for COVID-19.⁶⁰ These impacts would amount to a hit to Australia's GDP of more than \$17 billion by the end of 2020.
 103. KPMG's modelling also suggests that if there are no further major surprises about the severity of the pandemic and markets respond in an orderly fashion then the Australian would take the better part of a decade to get close to its pre-COVID-19 trajectory.⁶¹ If the pandemic is more acute and long lasting and businesses and consumers lose confidence then markets could be disrupted by irrational behaviour and the economic consequences could be more severe.⁶²
 104. The Government's initial fiscal stimulus package announced on 12 March 2020 (discussed below) will soften the blow and help underpin business and consumer confidence, but it is far from clear it is sufficient as things worsen. KPMG has estimated that, assuming the Government's stimulus package is implemented in an optimal and efficient manner, it should add slightly more than \$20bn to GDP over the next 2 years.⁶³
 105. Economists estimate that economic activity could plunge about 10%, as happened in China when Beijing's efforts to contain the spread of COVID-19 brought the country to a standstill.⁶⁴ Official figures released this week show that Chinese industrial production fell 13.5 per cent in the first two months of 2020, compared with the same period in 2019, and retail sales plunged 20.5 per cent.⁶⁵
 106. With the virus continuing to spread to more countries at the end of February, the financial markets beginning to react both in Australia and internationally, in response to fears of a longer-term economic impact. The ASX200 lost 33% between 21 February and 19 March 2020. Similarly, the United States Dow Jones Index also lost over 31% since 21 February 2020.
 107. On 19 March 2020, the Australian dollar hit an 18-year low, falling as much as 4.6% from the NY close to hit US55.10c, its lowest since October 2020.⁶⁶

⁵⁹ PwC, 'The possible economic consequences of a novel coronavirus (COVID-19) pandemic', March 2020.

⁶⁰ KPMG Economics, *Estimating the potential impact of COVID-19 on the Australian Economy*, 16 March 2020, p. 16.

⁶¹ KPMG Economics, *Estimating the potential impact of COVID-19 on the Australian Economy*, 16 March 2020, p. 16.

⁶² KPMG Economics, *Estimating the potential impact of COVID-19 on the Australian Economy*, 16 March 2020, p. 16.

⁶³ KPMG Economics, *Estimating the potential impact of COVID-19 on the Australian Economy*, 16 March 2020, p. 16.

⁶⁴ Karen Maley, 'Josh Frydenburg faces the fight of his life', *AFR*, 18 March 2020.

⁶⁵ Karen Maley, 'Josh Frydenburg faces the fight of his life', *AFR*, 18 March 2020.

⁶⁶ The Australian, Trading Day: ASX seesaws as \$A dives to 18 year low, 19 March 2020.

108. To the week end 20 March 2020, the S&P/ASX 200 Index closed the week 13.1% lower at 4816.6, with \$703.3 billion being wiped off the boards in the last four weeks.⁶⁷ This is the second largest fall on record, surpassing the 10.9% decline seen in the previous week.⁶⁸
109. Only the 15.6% slide in October 2008, during the peak of the Global Financial Crisis, has been larger since the index was created in 2000.⁶⁹
110. The risks, and potential impact of COVID-19 on the Australian economy are increasing by the day. It is very clear it will have a major impact on economic growth in 2020.
111. In late February, the RBA revised its forecasts, estimating the decline in service sector exports (tourism, education and professional services) to be around 10%, or a 0.5% reduction in March quarter GDP.⁷⁰ While the RBA indicated it is yet to detect an impact on commodity exports, a sharp fall in global oil prices has lowered expectations for inflation.
112. This, along with the sharp decline in the financial markets, led the RBA to lower the cash rate to an historic low of just 0.25% following an extraordinary meeting of the Board on 19 March 2020.⁷¹
113. Also on 19 March 2020, the RBA announced it would be introducing quantitative easing measures to stem the deterioration of trading liquidity. These measures include buying Australian Government bonds on the secondary market to support the smooth functioning of the market and short term (1-month and 3-month) repo operations to provide liquidity to financial markets.⁷²
114. The ABS Labour Force survey released on 19 March 2020⁷³ showed an increase in employment of 2.0% and decrease in the unemployment rate to 5.1%. However, the data was collected before the more severe restrictions on people movement and social distancing were introduced and the economic impacts on businesses were becoming apparent. It is likely that these numbers will be revised with the release of the March 2020 data and that the March 2020 data will show the beginning of a sharp fall in employment, and consequent rise in unemployment, as businesses begin to lay off workers as economic activity slows due to COVID-19.
115. On 26 March 2020, Westpac chief economist Bill Evans predicted that Australia's unemployment rate will rise by 814,000 people in coming months, with the unemployment rate leaping from 5.1 per cent to 11.1 per cent.⁷⁴ Other senior sources in the banking and forecasting sectors said their analysis showed Australia was headed for an unemployment rate of 15% or more.⁷⁵
116. Treasurer Josh Frydenberg stated on 19 March 2020 that a recession was now "very hard to avoid".⁷⁶ It has also been predicted that Australia's economic growth in 2020 will be the worst since the Great Depression.⁷⁷

⁶⁷ William McInnes, 'ASX ends week 13pc lower, rocked by coronavirus uncertainty', *AFR*, 20 March 2020.

⁶⁸ <https://www.smh.com.au/business/markets/asx-posts-largest-weekly-fall-since-gfc-20200320-p54cd0.html>

⁶⁹ <https://www.smh.com.au/business/markets/asx-posts-largest-weekly-fall-since-gfc-20200320-p54cd0.html>

⁷⁰ Debelle G. 2020 *The Virus and the Australian economy*. Address to the Australian Financial Review Business Summit. Reserve Bank of Australia

⁷¹ Reserve Bank of Australia *Monetary Policy Decision*. 19 March 2020 - <https://www.rba.gov.au/media-releases/2020/mr-20-06.html>

⁷² Reserve Bank of Australia - Media release 18 March 2020 *Statement on Monetary Policy Decision* - <https://www.rba.gov.au/media-releases/2020/mr-20-08.html>

⁷³ ABS, 6202.0 - Labour Force, Australia, Feb 2020

⁷⁴ Gareth Hutchens, 'Fears PM's coronavirus welfare plan will see Australia's unemployment rate skyrocket', ABC, 26 March 2020.

⁷⁵ <https://www.smh.com.au/politics/federal/worst-since-1932-two-million-aussies-face-unemployment-queue-20200323-p54d14.html>

⁷⁶ Phillip Coorey, 'Government relents on Newstart, concedes recession likely', *AFR*, 19 March 2020.

⁷⁷ David Rogers, 'Coronavirus prediction: Australian economic growth to be worst since Great Depression', *The Australian*, 20 March 2020.

117. Globally, International Monetary Fund (IMF) managing director Kristalina Georgieva said the economic outlook for the world economy for 2020 "is negative—a recession at least as bad as during the global financial crisis or worse. But we expect recovery in 2021".⁷⁸
118. The OECD's Interim Economic Outlook found COVID-19 presents the global economy with its greatest danger since the financial crisis.⁷⁹ Annual global GDP growth is projected to drop to 2.4% in 2020 as a whole, from an already weak 2.9% in 2019, with growth possibly even being negative in the first quarter of 2020.⁸⁰
119. In relation to Australia, the OECD stated:⁸¹
- The adverse impact on confidence, financial markets, the travel sector and disruption to supply chains contributes to the downward revisions in all G20 economies in 2020, particularly ones strongly interconnected to China, such as Japan, Korea and Australia*
120. On 12 March 2020, the Australian Government announced COVID-19 as a pandemic (in advance of the WHO) and introduced a \$17.6 billion economic stimulus package to support the economy in the first half of 2020.⁸² The package included payments to provide cash flow support for small to medium businesses (turnover up to \$50 million) and wage subsidies for apprentices and trainees of up to 50% of their wages. These measures were both targeted at assisting employers to retain employees over the next six to 12 months, keeping people in work to lessen the number of workers that are laid off. It will also ensure that businesses maintain their skilled workforce, so they are in a better placed to return to normal operations once the current crisis has passed.
121. A second tranche stimulus package was announced on 22 March 2020 which builds on and strengthens measures announced in the first stimulus package. The package has three parts targeted at supporting individuals and households, businesses and the flow of credit.
122. The RBA package announced on 19 March 2020, as discussed above, was also focused on lowering borrowing costs and increasing the flow of credit in the economy to support jobs, income and businesses, particularly small businesses.
123. In preparing the 2020 Decision, it is important that the Panel take into account the risks to the Australian economy driven by COVID-19 and the measures put in place by the Australian Government and the RBA to support the Australian economy, businesses and jobs through this very challenging time. The Panel should not increase the NMW and minimum award rate to a level that would counteract these measures or further damage the economy.

⁷⁸ <https://www.afr.com/policy/economy/imf-forecasts-2020-global-recession-recovery-in-2021-20200324-p54d7h>

⁷⁹ OECD Interim Economic Assessment, 'Coronavirus: The world economy at risk', 2 March 2020.

⁸⁰ OECD Interim Economic Assessment, 'Coronavirus: The world economy at risk', 2 March 2020.

⁸¹ OECD Interim Economic Assessment, 'Coronavirus: The world economy at risk', 2 March 2020.

⁸² The Treasury 2020 Economic Response to Coronavirus. Commonwealth of Australia. <https://treasury.gov.au/coronavirus>

2.4 International Environment / Global forecasts

124. ACCI would usually address the international data in Table 14.2 of the Statistical Report⁸³

Table 14.2: IMF real GDP growth projections

	2018	2019 (estimates)	2020 (projections)	2021 (projections)
Australia	2.7	1.7*	2.3	–
Advanced economies	2.2	1.7	1.6	1.6
World	3.6	2.9	3.3	3.4

Note: Year-on-year percentage changes shown. World and domestic economy growth rates are calculated using GDP weights based on PPP. * Remains a projection.

Source: IMF (2020), *World Economic Outlook Update*, January,

<<https://www.imf.org/en/Publications/WEO/Issues/2020/01/20/weo-update-january2020>>; IMF (2019), *World Economic*

Outlook, October, <<https://www.imf.org/en/Publications/WEO/Issues/2019/10/01/world-economic-outlook-october-2019>>.

125. We are not going to address this as the global economy of late March is completely different to that of January. This has rendered the previous IMF forecasts meaningless at this stage. What will be interesting will be the downwards revisions in these forecasts from the IMF, which are hopefully available during the course of this review.
126. Note however, even on this pre-Pandemic forecasting, growth in 2020 and 2021 was to be lower than in 2018. The pre-Pandemic outlook favoured far more moderate thinking and attention to risk, even before the impact of bushfires and the COVID-19 pandemic.

⁸³ Statistical report—Annual Wage Review 2019–20, Version 5 –26 March 2020, Table X, p.

3. ECONOMIC CONSIDERATIONS

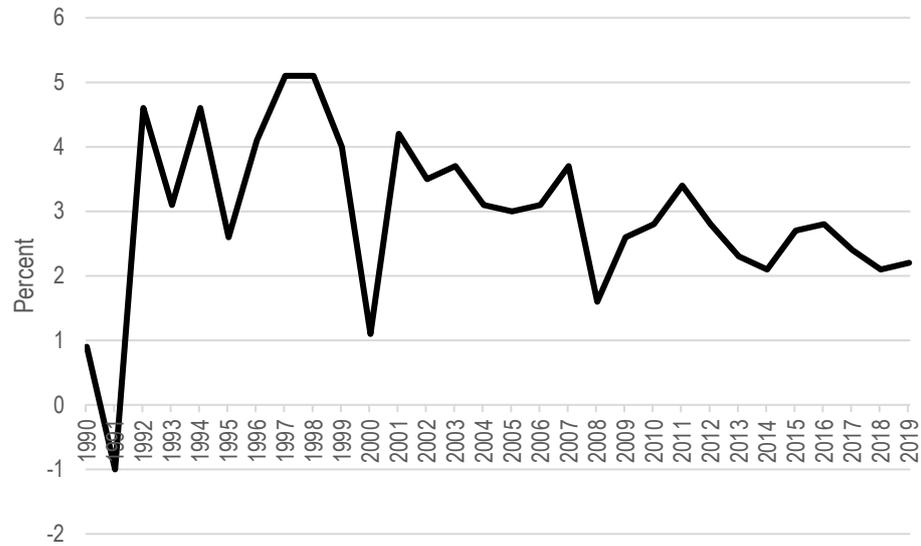
127. As discussed above, the outbreak of COVID-19 at the beginning of 2020 has created a high level of uncertainty for the Australian economy going forward.
128. At this stage, any assessment of the likely magnitude of the impact of COVID-19 on the Australian economy is at best anecdotal or estimated based on unknowns. It is too early to gauge with any level of accuracy what this impact is likely to be, as the data necessary to make these assessments is not currently available and will not be available for some time. For example, with the March quarter ABS National Accounts data is not scheduled for release until 3 June. This is after the Annual Wage Review Decision is typically handed down. Similarly, ABS Wage Price Index March quarter data won't be available until 20 May, ABS Consumer Price Index March quarter data until 29 April, and ABS Labour force March data until 16 April. The ABS has also announced it will publish additional information in the coming weeks and months to enhance the understanding of the economic impacts of COVID-19.
129. We are in unknown territory. We have not experienced a pandemic of this nature before. It is not possible to know at the time of preparing this submission what impact COVID-19 will have on the Australian economy in 2020. This needs to be taken into consideration by the FWC in preparing the 2020 Annual Wage Review Decision.
130. The following outlines the economic situation using currently available data. In most cases this is based on data for the December quarter 2019 – the pre-2020 economic environment. Thus, depicting the situation before the full impact of the bushfires, before emergence of COVID-19 and before any signs of the impact on both the international and Australian economy are apparent.
131. The only realistic assumption that can be applied in each instance is that things are likely to have worsened.

3.1 Economic growth

132. In the 2019 Decision, the FWC was expecting economic growth of 2¾% in 2019-20, based on forecasts at the time by the RBA and the Commonwealth Budget forecasts.⁸⁴ [84] However, the actual numbers fell well short of these expectations, with GDP growth of only 2.2% in the year to December 2019.

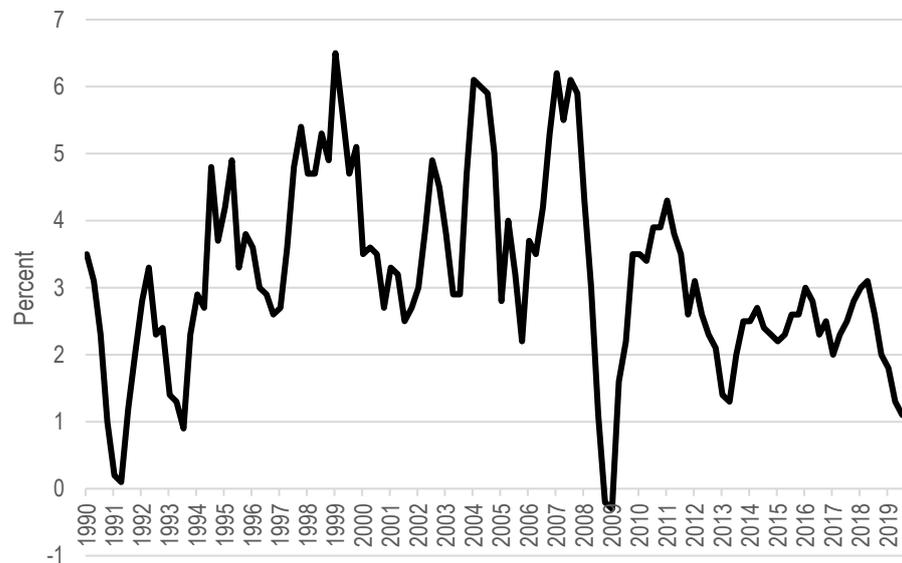
⁸⁴ See [2019] FWCFB 3500 at [85], RBA 2019, Statement on Monetary Policy, May 2019. p.71
Commonwealth of Australia (2019) Budget 2019-20: Budget Strategy and Outlook – Budget Paper No.1 2019-20

Chart GDP growth



- 133. Prior to the onset of bushfires and the COVID-19 outbreak, economic growth was being held back throughout 2019 by weak consumer confidence, a lack of productivity growth and uncertainty in international markets.
- 134. The weak consumer confidence contributed to a slowing in household consumption expenditure, which fell from 3.1% in the year to June 2018 to 1.2% in the year to December 2019.

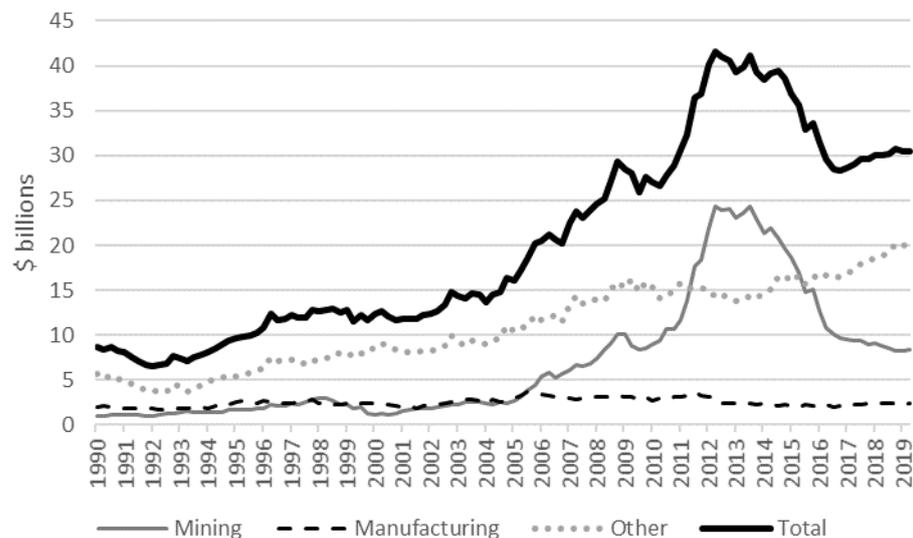
Chart Household consumption expenditure



- 135. Retail sales were the main casualty, remaining low over the past year, with discretionary items such as vehicle sales and household furniture particularly hard hit. There were some positive signs in November 2019, with the monthly data showing a 1.0% increase in retail sales on the back of Black Friday sales. However, these hopes were dashed with the release of the December 2019 data, which saw a decline in sales of 0.7%, followed by a further fall of 0.3% in January 2020.

136. December and January sales are typically buoyed by the pre-Christmas rush and post-Christmas sales, but it appears that the Black Friday sales brought forward much of the spending.
137. There is reason to believe that the uncertainty created by COVID-19 will further weaken consumer confidence, through the first half of 2020, and possibly into the second half, flowing through to weaken economic growth in the year ahead. Retail turnover remained relatively steady in February 2020, with preliminary data provided by the ABS showing a modest increase of 0.4%. The rise was largely driven by food retailing, due to increased demand on supermarkets (panic buying), which offset fall in clothing, footwear and personal accessories. Although a small sub-sector of retail trade, sectors heavily reliant on tourism and overseas visitors such as duty-free stores and luxury goods retail, experienced sharp declines in turnover. This was a special data release in response to the COVID-19 crisis, with the data subject to revision when the final monthly Australian retail turnover numbers are published on 3 April 2020.
138. A key factor contributing to the weak consumer confidence was the downturn in the housing market since its peak in 2017. The housing market appeared to have bottomed out in May 2019, with a notable improvement in house prices in the key Sydney and Melbourne markets over the second half of the year. This has been driven by record low interest rates and, in part, was linked to the low volume of sales. However, it is yet to translate into an increase in building approvals. Until sales volumes increase and there is a turn-around in building approvals, it is too early to announce the recovery of the housing market.
139. Private business investment appeared (pre-COVID-19) to have turned the corner, with modest growth over the past two years, after a sharp downturn between 2014 and 2017. This was led by 'other' sectors, such as utilities (electricity, gas and water), but the main factor was that the decline in mining investment appeared to have bottomed out, with modest improvement in mining sector investment over the past year. Yet, even prior to COVID-19, the level of investment remained well below (around half) the highs experienced between 2011 and 2014. The uncertainty associated with COVID-19 and potential to depress demand for resource exports, is likely to delay investment decisions in the mining sector in 2020, resulting in a downturn in private business investment in the year ahead.

Chart Private Business Investment

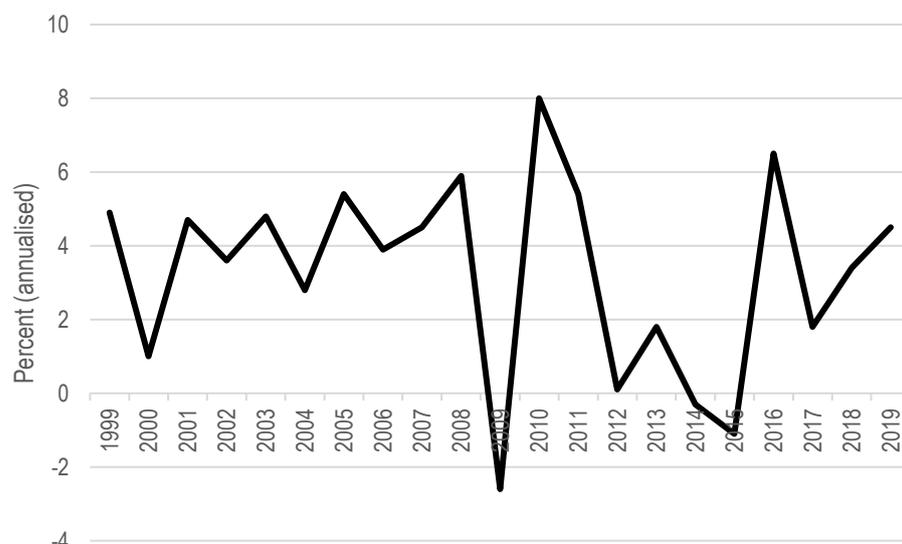


140. Government spending has been a major driver of the economy in recent years, with Commonwealth expenditure increasing 9.5% in 2018-19 and spending by states' and territories' up 4.4%. With drastically and unprecedentedly increased Government spending to support the economy in response to the COVID-19 outbreak, Government spending is likely to be a key driver of the economy again in 2020 (albeit this is an extraordinary response to prop-up the economy and stave-off recession).

3.2 Disposable Income

141. In its 2019 Decision, the FWC noted that “*the panel places weight on RNNDI (Real Net National Disposable Income) as a better measure of incomes available to Australians than GDP*”.⁸⁵ However, RNNDI is a broader measure of growth than just wages. It is also influenced by changes in employment and hours worked, as well welfare and other transfer payments. Therefore, ACCI does not believe it is appropriate to align RNNDI growth with NMW and award minimum wage increases.
142. RNNDI increased by 4.8% in the year to September 2019. This was driven as much by employment growth, which increased 2.5% over this period, as it was by wages growth, which increased 2.3%. This is a positive, as the increase in the employment rate lifted the living standards of all Australians. However, it should not be confused with the need for the minimum wage to increase by a similar amount to maintain the living standards of the lower paid. On the contrary, as discussed in Section 6, all working household types are achieving an increase in their net disposable income, raising all working household types above the arbitrary poverty line of 60% of medium income. It is clear the strong growth in employment in recent years has done more to lift working households out of poverty than increasing wages. This should not be jeopardised by raising the NMW and award minimum wages at a rate above the rate of growth in the broader economy, as it will stifle employment growth.

Chart Growth in Real Net National Disposable Income



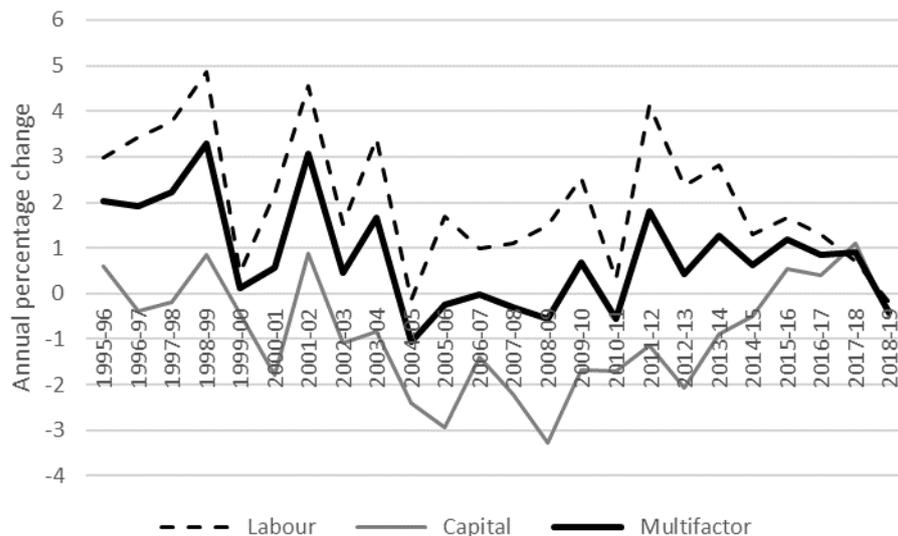
⁸⁵ [2019] FWCFB 3500 at [96].

143. There is reason to believe that the RNNDI numbers for the first half of 2020 will be driven less by wages growth than other factors, such as a sharp decline in employment, countered by Government income support and other welfare measures, due to a marked change in economic conditions associated with COVID-19.

3.3 Productivity

144. The 2019 Decision pointed to a modest increase in labour productivity of 0.7%, which extended across the whole economy and market sectors in 2018. However, this was reversed in 2019, with labour productivity falling to negative 0.2% — a 1% turnaround. Unlike previous business cycles, where labour productivity growth has fluctuated over the period around a relatively flat average rate, in the current business cycle labour productivity growth has followed a clear downward trend, from a high of 4% at the beginning of the business cycle in 2012, labour productivity growth has steadily fallen, becoming negative in 2019.

Chart Labour, Capital and Multi-factor Productivity



145. ACCI respectfully disagrees with commentary in the 2019 Decision that downplays the contributions of low labour productivity growth to the low rate of nominal wages growth in recent years.⁸⁶
146. Research, both domestically and internationally observes a strong relationship between labour productivity and real wages growth.
147. For example, the Productivity Commission, in an analysis of the drivers of wages growth in the periods 1994-95 to 2012-2013 and 2012-13 to 2017-18, found slower labour productivity growth explains **over half** of the fall in wages growth, with relative consumer inflation (consumer prices growing more quickly than producer prices) accounting for about a quarter and the fall in the labour share of income explaining a further fifth of the decline.⁸⁷

⁸⁶ See [2019] FWCFB 3500 at [88].

⁸⁷ Productivity Commission, *Productivity Insights – Recent Productivity Trends*. February 2020

148. Similarly, the IMF noted that “(i)n economies (similar to Australia) where unemployment rates are below their averages before the (2009 Global Financial Crisis) Great Recession (such as Germany, Japan, the United States, and the United Kingdom), slow productivity growth can account for about **two-thirds** of the slowdown in nominal wage growth since 2007.”⁸⁸
149. While ACCI agrees with the FWC that “labour productivity is best measured over the course of the productivity cycle” [88] due to the inherent variability, it is important to be aware that productivity growth over the current business cycle is very different from previous cycles, given the very clear downward trend in labour productivity growth over the past 7 years.
150. There were a number of factors contributing to this decreasing trend in labour productivity growth (prior to the outbreak of COVID-19), particularly strong growth in the participation rate and employment in a low inflation environment. This coupled with relatively low growth in capital inputs has driven labour productivity down in recent years.
151. There is likely to be significant change in these factors in 2020 due to the disruption caused by the COVID-19 outbreak. Over the next year, employment growth and the participation rate are expected to decline, inflation will soften further and private investment will weaken.⁸⁹ It is very difficult to see any basis to conclude that there could be any increase in productivity in this economy compared to recent years – the only added factor is significantly greater adversity.
152. Prior to the COVID-19 outbreak, the Productivity Commission was expecting “a continuation of a pattern of weaker productivity outcomes evident in Australia since about 2005, in step with a slowing in productivity globally.”⁹⁰ This pattern of weaker productivity will be further exaggerated in the wake of COVID-19. KPMG has estimated that total workdays lost due to workers becoming ill from COVID-19, which is likely to be in the order of 30 million and translates into lost productivity of around 1.22%.⁹¹
153. We have no idea at this point what the shift to working from home, reduced hours and opening restrictions will have on productivity.
154. The relationship between labour productivity growth and its influence on low wages growth must be a key consideration in any decision to increase NMW and award minimum wages. Were the FWC continue down the path of increasing NMW and award minimum wages at a rate that is out of step with productivity growth and the broader economy, this is only likely to contribute to further slack in the labour market and exacerbate the trend in low wages growth more broadly. This has become even more of an issue in the light the COVID-19 outbreak, which represents the greatest global economic uncertainty faced in decades.

⁸⁸ Hong GE, Koczan Z, Lian W, Nabor M (2017) *The disconnect between unemployment and wages*. IMF blog 27 Sept 2017. <https://blogs.imf.org/2017/09/27/the-disconnect-between-unemployment-and-wages/>

⁸⁹ Debelle G. 2020 *The Virus and the Australian economy*. Address to the Australian Financial Review Business Summit. Reserve Bank of Australia

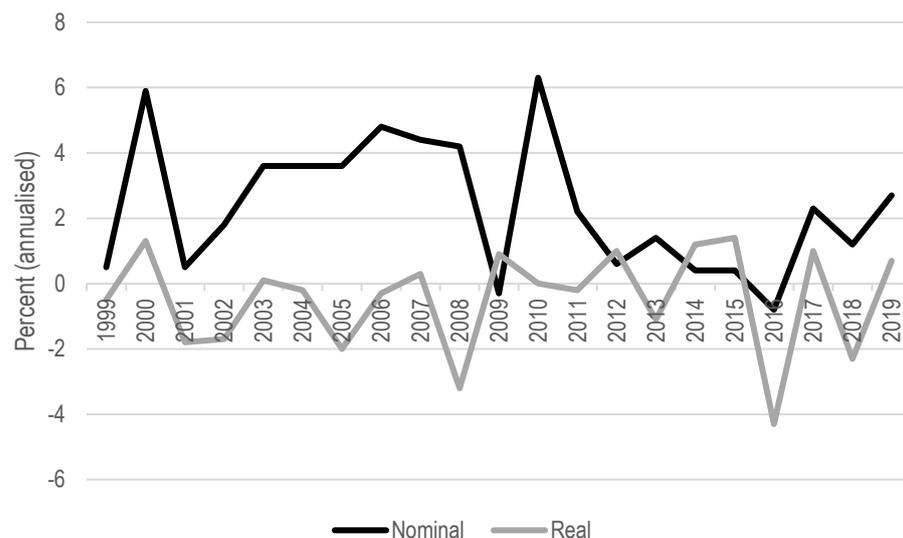
⁹⁰ Productivity Commission, *Productivity Insights – Recent Productivity Trends*. February 2020

⁹¹ KPMG Economics, *Estimating the potential impact of COVID-19 on the Australian Economy*, 16 March 2020, p.17.

3.4 Unit labour costs

- 155. Unit labour costs are the costs incurred by employers in the employment of labour. They are of particular relevance to these reviews as they impact on the competitiveness of organisations and employer’s willingness / appetite to employ.⁹²
- 156. Understanding movements in labour costs is important in making minimum wage determinations. Unit labour costs represent a link between productivity and the cost of labour in producing output.
- 157. Unit labour costs should also be considered in the economic context of the current climate of uncertainty and downside risk due to COVID-19. In a time of mounting economic crisis, rising unit labour costs are the costs of retaining jobs and they can slow the rate of recovery once conditions begin to improve.
- 158. Following a decline in unit labour costs of 0.8% in the year to December 2016, unit labour costs increased sharply to 2.3% in the year to December 2017. Growth in unit labour costs then eased to 1.2% in the year to December 2018 before surging again to 2.9% in the year to September 2019.⁹³

Chart Non-farm Unit Labour Costs



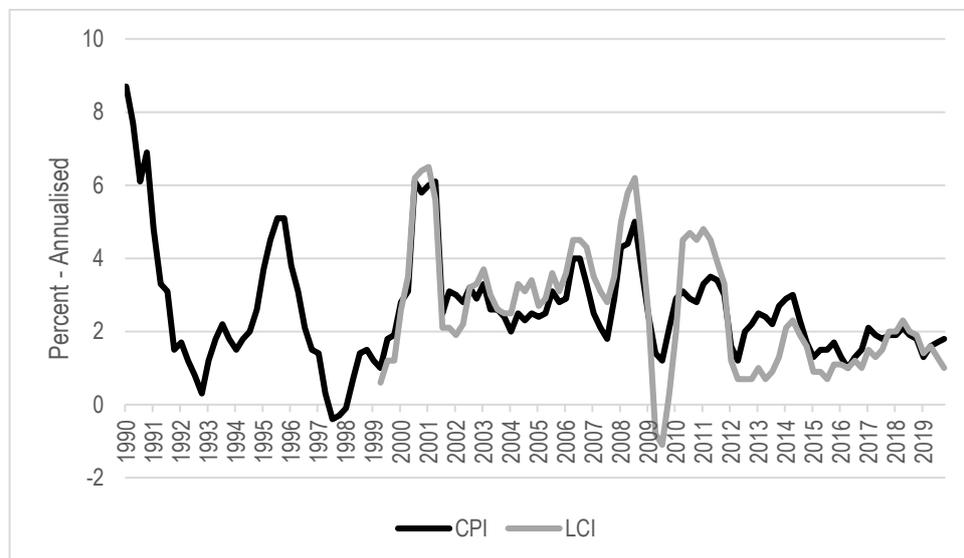
- 159. There has been a clear increasing trend in unit labour costs in recent years, even prior to the current crisis. Given this, in an environment of low labour productivity and low inflation, it is not appropriate to significantly increase the NMW and award minimum wages at this time. With COVID-19 expected to weigh further on labour productivity, inflation and economic growth, this lends further impetus to not inflate NMW and minimum award wages growth in 2020.

⁹² ABS 5206 National Accounts. Feature Article: *Measuring Change in Labour Costs*. June 2006. <http://www.abs.gov.au/AUSSTATS/abs@.nsf/Previousproducts/5206.0Feature%20Article1Jun%202006>
⁹³ ABS 5206.0 Australian National Accounts. 06 March 2019

3.5 Inflation

- 160. The Consumer Price Index⁹⁴ (CPI) measures quarterly changes in the price of a 'basket' of goods and services which account for a high proportion of expenditure by the population. The basket covers eleven groups of goods and services, including food and non-alcoholic beverages; alcohol and tobacco; clothing and footwear; housing; furnishings, household equipment and services; health; transport; communication; recreation and culture; education; insurance and financial services
- 161. The Living Costs Index⁹⁵ (LCI) for employee households is a measure of the effect of changes in prices on the out-of-pocket living expenses for households whose principal source of income is wages and salaries. It reflects changes over time in the purchasing power of the after-tax incomes of households.
- 162. While the LCI and CPI measure a similar basket of goods, there are different weightings applied to the items included in the basket. The LCI focuses on the actual money outlays of a household. The CPI on the other hand is designed to measure price inflation for the household sector as a whole, focusing on the acquisition of good and services by households.
- 163. Inflation was very low pre-pandemic, with the CPI at 1.8% in the year to December 2019, after reaching a low of 1.3% in the year to March 2019.⁹⁶ Similarly, the LCI for employee households continued to its downward trend throughout the year, reaching a low of 1.0% in the year to September.⁹⁷ The LCI has remained at or below the level of the CPI consistently over the past eight years.

Chart CPI and LPI



- 164. In 2019, the highest rates of CPI inflation were observed in alcohol and tobacco (6.5%), health services (3.2%), education (2.9%) and transport services (2.8%), which were mostly offset by low to negative inflation in communication (-3.8%), housing (0.2%) and insurance and financial services

⁹⁴ ABS 6401.0 - Consumer Price Index, Australia, December 2019, 29 January 2020

⁹⁵ ABS 6467.0 - Selected Living Cost Indexes, Australia, December 2018, 05 February 2020

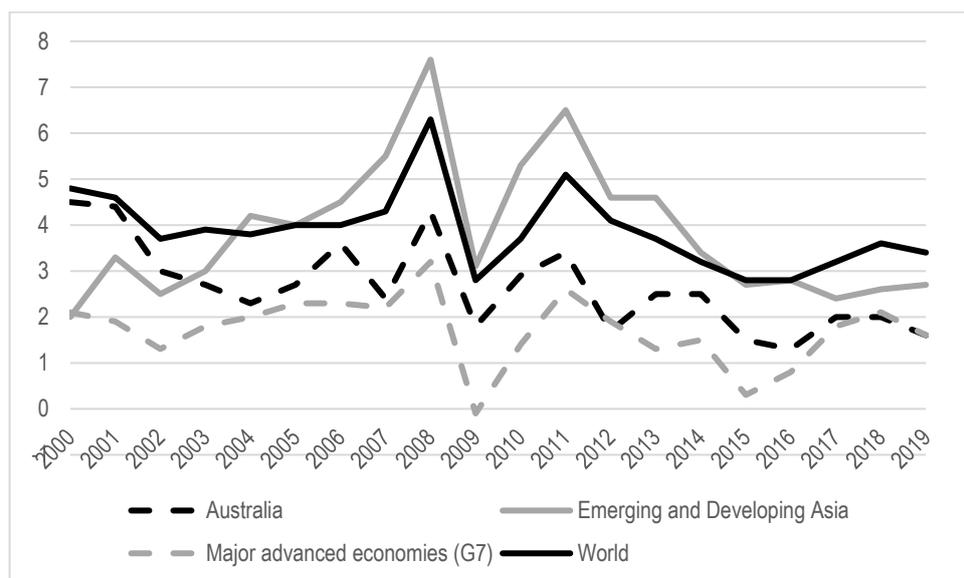
⁹⁶ ABS 6401.0 - Consumer Price Index, Australia, December 2019, 29 January 2020

⁹⁷ ABS 6467.0 - Selected Living Cost Indexes, Australia, Dec 2019

(0.7%).⁹⁸ Similarly, for the LCI, increasing costs of alcohol and tobacco (6.3%), health services (3.2%), education (3.1%) and transport services (2.7%), were offset by insurance and financial services (-7.1%), communication (-3.8%) and housing (0.3%).⁹⁹

165. Over 2019, housing inflation slowed to historic lows and utilities prices fell. Dwelling purchases by owner-occupiers and rents are the two largest components of the CPI – accounting for around 1/6 of the basket. The prices of newly built dwelling have remained broadly flat over 2019. A decline in building activity leading to weaker demand from developers for building materials, lowering costs thus price inflation.¹⁰⁰ Rents were flat in the December quarter 2019 and up only 0.2% for the year. Vacancy rates were a key driver of this, with vacancy increasing in Sydney, flat in Melbourne and falling moderately in Brisbane and Perth. Low rents can also partly reflect indexation of existing rents to CPI inflation.
166. Utility prices also declined, down 1% for the year to December 2019, with electricity prices down 3.5%, gas price inflation remaining low and only a slight rise in water and sewage prices.
167. Retail prices increased only 1/3% in 2019, with higher import prices and drought pushing up fresh food prices, offsetting decreases in inflation on other retail goods. However, the earlier increases in inflation of import prices, which were derived mainly from exchange rate pass-through, appeared to have dissipated by the end of 2019. With COVID-19 likely to weaken retail demand further in 2020, the inflationary pressure on retail prices can be expected to ease even further in the year ahead.
168. low inflation in 2019 was consistent with the then international environment, with most major advanced economies, including the United States, Canada, Britain, Germany, France, and Japan, experiencing low inflation in recent years.¹⁰¹ There has also been a considerable fall in the rate of inflation in emerging and developing Asia over the past decade, to a level approaching that of Australia and other major advanced economies.

Chart Inflation rate in other key economies relative to Australia



⁹⁸ ABS 6401.0 - Consumer Price Index, Australia, December 2019, 29 January 2020

⁹⁹ ABS 6467.0 - Selected Living Cost Indexes, Australia, December 2018, 05 February 2020

¹⁰⁰ RBA 2019, Statement on Monetary Policy, February 2020, p.64

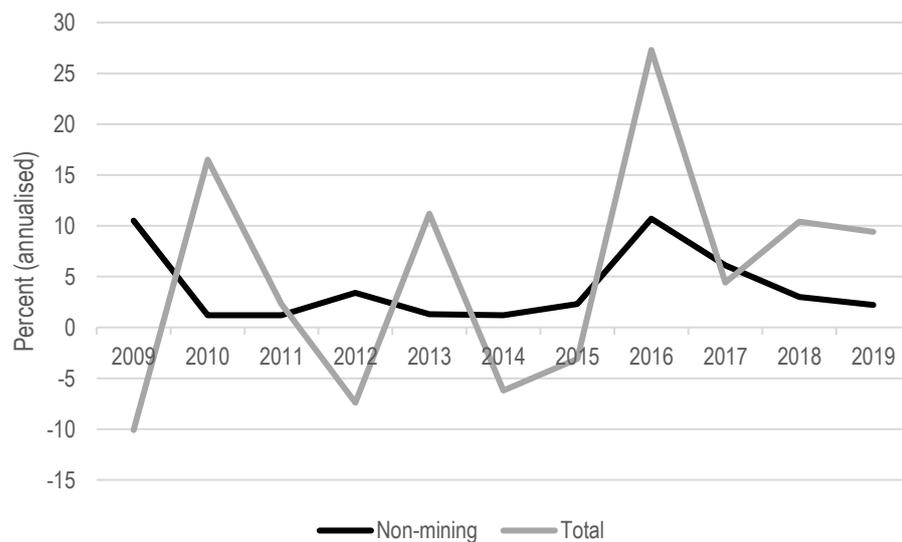
¹⁰¹ OECD Data - <https://data.oecd.org/price/inflation-cpi.htm>

- 169. The very low growth in the LCI in 2019, well below that of the CPI, suggests that living costs of the low paid had not increased greatly over the past year, preceding the pandemic. With a similar low level of growth in living costs expected in the year ahead, there is little evidence to support an uprating of the minimum wage in excess of the current price changes.
- 170. Absent the uncertainty surrounding COVID-19, the Panel should have been reconsidering its approach to wages growth in the light of the low inflation experienced in Australia over the past five years. In the current environment of uncertainty and heightened risk, this has become more essential.

3.6 Business Competitiveness and Viability (Including Profits)

- 171. The FWC’s expectations of indicators of business conditions were generally positive in the 2019 Decision, based on expectations of strong business profit growth at 10.5% in the year to the December 2018.
- 172. This profit growth was driven mainly by the mining sector, where profits grew by 26.5% in the year to the December 2018. However, the profitability of the mining sector is of little relevance to the annual wage review, as very few workers in this sector (less than 1%) are subject to the NMW and award minimum wages.
- 173. In contrast, non-mining profit growth was considerably lower, at only 3.0% in the year to December 2018 - a level lower than the previous year and below the 5-year and 10-year average (around 4%).¹⁰² Profit continued to slow in 2019, with company gross operating profits for non-mining industries down to at 2.2%.

Chart – Gross Operating Profits – Non-mining and All industries



- 174. The significant downturn in economic activity associated with COVID-19 is clearly expected to flow through to economic growth and business profits. Therefore, non-mining profit growth is expected to be much weaker, and possibly negative, in 2020. It is a little hard to see key award reliant, small

¹⁰² See [2019] FWCFB 3500 at [85].

business dominated industries making a profit when their doors may well be closed for weeks or months.

175. This is a key factor that must be taken into consideration in the 2020 Decision, as it is limiting businesses' ability to afford significant wage increases. With profit growth low or negative, there is limited scope for further wage increases in the current, acute and adverse, environment.

3.7 Small business

176. Small business contributes to a higher rate of employment per unit of output than larger businesses, i.e. are more labour intensive than larger businesses, even within the same industry. As shown in Chart 3.2 of the Statistical report, small businesses represented almost 44% of total employment, but contributed 33% to total income and 34.2% of total industry value added in 2017-18.¹⁰³
177. Small businesses are also likely to employ a higher proportion of entry-level award and minimum wage employees than larger businesses, as they contribute 28.8% of total wages and salaries compared to their 44% share of total employment.¹⁰⁴
178. The rates of employment in small businesses are high in many NMW and award minimum wage industries, particularly agriculture, fisheries and forestry (78.8%), rental, hiring and real estate services (75.2%), construction (69.5%), accommodation and food services (46.4%), transport, postal and warehousing (43.6%), administrative and support services (33.2%), healthcare and social assistance (28.5%), retail trade (31.4%).¹⁰⁵
179. With a higher share of minimum wage employees, small businesses are likely to be more sensitive to increases in NMW and award minimum wages. Therefore, any increase in NWM and award minimum wages will have a greater impact on small business than other sectors.
180. Smaller enterprises are also less able to successfully weather general economic downturn than large, both in existential terms and in terms of retaining staff and maintaining hours.

3.8 Conclusion

181. Economic indicators and considerations that were apparent in 2019, along with the anticipated impact of the bushfires and the COVID-19 pandemic on economic growth in 2020, favour conclusions that:
- a. Economic circumstances have changed.
 - i. The domestic and international economic conditions throughout 2019 were weaker than expected at the time of the 2019 Decision.
 - ii. The Australian and global economies are expected to contract further in 2020 in the wake of the bushfires and COVID-19 outbreak, and the magnitude is unknowable at this time, but set to be very significant.

¹⁰³ Statistical Report – Annual Wage Review 2019-20. Chart 3.2

¹⁰⁴ Statistical Report – Annual Wage Review 2019-20. Chart 3.2

¹⁰⁵ ABS 8155.0 Australian Industry 2017-18. 31 May 2019

- b. Labour productivity growth continued its downward trend, becoming negative in 2019 and is expected fall much further, becoming even more negative, in 2020.
 - c. Inflation and living costs remain extraordinarily low in 2019 and are likely to slip even lower in 2020.
 - d. Company profits of non-mining industries remained subdued in 2019, well below their long-term average levels, with the significantly deteriorating economy likely to put further downward pressure on non-mining industries' profits in the year ahead.
 - e. Small businesses with a higher share of minimum wage employees are likely to be more sensitive to the impact of any minimum wage increase.
182. The balance of these economic considerations favour the Panel adopting considered, prudent, measured and cautious approach to any uprating of the NMW and award minimum wages in this Review, rather than the highly expansionary approach adopted over recent years. Another substantial uprating of NMW and award minimum wages in 2020, particularly another significant real increase, if pursued, would exacerbate rapidly weakening economic conditions.

4. WAGES GROWTH

4.1 Introduction

183. The previous context for these reviews, included calls, explicit and implicit, for the Expert Panel to ‘do something’ about wages growth across the Australian community and to address economy wide phenomena that are being played out the political arena. This includes any calls for the Panel to attempt to use these reviews as a circuit breaker, catalyst or as stimulus in an attempt to somehow “kick-start” an acceleration in wages growth generally. However, **this is not a stimulatory or disruptive exercise**. For this reason, it is neither open to the Panel, merited, nor in any way a sound approach for the Panel to use this attempt to drive wages growth in the economy more broadly.
184. Such calls and the thinking behind them have been overwhelmed by the reality of the pandemic dominated world we now live in. We don’t yet know what the precise implications of the COVID-19 economic and jobs crisis are for wages growth, but we do have some idea of what it could mean for jobs and small businesses staying in business.
185. As the Panel has repeatedly made clear, this review is a creature of statute. Section 4.2 revisits the statutory context and addresses any calls (explicit or implicit) for the Panel to somehow counteract, correct or inflate average levels of wages growth across the community via the lever of uprating the NMW and award minimum wages.
186. This Chapter then examines recent developments on wages in three parts:
- a. The most recent, pre-COVID-19 wages data and what should be made of it (4.3).
 - b. Changing circumstances in the labour market and its impact on wages growth (4.4).
 - c. Wage growth in comparable economies (4.5).

4.2 Legislative considerations

187. There is a clear conflation being attempted on the roles of minimum wages and wages in the previous public debate on wages growth in Australia. The ACTU was clearly trying to use below longer term trend growth in community wide wage measures as an argument to increase the NMW and award minimum wage rates. In fairness, it is now for unions and any proponents of a wage increase in 2020 to adjust their positions for the rapidly moving implications of the COVID-19 pandemic.
188. Unions would have the Panel either somehow (a) attempt to counteract below trend wages growth across the community using rates for the just 23% of employees that are directly subject to these decisions, or (b) have the Panel adopt some form of stimulatory or catalytic role to kick start wages growth.
189. The Panel has across a series of decisions set out how it approaches the balance of statutory considerations in this matter, including the Object of the Fair Work Act 2009 (s.3), the Modern Awards Objective (s.134) and the Minimum Wages Objective (s.284).

190. We have looked again at these provisions and submit that they support neither a focus on economy wide wage growth, nor any particular level of increase in this matter. We ask that the Panel look again at its balance of considerations prior to reaching another conclusion comparable to that of 2018, at [164]:

[164] Whatever the relative weight that should be attributed to the many factors identified as weighing on wage growth, the low wage growth environment supports an increase to the NMW and modern award minimum wages.

191. Such an environmental or contextual consideration and foundation for an increase should not be repeated this year. The subsequent manifest change of economic and labour market circumstances reinforces and amplifies this point.
192. As set out below, the “low wage growth environment” had also changed relative to last year’s pre-pandemic data, based on changes in data and the trajectory of wages growth (see 4.3). Were the approach of 2018 to be continued, less weight or support for an inflation in the increase to be awarded could be derived from the data in 2019 than was derived in 2018.
193. **Object of the Act:** Turning firstly to s.3 of the *Fair Work Act 2009*.
- a. Subsections 3(b) and (c) are framed as a ‘safety net’, not as a focus on market or economy wide rates.
 - b. The safety net must be ‘relevant’, however looking at the data, safety net wages apply to a higher proportion of Australians than they did in 2010¹⁰⁶ (and are therefore ‘relevant’ under at least some meaning of that concept). Sadly, the pandemic may see a further increase in the proportion of Australians working at minimum and award wage levels.
 - c. As set out below, minimum wages have also for some years risen by more than prices and the WPI, more than discharging any requirement for relevance. In fact, any increase that is at or in excess of changes in prices would meet a threshold test for relevance.
 - d. Subsection 3(f) indicates that productivity and fairness (concepts from s.3(a)) will be progressed through an emphasis on enterprise level collective bargaining.
194. **Modern Awards Objective:** Looking at s.134 of the *Fair Work Act 2009*:
- a. Section 134(1) goes to the same point about the safety net role of the minimum wage, which is not as a market or redistributive instrument.
 - b. Looking at the ‘relative’ living standards of the low paid¹⁰⁷ means (at best) looking at how the low paid compare to the norm or to other pay cohorts. It cannot mean trying to change the wider population (the whole) using the lever of the safety net designed to protect the low paid (the group being compared).
 - i. Whatever relativist considerations may have been interpreted in applying these provisions this seems a very difficult construction to sustain.

¹⁰⁶ Statistical Report – Annual Wage Review 2019-20. Chart 7.1.

¹⁰⁷ s.134(1)(a)

- ii. If the Panel were attracted to or considering such a course, any party arguing for it should be required to show how this could be sustained under the *Fair Work Act 2009*.
- c. Put another way, comparing (A¹⁰⁸) to (B¹⁰⁹) for the purposes of increasing (A), cannot mean importing into setting the level of (A) the goal of increasing (B).
 - i. If Parliament had intended such a course, it would have directed so.
 - ii. It would not have framed the role of awards as minimums and safety nets.
- d. The economic considerations in s.134(1)(h) direct consideration of the impact of a rate that is under consideration on the economic considerations listed, not that any increase seek to engineer particular macroeconomic outcomes across the whole economy.
- e. To put it plainly, this section does not demand or endorse the Panel somehow attempting to use the increase awarded in this review to advance, accelerate or kick start aggregate or cross economy wages growth. That is not what we understand the approach to have been in 2019. Regardless, such an approach could not be pursued in 2020 based on the evidence and role of these reviews under the *Fair Work Act 2009*. This is reinforced by the pandemic and its growing impact.
- f. Any attempt to use minimum wages as a primer or stimulus to wage growth across the economy would also need to be weighed against other considerations such as the likely impact on growth, inflation and the sustainability, performance and competitiveness of the national economy. Any party arguing, directly or implicitly that the Panel and this review be a tool of correcting or accelerating wages growth should face a stiff burden in regard to both merit and consistency with the *Fair Work Act 2009*.

195. **Minimum Wage Objective:** Looking at s.284 of the Fair Work Act 2009:

- a. The same points as made above in relation to s.134 on the safety net would apply and the same questions would be raised.
- b. Any party urging a stimulatory or catalytic role for the NMW and award minimum wages would need to satisfy the Panel that this would be consistent with the considerations in s.284(1).
- c. The reference to “relative living standards” allows some comparison of minimum wage earners to others in the economy. It does not allow for attempting to use minimum wages to move industry wide averages.
 - i. Consider for example inflation. If it were somehow desirable to increase the rate of inflation across our economy, the implications of attempting to start wage-push inflation using just 23% of wage earners would need to be carefully considered.

¹⁰⁸ Minimum wages

¹⁰⁹ Community wide wage growth, as an average

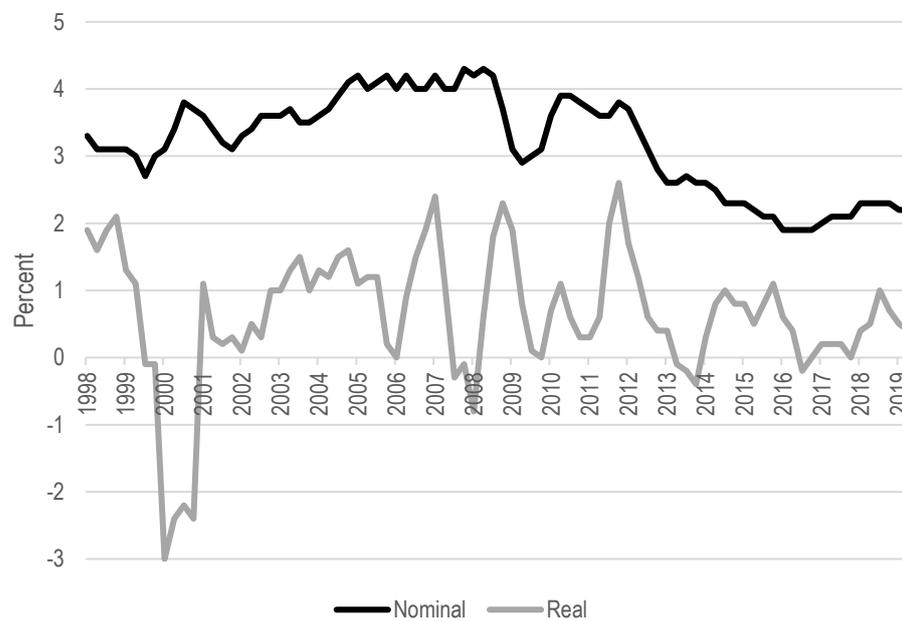
- ii. In addition to all other reasons to not attempt to manipulate economy wide averages using a minority cohort, there is also simply less leverage than may have been the case in more in a centralised time. It has to be more likely that unintended or collateral consequences outweigh any purported benefits.
 - d. (For completeness in regard to the needs of the low paid¹¹⁰ both the NMW and award rates, and the WPI are exceeding the CPI, see below).
- 196. If the submissions of the ACTU and others bemoan average wage growth levels across the economy, and cite them in support of a particular level of ambit increase, the Panel should exercise considerable caution and demand the party so advocating satisfy the Panel on how this could be done under the Fair Work Act.
- 197. If this is not the ACTU's submission, then any remarks on levels of wage growth across the economy should be dismissed as political theatre. As we said in 2019, commentary not germane to the consideration at hand is extraneous to the Panel's considerations.
- 198. Looking again at [163] and [164] of the 2018 Decision, the merited approach on this occasion would be to note developments across the economy on wages (i.e. the WPI and other comparable measures) as part of the Expert Panel's general environmental scan, but to not conclude that the wider wages environment supports or merits any particular level of minimum wage uprating in 2019. The Panel would also in our view also severely qualify the data available to it as being restricted to the pre-COVID-19 economy and labour market, and allocate determinative weight accordingly.
- 199. The Panel should also directly reject any calls to have it (either explicitly or in effect) somehow intervene or stimulate aggregate / cross economy wages growth through the lever of the NMW and award minimum wages. Any party asking for such an approach would need to satisfy the Panel in regard to at least the following:
 - a. How this is possible under the Fair Work Act 2009.
 - b. What the impact of this course of action would be, pros and cons, in the midst of perhaps the most serious peacetime economic emergency in almost a century.
 - c. How it accords with the other economic and labour market considerations.
- 200. Alternatively, as set out throughout this Chapter, the Panel should conclude that any assessment of the wage growth environment on this occasion should, along with the balance of other considerations such as the slowing economy and the growing disparity between the NMW and the WPI, favour a considerably more moderate uprating of minimum wages in 2020 than occurred in 2019.

¹¹⁰ s.284(1)(c)

4.3 Wages Data

- 201. The WPI follows price changes in a fixed "basket" of jobs in a similar manner to the CPI, thus providing an indicator of inflationary pressure on wages and salaries. The WPI measures changes in the wages paid by Australian businesses to employees and is not influenced by changes in quality and quantity of work.¹¹¹
- 202. In the year to December 2019, the WPI for all sectors rose 2.2%, with the private sector up 2.2% and the public sector increasing 2.3%.¹¹² This continues the steady rate of wages growth over the past five years, with the nominal WPI fluctuating between 1.9% and 2.3% over the period.¹¹³

Chart Wage Price Index

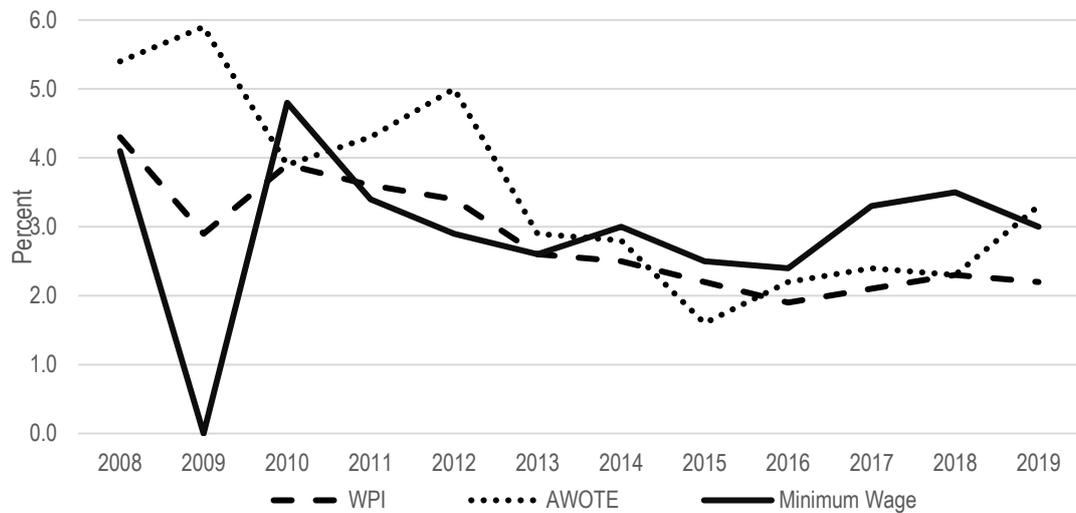


- 203. In real terms wages growth was 0.4% in the year to December 2019. Despite a lot of negative media on stagnant wages, this is only slightly below the average real wages growth of 0.5% over the past five years and 0.6% over the past decade.
- 204. Full-Time Adult Average Weekly Ordinary Time Earnings (AWOTE) represents the average gross (before tax) earnings of employees. This measure of average weekly earnings provides an estimate of nominal wages growth that is not influenced by changes in the composition of hours worked among the workforce included in the survey.¹¹⁴ However, AWOTE is influenced by the change in labour quality, such that a larger proportion of workers with higher levels of education attainment or working in occupations such as management or professions will result in a higher AWOTE value. For this reason, AWOTE is likely to be more volatile than the WPI.

¹¹¹ ABS 6345.0 Wage Price Index. 19 February 2020.
¹¹² ABS 6345.0 Wage Price Index. 19 February 2020 See also 2020 *Statistical* report. p. 21
¹¹³ Statistical Report – Annual Wage Review 2019-20. Table 5.1.
¹¹⁴ Borland J. *Overview of research to inform the Annual Wage review 2018-19*. February 2019 p.3

205. This volatility is apparent, with AWOTE growing at 3.3% in the year to November 2019, to \$1,658.40 per week.¹¹⁵ This was considerably higher than the rate of growth in the WPI, which slowed to 2.2% in the year to December 2019.
206. Overall, the average rate of growth of NMW and award minimum wages over the past five years has been notably higher than that of the WPI and AWOTE. The minimum wage grew at an average rate of 3%, while the WPI increased at an average of 2.1% and the AWOTE was up an average of 2.4%. This suggests the exceptional increases in the NMW and award minimum wages granted by the FWC over the past five years has been out-of-step with average wages growth overall.

Chart Comparison of growth in annualised nominal WPI, AWOTE, the minimum wage and CPI



207. The nominal WPI (year to June) for sectors with a higher reliance on minimum wage and award rates is presented in the table below. The strongest wages growth was observed in the healthcare and social assistance (2.9%), arts and recreation (2.9%), public administration and safety (2.6%) and education and training (2.5%), and was lowest in construction (1.9%), and retail trade (1.9%). It is noted that the WPI of all sectors was above the rate of inflation (1.6% for year to June 2019), indicating real wages growth, and an improvement in the standard of living for employees in all sectors.

¹¹⁵ ABS 6302.0 Average Weekly Earnings. 21 February 2019

Chart Wage Price Index by Industry Sector

	Award reliance	2014-15	2015-16	2016-17	2017-18	2018-19
NMW and award minimum wage		2.5%	2.4%	3.3%	3.5%	3.0%
<i>All industries</i>	22.5%	2.4%	2.2%	2.0%	2.0%	2.3%
Accommodation and food	44.9%	2.6%	2.3%	2.2%	2.2%	2.3%
Administrative and support	41.3%	1.9%	1.4%	1.3%	1.8%	2.1%
Health care & social assistance	31.7%	2.7%	2.5%	2.4%	2.8%	2.9%
Retail trade	30.1%	2.2%	2.4%	1.9%	1.5%	1.9%
Rental, hiring and real estate	29.4%	2.2%	1.7%	1.2%	1.6%	2.1%
Arts and recreation	22.5%	2.9%	2.3%	2.0%	2.8%	2.9%
Manufacturing	20.8%	2.7%	2.4%	2.0%	2.2%	2.1%
Construction	16.6%	2.1%	1.6%	1.8%	1.8%	1.9%
Wholesale trade	16.1%	2.2%	1.9%	1.8%	1.9%	2.0%
Transport, postal & warehouse	12.7%	2.4%	2.2%	2.0%	1.8%	2.3%
Public administration & safety	10.9%	2.1%	2.2%	2.2%	2.1%	2.6%
Education and training	10.0%	3.0%	2.7%	2.4%	2.4%	2.5%

208. It is also important to note that over the past three years, the increase in the NMW and award minimum wage has moved well out of step with the increase in average wages growth across the all industries average and all individual sectors.

4.4 Wage increases in enterprise agreements

209. ACCI does not concede that the rate of wage increases in enterprise agreements is relevant to this matter, but for completeness we note that the rate of AAWI¹¹⁶ in enterprise agreements preceded in the sea change of the pandemic:

- a. Has remained relatively stable over the past three years around 2.7%.¹¹⁷
- b. Is rising in real terms, in excess of inflation.¹¹⁸
- c. Is rising at a rate in excess of increases in the WPI.¹¹⁹

210. Around 38% of employees have their pay set by collective / enterprise agreements, well in excess of those subject to NMW and award minimum wage decisions (23%).¹²⁰

¹¹⁶ Average Annualised Wage Increases

¹¹⁷ *Trends in Federal Enterprise Bargaining Report*, September Quarter 2018, Table 3, p.1

¹¹⁸ *Trends in Federal Enterprise Bargaining Report*, September Quarter 2018, Chart 1, p.3

¹¹⁹ *Trends in Federal Enterprise Bargaining Report*, September Quarter 2018, Chart 1, p.3

¹²⁰ Statistical Report – Annual Wage Review 2019-20. Table 7.1.

211. This points to agreement wage settlements as a factor weighing in favour of a return towards trend wages growth across the economy / certainly not (or no longer) being a factor depressing economy wide wages growth.

4.5 Wages Growth

212. In a recent speech by Dr Guy Debelle, Deputy Governor of the RBA on employment and wages, it was noted that *wages growth has declined noticeably since around 2012* and the *distribution of wages growth has also become increasingly compressed*.¹²¹ Dr Debelle pointed to *growing evidence that wage adjustments of 2 point something have become the norm in Australia, rather than the 3-4 per cent wage increases that were the norm prior to 2012*, as observed in the official data.
213. Recent rises in Enterprise Bargaining Agreements (EBAs) were also noted, with a large share of these (60% in 2019, compared to 10% in 2000) building in annual wage rises in the 2% and 3% range, with a sharp decline in agreements providing annual wage increases above 3%.¹²² With these EBAs covering terms of three years or more, suggesting the market (both employers and employees) expect the lower wages growth to persist for some time. Any decision in this review would not affect such arrangement. This is consistent with the RBA's forecast prior to the bushfires and COVID-19 outbreak, which expected wages growth to remain largely unchanged at 2.2% to 2.3% over the next two years.¹²³ With the economic disruption caused by COVID-19, it is expected that wages growth will be even lower in 2020.
214. In comments on the reasons for comparatively lower aggregate wages growth, Dr Debelle noted the *tendency for workers to resist reductions in their wages in real terms*, which has led to a *clumping of employees' nominal wage changes in the vicinity of their expected rate of inflation*. As a result, *the RBA's inflation target of 2-3 per cent ... provides a nominal anchor for wage negotiations*. This clumping effect can be observed in the WPI data, which has remained within the 2% to 2½% range over the past five years. It can be expected that this clumping effect will be even more apparent during the current COVID-19 crisis, as workers lower their wage growth expectations in favour of retaining their jobs.
215. Dr Debelle also made comment on the decisions of the FWC, which have led to wages growth of award reliant jobs, at the lower skills distribution end of the labour market, outpacing wages growth of other skills groups since 2013.
216. In debate on the wages growth (pre-pandemic), too great an emphasis appears to be placed on the wages growth in nominal terms being slower than the long-term average. This discussion appears to overlook the fall in inflation in Australia over the past five years, with the CPI being consistently below the RBA's target range of 2% to 3% since 2014.
217. The RBA suggests that a prolonged period of low inflation appears to have led firms and workers to adjust their wage expectations to lower levels.¹²⁴ Even the Unions surveyed by the RBA have moderated their expectations and were suggesting only a moderate pick up in wages growth in the year ahead, prior to the pandemic materially changing the game.¹²⁵

¹²¹ Debelle G. 2019 Speech to the Australian Council of Social Services (ACOSS): Employment and Wages. Reserve Bank of Australia

¹²² Debelle G. 2019 Speech to the Australian Council of Social Services (ACOSS): Employment and Wages. Reserve Bank of Australia

¹²³ RBA 2019, *Statement on Monetary Policy*, February 2020 – Appendix A.

¹²⁴ RBA 2019, *Statement on Monetary Policy*, February 2020 p.68.

¹²⁵ RBA 2019, *Statement on Monetary Policy*, February 2020 p.70.

218. This contrasts greatly with the position put forward by trade unions in previous reviews. This survey was undertaken well before the COVID-19 outbreak, so it can be expected that wage expectations will be even lower in 2020 than they were in 2019.
219. In the 2019 Decision, the FWC noted that research has been inconclusive as to whether short-term cyclical factors that are associated with wages growth, such as productivity and inflation, are relevant causes. However, this is not consistent with the view of the RBA from Dr Debelle's comments above, nor is it consistent with the view of the Productivity Commission and IMF as discussed in section 3.3. There is a clear link between productivity growth, inflation and wages growth that the FWC must take into account in its Annual Wage Review 2020 Decision.

4.6 Effect of excessive increases in NMW and award minimum wages

220. While we agreed with the FWC 12 months ago that “(e)mployment growth is healthy”,¹²⁶ we note that this was in part related to moderate wages growth, which is enabling businesses to employ more workers.
221. The low wages growth observed over the past five years is likely to be exacerbated over the year ahead due to the current uncertainty around the impact of COVID-19 on the economy. Any increase in NMW and award minimum wages in the current weak and uncertain economic environment would only act to depress employment growth even further.
222. The 2019 Decision states the reason for bestowing increases in NMW and award minimum wage rates, well in excess of average wages growth and inflation, over the past three years was due to a lack of “any data which supports the conclusion that the increases awarded (in previous years) have had a discernible detrimental effect on the labour market or the economy generally.”¹²⁷
223. This statement is in conflict with an earlier comment that “(i)t also remains difficult to explain why industry sectors with the highest level of award reliance generally have nominal wages growth only or below average in circumstances where modern award and minimum wage rises were increased by 3.3% in 2017 and 3.5% in 2018.” [87]
224. An explanation, which the Expert Panel does not appear to have considered, is that the increase in NMW and award minimum wages (which are typically applied to younger, inexperienced workers) has come at a cost to other (experienced, older, non-award) workers, with employers appearing to be holding back increases in the wages of these other employees to provide the mandated increases to NMW and award minimum wage reliant employees.
225. Overall, this is or was narrowing the wage base of employees and failing to recognise the value of loyal higher skilled employees. This will lead to an increase in discouraged workers, as these loyal higher skilled workers have seen their rates of pay fall in real terms, at a time when new inexperienced workers have seen their wages increase by around 10% in nominal terms and 6% in real terms. Again, this appears to have been occurring prior to the pandemic changing everything.

¹²⁶ [2019] FWCFB 3500 at [90].

¹²⁷ [2019] FWCFB 3500 at [90].

226. Recent research for the RBA by Cassidy (2019) shows 30% of all workers experienced no change in their nominal wages in 2017, and nearly one half of those people had experienced no wages growth for two years or more.¹²⁸ The prevalence of these periods without wages growth often stems from an explicit agreement by firms and workers to delay wage increases to maintain jobs in response to weak demand. It can also relate to businesses holding back wage increases for existing workers to accommodate mandated increases for NMW and minimum award wage employees. Instances of industries experiencing periods of no wages growth have been most prevalent are in the retail and construction industries – industries with a high proportion of NMW and minimum award wage employees and most impacted by the slowing economy in recent years.
227. The longer the current COVID-19 crisis continues, the more we are likely to see firms and workers collaborate to limit wages growth to retain jobs. Increasing NMW and award minimum wages in this environment will only counteract this, with a loss of employment opportunities in vulnerable sectors.
228. In recent years, wages growth has been strongest for award-reliant workers as a result of FWC decisions to increase award and minimum wages at a faster-than-average pace. Wages growth has also been stable for workers on EBAs at around 2½%, reflecting government policies designed to keep wages growth steady for public sector workers.¹²⁹ In contrast, workers on individual agreements have received wages growth averaging less than 2% over recent years.
229. In the current uncertain economic environment, wages growth was already expected to be very low across the broader economy in the year ahead, prior to the pandemic. It is important that the FWC take this into consideration in the current Annual Wage Review and moderate their expectations for NMW and award minimum wages growth, taking into account that any increase in NMW and minimum award wages is likely to come at the cost of wages growth for other employees.

4.7 Wage growth in comparable economies

230. Wages growth in Australia has been consistent with that of comparable economies over the past decade, with most major economies experiencing comparatively lower wages growth.
231. In the wake of the Global Financial Crisis central banks relied on monetary policy to stabilise their economies. As a result, core inflation in many advanced economies remained below central banks' target ranges.
232. Latest estimates from the Office of National Statistics show that average weekly earnings for employees in the United Kingdom in nominal terms increased by 2.9% in the year to April 2019, compared to 2.8% a year earlier.¹³⁰ In real terms, the estimates show that average weekly earnings of employees increased by 0.9% in the year to April 2019.
233. In the United States, despite solid economic growth, wages growth has been modest, over the past five years.

¹²⁸ Cassidy N. 2019 *Low Wages Growth in Australia – An Overview*. Reserve Bank of Australia

¹²⁹ Cassidy N. 2019 *Low Wages Growth in Australia – An Overview*. Reserve Bank of Australia

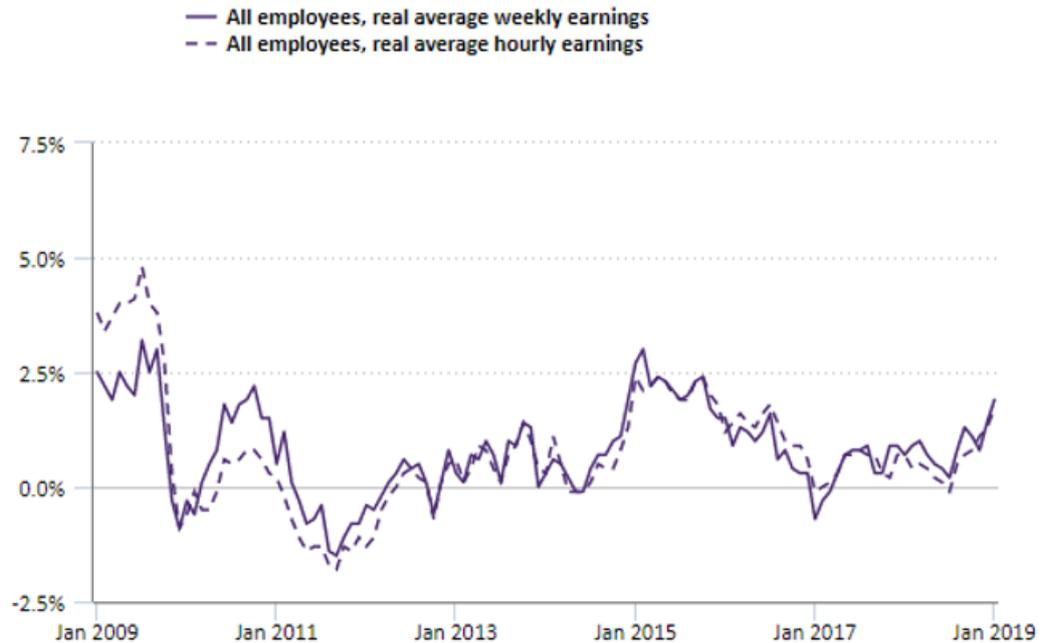
¹³⁰ Office of National Statistics (UK) EARN01: Average Weekly Earnings, 19 February 2019.

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours#publications>

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/averageweeklyearningsearn01>

234. Real average weekly earnings growth fell steadily from a peak of 3% in January 2015 to a low of -0.7% in January 2017. It showed moderate improvement, remaining within a range of 0.2% to 1% between mid-2017 and mid-2019, before a jump to 1.9% in January 2020.¹³¹

12-month percent change in real hourly and weekly earnings, private sector employees, seasonally adjusted, January 2009–January 2019



Source: U.S. Bureau of Labor Statistics.

235. Employment prospects had been improving in Japan (pre-Covid-19) and labour force participation was on the rise. Nominal total cash earnings rose 0.8% in the year to September. Regular pay – or base salary, which makes up most of total cash earnings and determines the wage trend – rose 0.5% year-on-year September.¹³²
236. Wages in the Eurozone were rising again after years of stagnation. Official data showed that hourly wages in the eurozone rose 2.6% year-on-year for the June quarter 2018, following on from growth of 2.5% for the same quarter in 2017.¹³³ Experts attribute the growth to a shortage of workers, particularly in countries like Germany.
237. Australia, the US, the UK and other OECD economies have very different industrial relations and minimum wage systems, including different regularity in increasing minimum wages. However, there has been a common phenomenon of slower wages growth, and slower wages growth than would be expected following reasonable levels of jobs growth / comparatively low unemployment. There appears to be a deep-seated structural change that is not sufficiently understand globally.

¹³¹ Bureau of Labour Statistics (US) Real average Hourly Earnings. 15 February 2019. <https://www.bls.gov/opub/td/2019/real-average-hourly-earnings-increase-1-point-7-percent-over-the-year-ending-january-2019.htm>

¹³² <https://www.reuters.com/article/us-japan-economy-wages/japan-september-real-wages-rise-for-first-time-in-nine-months-government-idUSKBN1XH2ZP>

¹³³ Eurostat September 2018, <https://ec.europa.eu/eurostat/documents/2995521/9102894/3-14092018-AP-EN/496a616d-6ae3-465a-998e-f137a242bc85>

4.8 Conclusion

238. In its 2020 Decision on the NMW and award minimum wages, it is important that the Expert Panel take into account the lower expectations of wages growth (of both employers and employees), due to the low labour productivity and low inflation environment in Australia over the past five years. This preceded the COVID-19 crisis, which is likely to depress expectations further.
239. NMW and award minimum wages growth has outpaced wages growth across the broader economy since 2014, leading to a narrowing of the wage base. In an environment of low labour productivity and low inflation, this is further eroding the weakening economic conditions, contributing to the slack in the labour market (particularly underemployment rates) and holding back employment opportunities for younger lower-skilled employees. These factors can only be expected to deteriorate further under the cloud of significant uncertainty caused by the COVID-19 outbreak.
240. Australia already has the second highest minimum wages globally,¹³⁴ and the third highest minimum wage relative to the median wage of full-time employees.¹³⁵ The living standard of the average Australian worker far exceeds that of our OECD counterparts, and has not fallen.
241. A further increase in the NMW and award minimum wages, in excess of average wages growth and inflation, will only exacerbate the situation and further destabilise the labour market.
242. In handing down its Decision for the 2020 Annual Wage Review, the FWC must take into account the likely impact of COVID-19 on the Australian economy and the labour market.
243. ACCI recommends the Expert Panel adopt a considered and prudent approach to any uprating of NMW and award minimum wages in the Annual Wage Review 2020 Decision, until such time as the impact of COVID-19 on the labour market and the broader economy is clearer. Prudence and due consideration may lead to no increase being awarded in 2020 in the interests of keeping Australians in jobs and businesses in business.

¹³⁴ Behind Luxembourg

¹³⁵ RBA (2019) Statement on Monetary Policy, February 2019, Box A, p.22

5. LABOUR MARKET CONSIDERATIONS

244. The labour market, and impacts on employment, unemployment, participation etc, is one of the major considerations for setting and uprating minimum wages in these reviews. In the context of a near unparalleled health, economic and jobs crisis, it is a more pressing consideration than ever.
245. The Expert Panel is directed to consider impacts on employment and the labour market by the various considerations in the *Fair Work Act 2009* it weighs in these reviews, including:
- a. The need to promote “economic prosperity and social inclusion”, s.3.
 - b. The Modern Awards Objective, s.134(1)(c) and (h).
 - c. The Minimum Wage Objective, s.284(1)(a) and (b).
246. The importance of considering impacts on jobs when varying minimum wages directly informed the drafting of the relevant provisions of the *Fair Work Act 2009*.
247. This consideration also arises from Australia’s treaty obligations, which have in part been codified into the *Fair Work Act 2009* and the provisions that are balanced in these matters. Article 3 of the ILO’s Minimum Wage Fixing Convention, 1970 (No. 131)¹³⁶, sets out the considerations (elements) that should be taken into account in setting and varying minimum wages, which clearly includes the importance of jobs:

Article 3

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

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

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

248. The Panel looks closely at labour market considerations in these reviews, including employment and hours worked,¹³⁷ unemployment and underemployment,¹³⁸ participation,¹³⁹ and labour market transitions.¹⁴⁰

¹³⁶ Ratified by Australia, 15 June 1973

¹³⁷ [2019] FWCFB 3500, from [138]

¹³⁸ [2019] FWCFB 3500, from [142]

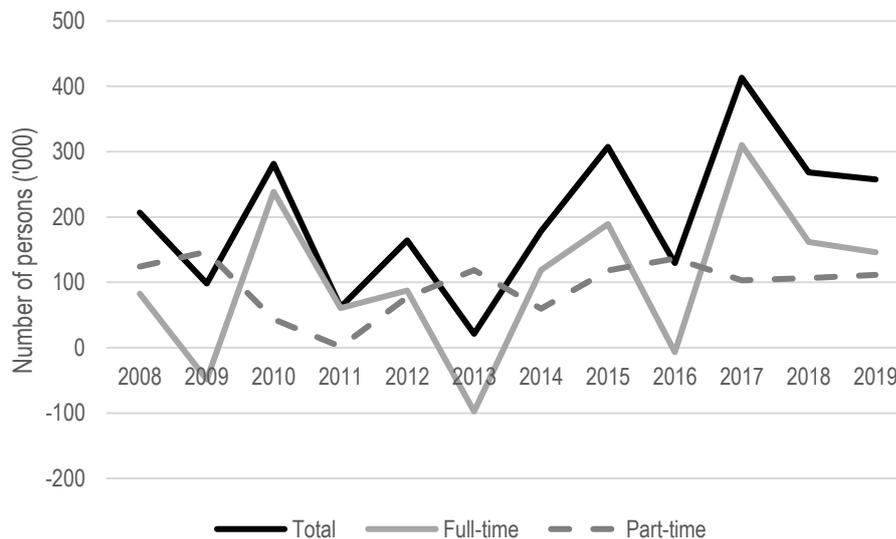
¹³⁹ [2019] FWCFB 3500, from [152]

¹⁴⁰ [2019] FWCFB 3500, from [158]

5.1 Employment and Hours Worked

249. In the pre-2020 economy, prior to the bushfires and COVID-19, employment growth remained strong, with around 257,400 new jobs created in the year to January 2020.¹⁴¹ This followed employment growth of 413,200 in the year to December 2017 and 268,500 in the year to December 2018. Employment growth over the 12 months to January 2020 of 2.1%, was above the long-term average of 1.8%.
250. Total employment in Australia “now” (on pre-COVID-19 data) stands at 13 million, with 8.9 million full-time and 4.1 million part-time employees.¹⁴² Over half of the employment growth in the past year was full time jobs, with 146,150 full-time jobs (57%) and 111,230 part-time jobs (43%) added. Overall, this led to a slight increase in the part-time share of employment, up from 31.4% to 31.8%.

Chart – Total, full-time and part-time jobs added in the year to December



251. Table 6.3 of the Statistical Report shows that over the past year, employment growth has been strongest in administration and support services (9.7%), electricity, gas, water and waste services (6.7%), professional, scientific and technical services (6.4%) and education and training (6.1%).¹⁴³
252. The largest declines were in the transport, postal and warehousing (-4.7%), agriculture, fisheries and forestry (-3.7%), public administration and safety (-1.6%) and mining (-1.2%).
253. This compares with average annual employment growth over the past decade, where the strongest growth was observed in mining (4.0%), healthcare and social assistance (4.0%), professional, scientific and technical services (3.5%), education and training (2.8%), arts and recreation services (2.4%) and accommodation and food services (2.3%).

¹⁴¹ ABS 6202.0 - Labour Force, Australia, Jan 2020. 20 February 2020

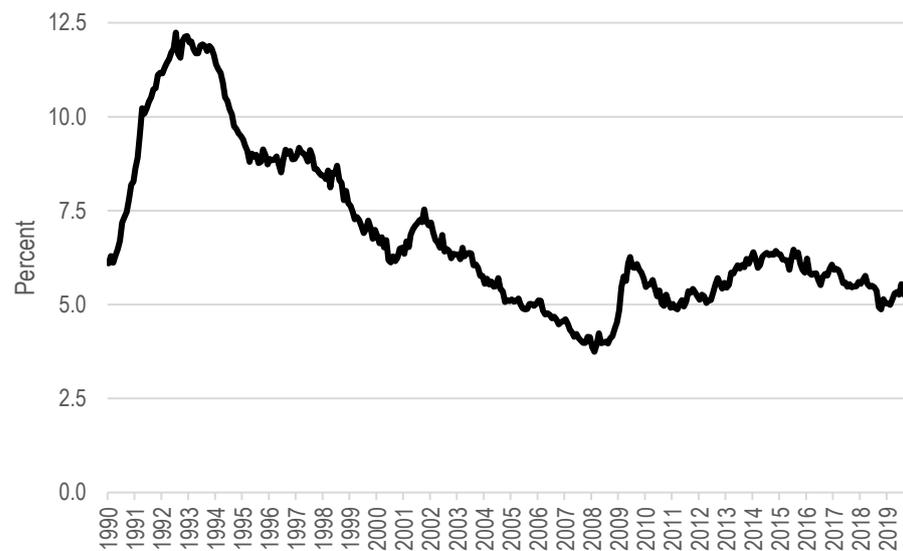
¹⁴² ABS 6202.0 - Labour Force, Australia, Jan 2020. 20 February 2020

¹⁴³ Statistical Report – Annual Wage Review 2019-20. Chart 6.3.

5.2 Unemployment

254. After peaking at 6.3% (seasonally adjusted) in December 2014, unemployment has trended steadily down to a low of 5.0% in December 2018. It has since moved within the range of 5% and 5.3% - returning to 5.3% in January 2020.¹⁴⁴ However, the trend unemployment rate remained at 5.2% for most of the year to January 2020. Again, this reflects the pre-2020 economy and labour market, and there is significant basis to fear a major uptick in unemployment in the days and weeks prior to lodging this submission.

Chart Unemployment



255. Overall, the number of unemployed people increased by 48,000 (7%) in the year to January 2020 to 725,900 people. This was driven by strong growth in the participation rate, which increased over 295,000 over the past 12 months.
256. The Government and the RBA were forecasting at the end of 2019 that unemployment would remain within the range of 5% to 5¼% throughout most of 2020, before falling to 4¾% by the end of 2021.¹⁴⁵
257. However, this situation has changed dramatically due to the COVID-19 crisis. The financial market has responded to the uncertainty of COVID-19, turning down sharply (losing almost 35%) since 21 February 2020.
258. While it is still too early to determine with any accuracy the impact on the economy, it is clear there will be a major economic impact. This will flow through to employment, with unemployment expected to rise through 2020, potentially sharply.

¹⁴⁴ ABS 6202.0 - Labour Force, Australia, Jan 2020. 20 February 2020

¹⁴⁵ RBA 2019, Statement on Monetary Policy, February 2020.

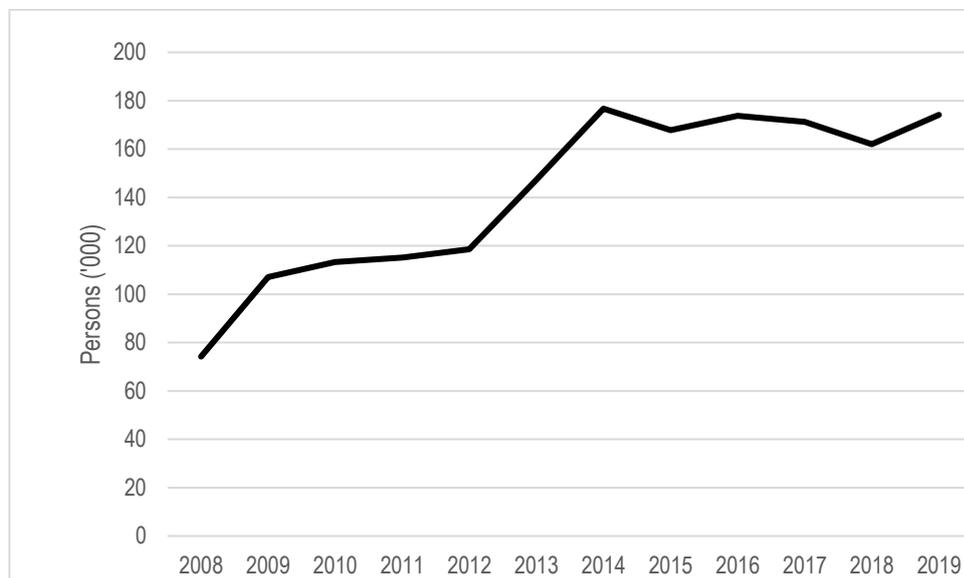
Commonwealth of Australia (2019) Budget 2019-20: Budget Strategy and Outlook – Budget Paper No.1 2019-20

- 259. As noted earlier in Section 2.3, as a direct result of the social isolation measures and displacement caused by the COVID-19 pandemic, many economists are predicting unemployment to more than double to between 11% and 15% in 2020.
- 260. Demand in key sectors with a high reliance on NMW and minimum award wage employees, such as accommodation and food services, retail trade, arts and recreational services, have been the most affected by the COVID-19 crisis so far. These sectors also have higher rates of casual employment and a higher propensity to disengagement in response to economic circumstances. Therefore, it is likely that unemployment in these sectors will rise over the next few months.
- 261. Any increase in NMW and award wages in the current uncertain economic environment can only increase pressure on employers to disengage workers, further exacerbating the rise in unemployment.

5.3 Long-term unemployment

- 262. Long-term unemployment refers to the number of persons unemployed for 52 week or more.
- 263. The number of long-term unemployed increased by 11,000 between December 2018 and December 2019 to 174,200, an increase of 6.7%. This raised the long-term unemployment ratio by 0.5% to 24.8%.

Chart long-term unemployment



- 264. This increase seems more a reflection of an overall increase in unemployed workers than any novel consideration relating to longer term unemployment (with the number of unemployed people increasing by 48,000 in 2019).
- 265. It is logical that the shorter-term unemployed, with higher skills and more recent work experience, will be hired 'first', and that a decreasing unemployment rate is needed to make sustained inroads into long-term unemployment. With the rapid transition to extreme uncertainty and

elevated risk during the first months of 2020, concerns for long term unemployment should increase.

266. The economic uncertainty created by COVID-19 in 2020 raises the prospect of a substantial increase in both the unemployed and long-term unemployed (particularly for youth and older job seekers). It is particularly important for the Panel to be take into account thate:
- a. Any substantial downturn in demand, confidence, investment etc can rapidly translate into a real impact on jobs.
 - b. Many businesses that have been reviewing or reconsidering positions will move to make redundancies, forecasting a more adverse operating environment / reduced demand.
 - c. There will be more job seekers seeking work.
 - d. People who come out of employment during a period of significant economic downturn, can find re-employment very difficult.
267. A higher proportion of older workers are choosing to remain in the workforce, for financial or other reasons, with many accepting lower paid NMW and award minimum wages to retain employment. Higher minimum wages may limit the opportunities for these older workers to remain in the workforce, as it will reduce employment opportunities at the lower end of the market. There is a growing concern that if these older workers lose their job, may not be able to get back into the market.
268. Nothing in this would seem to favour an uprating in minimum wages in 2020. Whether someone is long-term unemployed or has been out of work for less than 12 months, it seems equally important that the NMW and award minimum wages be set at a level which does not disrupt healthy levels of labour market demand, and that minimum wage levels not interrupt demand or discourage hiring. The COVID-19 crisis makes this consideration acute.
269. With unemployment expected to rise through 2020 due to the COVID-19 crisis, the long-term unemployment rate can be expected to grow in line with the growth in the overall unemployment rate through 2020. This would be further threatened by any significant uprating of minimum wages.

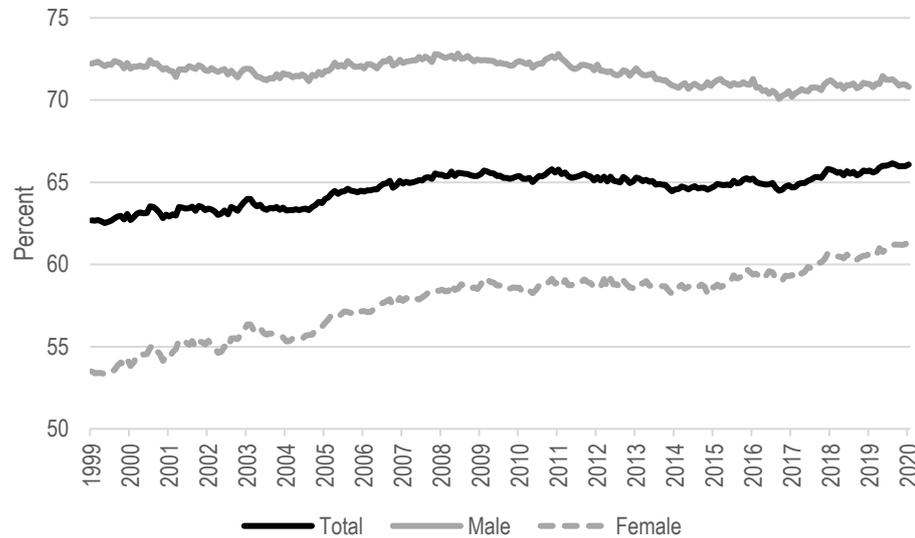
5.4 Participation

270. Over the past three years, increasing employment opportunities encouraged more workers back into the workforce, with the participation rate reaching record high of 66.2% in August 2019. It settled back to 66.0%, before edging up to 66.1% in January 2020.¹⁴⁶

¹⁴⁶ ABS 6202.0 - Labour Force, Australia, Jan 2020. 20 February 2020

271. Overall, the participation rate was 0.4% higher than in December 2018, with net growth in workforce of 291,800 people over the past year. Most of this growth was in the female participate rate, raising the female participation rate from 60.7% to 61.5% from December 2018 to December 2019. The male participation rate remained around 71% over this period.¹⁴⁷

Chart – Total, male, female participation rates (15-64)



272. For those within the main working age classifications of 20-64 years, as presented in the Table 6.9 Statistical Report, the participation rate increased to a record high of 81.4%, an increase of 0.6% above the previous year.¹⁴⁸ Most of the growth in the main working age classifications of 20-64 years was in the female participation rate, which increased by 0.9% over the past year to a record high of 76.2%. This compares to the female participation rate of 71.5% in 2009. In comparison, the male participation rate in the main working age classifications increased by 0.2% to 86.6%. This is down slightly from the male participation rate of 86.9% in 2010.
273. Under the shadow of the COVID-19 crisis, with the economy expected to turn down in 2020, employers in highly vulnerable sectors, such as tourism, education, retail and other service related industries, are expected to hold off in taking on new workers, or even reduce employees numbers in 2020. With employment opportunities falling through 2020, the participation rate is expected to follow a similar path, turning down in 2020, potentially sharply.
274. This should be taken into consideration in the current wage review, as any significant increase in the NMW and award minimum wages is likely to exacerbate the decline in the participation rate.

5.5 Employment by Gender

275. As noted, female employment was increasing pre-COVID-19, with an additional 171,800 females employed in the year to December 2019. As shown in the Statistical Report Chart 6.5, much of this increase has been in full-time work, with the net increase in full-time female workers of 107,700.

¹⁴⁷ ABS 6202.0 - Labour Force, Australia, Jan 2020. 20 February 2020

¹⁴⁸ Statistical Report – Annual Wage Review 2019-20. Table 6.9.

276. This was more than 4-times greater than the net increase in male full-time employees over this period of 24,900.¹⁴⁹ In contrast, the growth in part-time employees was evenly distributed between males (64,200) and females (64,100).
277. This continues a trend observed over the past decade, with the number of females in the workforce increasing by 23.5% or 1.2 million between December 2009 and December 2019, from 5.23 million to 6.46 million.¹⁵⁰ This was driven by a 2.7% increase in the female participation rate over the past decade from 58.5% to 61.2%.
278. Over the same period the number of males in the workforce increased by 14.8% or 935,000, from 6.3 million to 7.2 million. The male participation rate has fallen over the decade from 72.3% to 70.9%.¹⁵¹
279. This suggests that the gender difference is narrowing. Females represent 47% of the workforce in 2019, compared to 45% in 2010. It will remain to be seen how the impact of the pandemic on jobs will impact on this.

5.6 Apprenticeships and traineeships

280. Statistics from National Centre for Vocational Education Research (NCVER) indicate that apprenticeships and traineeships have experienced a steeply declining trend over the past eight years, which has continued in 2019. From a peak of 515,000 in 2012, apprentices and trainees in-training have fallen to 272,920 as at 30 June 2019, a decrease of over 47%. This has been driven mainly by falls in non-trade traineeships, which fell 68% from 299,400 in 2012 to 95,170 in 2019, while trade apprenticeships fell around 20% from 215,500 in 2012 to 177,740 in 2018.¹⁵²
281. Apprenticeship commencements have also fallen sharply over this period, down 59% from 377,000 in 2012 to 156,200 in 2019. While completions peaked at 214,500 in 2013, they have subsequently fallen 58% to 89,400. Cancellations and withdrawals were down less, although not insignificantly, falling over 45% from 164,500 in 2012 to 89,800 in 2019.¹⁵³
282. In this review, the Panel needs to consider the trend decline in the commencement and completions of apprenticeships and training, which in part can be attributable to the cumulative effects of increases in award wages being higher than the average wage increases across the whole economy. The Panel also needs to be aware of the consequences of successive decisions, recognising that its decisions have both immediate and cumulative impacts.
283. In situations where the economy turns down, apprentices and trainees are typically the first to be laid-off. This was recognised by the Federal Government in the COVID-19 economic stimulus package, which provides employers with a 50% wage subsidy for each of their apprentices and trainees over the 9 months to 30 September 2020. The subsidies were directly targeted at encouraging employers to retain these vulnerable workers. However, these wage subsidies for apprentices and trainees are temporary, ending on 30 September, a time when many businesses will still be in recovery mode.

¹⁴⁹ Statistical Report – Annual Wage Review 2019-20. Chart 6.5.

¹⁵⁰ ABS 6202.0 - Labour Force, Australia, January 2020, 20 February 2020

¹⁵¹ ABS 6202.0 - Labour Force, Australia, January 2020, 20 February 2020

¹⁵² National Centre for Vocational education Research, *Historical time series of apprenticeships and traineeships in Australia*, 12 December 2019, <https://www.ncver.edu.au/research-and-statistics/data/all-data/historical-time-series-of-apprenticeships-and-traineeships-in-australia-from-1963-to-2019>.

¹⁵³ National Centre for Vocational education Research, *Historical time series of apprenticeships and traineeships in Australia*, 12 December 2019, <https://www.ncver.edu.au/research-and-statistics/data/all-data/historical-time-series-of-apprenticeships-and-traineeships-in-australia-from-1963-to-2019>.

284. Given the wages of apprentices and trainees are set at a proportion of NMW and minimum award wages, it is important the Panel take into consideration the vulnerability of these workers in the 2020 Decision.

5.7 Underemployment

285. The underemployment rate measures persons in part-time work aged 15 years and over who want or are available for more hours of work than they currently have. It includes both:
- Part-time employees wanting any additional hours they can get, who can be assumed to want full time employment but are unable to find it.
 - Part-time employees who want additional work, but within personally defined parameters. This includes employees with parenting and caring responsibilities wanting work to match their desired hours and those for whom childcare restricts their work availability. It also includes students trying to match work with classes.
286. There was a modest increase in the underemployment and underutilisation rate over the past year, with the underemployment rate up 55,400 or 0.2%, to 8.9% in January 2020. This brings the underemployment rate back into line with the trend over the past five years of around 9.0%.
287. This increase in spare capacity in the labour market has been driven mainly by the increase in the participation rate. It can also be attributed to an increasing desire of older workers to remain engaged in the workforce, with over half of the growth in the underemployment rate (53%) over the past year being persons aged 55 and over.
288. In the shadow of COVID-19 and the likely impact on economic growth and employment, casual workers and those with so-called 'non-standard' working arrangements are the most at risk, as they will be the first workers to be let go. This is expected to drive up the underemployment rate through 2020. With a high proportion of these workers on NMW and award minimum rates, any increase in these rates would make the situation for these workers worse, as higher wage rates will further impact on the ability of employers to maintain and continue to employ these workers.

5.8 Labour market transitions

289. As ACCI has emphasised in previous submissions, in determining any increase in the minimum wage, the FWC must take into account the important role of the minimum wage as a stepping-stone to higher paid employment, enabling young and inexperienced workers to access the workforce and gain the experience necessary to build a career.
290. As show in Table 2.7 of the 2019 Decision, using data from the 2019 Australian Government submission (replicated below), only one-third of people who enter the workforce by taking low-paid jobs remain in low-paid employment for more than one year, with only 2.5% remaining in low paid work for over 5 years.

Table Duration in low-paid employment

Duration	Less than 1 year	1 to 2 years	2 to 5 years	More than 5 years
Proportion	66.2	18.0	13.3	2.5

Source: Australian Government Submission, 15 March 2019 at p.62, based on HILDA Survey, release 17 (December 2018).

291. ACCI also notes the reference in the 2019 Decision to the 2019 Australian Government submission that *'[o]ver a third (36%) of people who enter the workforce do so by taking a low paid job ... with 41% of workers aged under 25, and 41% of workers with year 12 qualifications and below.'*
292. Similar analysis by Wilkins and Zilio 2020 observing *low-paid award-reliant employees* identified that 39.1% move to higher paid employment within one year, 56.8% move after 2 years and almost 80% have moved after 5 years.¹⁵⁴ This observes a smaller subset of low paid employees than that observed in the Australian Government analysis, which goes some way to explaining the higher survival rate of *low-paid award-reliant employees*.
293. While acknowledging the rate of transition to high paid employment, the FWC choose to hold-fast to its previously position that *'[w]e cannot be indifferent to the standards of living of low paid workers just because many do not stay in that situation for long periods.'*[161] In doing so, the then Expert Panel appear to pay insufficient regard to the large share of these low paid workers who rely on the minimum wage as an entry point into the workforce and use it as a stepping-stone to higher paid work.
294. ACCI reiterates the point that we have made in previous submissions that minimum wages should be set at a level that encourages businesses to employ more workers and maximises the opportunity for new workers to enter the workforce.
295. It is not the role of the minimum wage to provide a welfare safety net to a very small proportion of the workforce that are unable to transition from the minimum wage to higher paid work. These people are best supported by other means, through the welfare system and/or through the education and training system. In 2020, many of those engaged on minimum wages as jobs begin to recover will have recently been in receipt of transfer payments.
296. We encourage the Panel to review its approach to the role of the minimum wage in maintaining the living standards of the low paid, taking into consideration that:
- Successful labour market transitions, into work and from lower paying employment to higher paying employment, are important.
 - The uprating of minimum wages in these reviews should not have effect of making these transitions more difficult or discouraging employers from the offering of higher paying work.

¹⁵⁴ Wilkins R. and Zillio F. (2020), *Prevalence and Persistence of Low-Paid Award-Reliant Employment* Fair Work Commission Research Report 1/2020, February. p.35

5.9 Employment Effects

297. The Panel, and the preceding tribunal minimum wage setters, have for many years considered the relationship between minimum wage increases and employment. This is an area of some research interest, albeit that there is some debate on the relevance of international experiences and conclusions into Australia's idiosyncratic minimum wage system (which has for example more than 2000 minimum wage rates, not the single rate applicable in many other developed countries).
298. Over a series of submissions ACCI has indicated to the Panel that:
- a. The circumstances of the small businesses that overwhelmingly pay minimum wage rates must be taken into account in considering proposals to increase wages by significant amounts.
 - b. Small, award-reliant businesses that run on lean margins and are unable to pass on sizeable increases to consumers, may need to cut costs by either reducing headcount and hours or substituting capital for labour. It is very possible that short-term gains in the earnings of those who remain in employment come at the expense of those who are negatively impacted with broader economic consequences.
 - c. Many award-reliant businesses operate in a highly competitive environment and are unable to pass increased labour costs on.
 - d. Increasing wages excessively risks discouraging investment and entrepreneurship. (And there must be particular and additional consideration of what excessive looks like in the current climate).
 - e. Wage increases that are not supported by higher productivity or higher prices for consumers, are likely to cost jobs. In a climate of operational and existential adversity for businesses, this likelihood increases.
 - f. To the extent that international research demonstrates negative employment impacts caused by minimum wages overseas and their uprating, these impacts may be compounded in Australia due to our higher statutory minimum wages.

5.10 Conclusion

299. The Panel should accord significant weight to labour market considerations in determining the rate of any minimum wage increase in 2020, and more weight and more concern than in recent years.
300. Prior to the bushfires and COVID-19 outbreak, there were grounds to conclude that the Australian labour market was continuing to strengthen, with employment increasing, unemployment steady and participation rates at a record high. However, uncertainty and negativity, particularly around COVID-19, will weigh heavily on employment in 2020, with high risk that unemployment and underemployment will increase throughout the year.

301. This is expected to have a greater impact on casual workers and those not working full time , a high proportion of whom are on NMW and award minimum rates.
302. It is highly likely in the current uncertain economic environment, a further substantial increase in the NMW and award minimum wage, in excess of inflation and broader wages growth, is likely to exacerbate the expected increase in unemployment, underemployment and long-term unemployment.
303. As outlined previously, ACCI does not believe the Panel has a role to play in driving wages growth across the broader economy nor that any stimulatory or catalytic role be attempted:
 - a. This would not be merited, nor find favour in the evidence.
 - b. It would not be consistent with the statutory framework.
 - c. It would not work.
 - d. It would cause significant damage to those whose interests would purport to be served by such an approach.
 - e. This should never be attempted, but in the 2020 circumstances, it is particularly unmerited and unjustifiable.

6. LIVING STANDARDS / NEEDS OF THE LOW PAID

6.1 Introduction

304. ACCI maintains that minimum wage fixation is not an effective way of addressing the needs of lower income households. The tax and transfer system is better targeted to address the actual circumstances of lower income households and provide necessary support.
305. As we have argued for some years, it cannot be assumed that lower paid employees necessarily reside in lower income households. Previous research for the Annual Wage Review has shown that:
- a. Minimum wage earners are found throughout the distribution of household income and over half were not the primary earner in the household, with a large share of minimum wages workers dependent students (17%), non-dependent children living with their parents (17%) or were secondary earners in couple households (21%).¹⁵⁵
 - b. A large proportion of minimum wage earners work part-time (77.2%) or casually (79.6%).¹⁵⁶
 - c. While there is a higher proportion of minimum wage earners among low-income households (44% in the bottom 3 deciles), when compared with the wider population, lower income groups are dominated by the unemployed and those outside the labour force.¹⁵⁷ This limits the effectiveness of wage setting in the context of the needs of the low paid, or in fact renders the Decision of the Expert Panel a very poor mechanism to attempt to address the needs of the lower paid.
306. Nevertheless, the Minimum Wages Objective requires that this consideration be taken into account in conducting Annual Wage Reviews, and the Panel has previously emphasised that this is one of the considerations it must weigh.
307. The Panel has also clarified that the needs of the low paid and relative living standards cannot be the sole or determining considerations under the current legislation.
308. The Panel is required by both the Minimum Wages Objective and the Modern Award Objective to take into account relative living standards and the needs of the low paid when setting fair and relevant minimum wage rates. Those matters are different, but related, concepts and must be considered, together with the other matters in ss.3, 134(1) and 284(1) of the Fair Work Act 2009, in the context of available data and research.

¹⁵⁵ Yuen K., Ellis G. and Nelms L. 2018, *Characteristics of workers earning the national minimum wage rate and of the low paid*, Fair Work Commission, Research Report 3/20, 18 Feb 2018, pp. 4-5

¹⁵⁶ Yuen K., Ellis G. and Nelms L. 2018, *Characteristics of workers earning the national minimum wage rate and of the low paid*, Fair Work Commission, Research Report 3/20, 18 Feb 2018, p. 8.

¹⁵⁷ Yuen K., Ellis G. and Nelms L. 2018, *Characteristics of workers earning the national minimum wage rate and of the low paid*, Fair Work Commission, Research Report 3/20, 18 Feb 2018, p.6

309. ACCI has consistently argued that comparisons of ‘relative living standards’ should extend to those out of work, and to those in our community not participating in the labour market / not in employment.
- a. We maintain the unemployed, small business proprietors, and welfare recipients should be included any analysis for determining the NMW and award minimum wage rates under the Fair Work Act 2009, and the relative living standards of the lower paid.
 - b. We cannot identify anything in the statutory framework that would suggest that an assessment of relative living standards should only entail a comparison of award-reliant employees and employees that are employed, but not pursuant to awards.
 - c. We invite the Expert Panel to review previous interpretation and reconsider the potential relevance of comparisons employers view as relevant.¹⁵⁸
310. The potential impact of the COVID-19 pandemic gives extra weight to the approach we have long commended to the previous Expert Panel. Australians are particularly acutely attuned to their living standards at present, and not to false distinctions between those in work and those reliant on other sources of income. In coming months, it may be that those who retain jobs are considerably better off than those who do not. To compare only those in work would be highly partial and misleading.
311. The remainder of this Chapter focusses on the considerations addressed in Chapter 3 of the Panel’s 2019 Decision¹⁵⁹ in light of additional information, including that contained in the updated Statistical Report. Again, this must be assessed as pre-COVID-19 material.

6.2 Award reliant employees and the low paid

312. We thank the FWC, and Roger Wilkins and Federico Zilio for their research on the *Prevalence and Persistence of Low-Paid Award-Reliant Employment*.¹⁶⁰
313. As Wilkins and Zilio note, the definition of low paid employment does not have unanimous consensus.¹⁶¹ We note the Expert Panel has identified in previous determinations that the *threshold of two thirds median earning provides a suitable and operational benchmark for determining who is low paid* [205], and that this analysis applied a similar setting of two thirds of median hourly earnings of all employees.
- a. However, this appears to be completely arbitrary, and there is no clear explanation given in this research, the research referenced, or earlier decisions why two thirds of median earnings is any more representative of low-paid than any other number.

¹⁵⁸ [2016] FWCFB 3500, [354]-[357]

¹⁵⁹ [2019] FWCFB 3501, p.60, [196]-[203]

¹⁶⁰ Wilkins R. and Zilio F. (2020), *Prevalence and Persistence of Low-Paid Award-Reliant Employment* Fair Work Commission Research Report 1/2020, February.

¹⁶¹ Wilkins R. and Zilio F. (2020), *Prevalence and Persistence of Low-Paid Award-Reliant Employment* Fair Work Commission Research Report 1/2020, February. p.7.

- b. The pure fact that two thirds of median earnings reflects the campaign goal of some minimum wage advocates in completely different labour market and regulatory contexts, does not make it a valid assumption or comparator in Australia. This should not be accepted uncritically.
 - c. We note that the threshold chosen in defining the low paid will greatly influence the findings of this research, but for want of a more appropriate measure of low paid, we can engage with the results of this research.
314. The research makes a clear distinction between award reliance and low-paid employment and the overlap between the two. It shows in 2018, while 14.2% of employees were low paid and 16.2% were award reliant, only 5.9% were *low-paid award-reliant employees*. It also shows a marked decline in *low-paid award-reliant employees* over the past decade, down from 7.5% in 2009, a decrease of 21%.¹⁶² This suggests conditions for *low-paid award-reliant employees* are improving, along with rising living standards.
315. The research shows the characteristics of *low paid award reliant employees*, who are more likely to be in part-time jobs (58%) and/or in casual employment (66.5%).¹⁶³ They are more likely to be younger employees (29% between 20 and 25 years, and 60% between 20 and 35 years), suggesting they are more likely to be newer entrants to the workforce with less experience. They are living in couples (58.5%) or dependent students/non-dependent children (19.9%) still living with their parents.¹⁶⁴ Almost 60% of *low-paid award-reliant employees* in couple households are secondary earners and a high proportion of all *low-paid award-reliant employees* receive Government welfare benefits (25%) that supplements their low income.¹⁶⁵
316. *Low-paid award-reliant employees* are more concentrated in accommodation and food service (20.8%), retail trade (18.4%), healthcare and social assistance (13.6%), manufacturing (10.3%) agriculture, fisheries and forestry (5.9%) and administration and support services (5.8%) relative to other wage/award classifications. Also, they have a lower educational attainment and more likely to be labourers, sales workers and technician and trade workers. They are more likely to be employed by small or micro businesses, and to have been with their current employers and in their current occupation for a shorter period of time.
317. For clarity, these are precisely the jobs, in the smaller employers, most at risk from the economic and jobs fall out of the COVID-19 pandemic.
318. In determining this Review, it is important the Expert Panel take into account the very small share of *low-paid award-reliant employees* in the workforce and that this is only a fraction of lower-paid and award-reliant employees overall.

¹⁶² Wilkins R. and Zillio F. (2020), *Prevalence and Persistence of Low-Paid Award-Reliant Employment* Fair Work Commission Research Report 1/2020, February. p.9

¹⁶³ Wilkins R. and Zillio F. (2020), *Prevalence and Persistence of Low-Paid Award-Reliant Employment* Fair Work Commission Research Report 1/2020, February. p.17.

¹⁶⁴ Wilkins R. and Zillio F. (2020), *Prevalence and Persistence of Low-Paid Award-Reliant Employment* Fair Work Commission Research Report 1/2020, February. p.25

¹⁶⁵ Wilkins R. and Zillio F. (2020), *Prevalence and Persistence of Low-Paid Award-Reliant Employment* Fair Work Commission Research Report 1/2020, February. pp.23, 26.

319. It is particularly important to be aware that this Decision will only affect the wages around 40% of low-paid employees, as the other 60% are not award-reliant, and that around two thirds of award-reliant employees are not low-paid.
320. It is also important to realise that *low-paid award-reliant employees* are typically younger employees in part-time or ‘non-full time’ employment, more likely to live with parents or be a secondary earner work in non-full-time employment arrangements and more likely to receive Government welfare benefits it supplement their low income. Therefore, changes to award and minimum wages will have only a very limited impact on household disposable income and poverty levels in Australia. It is far more effective to improve the situation of households with low disposable income through the tax and transfer system.

6.3 Real Earnings

321. As shown in Table 9.1 of the Statistical Report, the real value of national minimum wage grew by 10.6% over the past decade and 6% over the past 5 years.¹⁶⁶ This rate of growth was more than double the increase in average wages across the broader economy.
322. This is leading to poor outcomes for existing employees as it is narrowing the wage base of employees and failing to recognise the value of loyal higher skilled employees. Overall, it is likely to lead to an increase in discouraged workers, as these loyal higher skilled workers have seen their rates of pay fall relative to new inexperienced workers.
323. Previous real increases do however expand the range of options open to the panel on this occasion. The Panel has options to not award an increase in the current climate, secure in the knowledge even with a zero increase in 2020, the real value of minimum wages will have risen in recent years / across the operation of the Fair Work Act.

6.4 Household Disposable Income

324. Equivalised household disposable income is most commonly used in analysis of the living standards of minimum wage employees. This observes both labour market earnings and income from other sources, as well as the net impact of the taxes and transfers, by household type.
325. ACCI supports minimum wages being set at levels that enable a worker to maintain a reasonable standard of living and not be in a position of being amongst the ‘working poor’. However, we do not agree that an arbitrary ‘poverty line’ at 60% of the median income of all employees is an appropriate measure of what is needed to maintain a reasonable standard of living in Australia. This claim or assumption cannot be sustained without further evidence. That said, the following discusses household income in Australia relative to the data presented in the Statistical Report using this arbitrary poverty line.
326. Chart 8.1 of the Statistical Report shows that between 2009 and 2014 NMW and award minimum wages increased at a rate that was consistent with the rate of growth of the WPI.¹⁶⁷

¹⁶⁶ Statistical Report – Annual Wage Review 2019-20, Table 9.1.

¹⁶⁷ Statistical Report – Annual Wage Review 2019-20, Table 8.1

327. However, this relationship has diverged over the past five years with minimum wages growing at a much faster rate than the WPI in real terms. Similarly, while there was a notable increase in AWOTE and AWE in 2012, over the past five years these measures have been growing at a similar rate to the WPI. As such, it is clear that the rate of growth of the NMW and award minimum wages has been out of step with the growth of all other wage growth measures.
328. Table 8.4 of the Statistical Report shows a real increase in the nominal disposable income of minimum wage reliant households for all household types over the past year.¹⁶⁸ Most single earner household types received an increase over \$15 per week, with dual-earner couples receiving an increase above \$26 per week.¹⁶⁹ Overall, this represents an increase in disposable income over the 2019 financial year of 2.2% or above for most households. The exception was households receiving the NewStart Allowance, where disposable income increased by around 1.5%.
329. While we acknowledge the comparatively lower growth in income of households dependent on the NewStart Allowance, this is outside the purview of the Annual Wage Review, and is a matter for the tax and transfer system.
330. Table 8.5 of the Statistical Report indicates single parent and single earner households with children retained the greatest share of the increase in the minimum wage, at 73.5% or above.¹⁷⁰ Dual-earner couple retained a lower share at 55.4% of the increase in the minimum wage. However, households reliant on the NewStart Allowance retained a much lower share of their income, less than 20%. The lower retention of wage growth for dual earner couples and households reliant on the NewStart Allowance, again has been driven by changes in the tax and transfer system. It is not appropriate to use the NMW and award minimum wages to offset changes in the tax and transfer system.
331. Table 8.6 of the Statistical Report shows that the disposable income of minimum wage earners as a ratio of 60% of the medium income (the arbitrary, illustrative poverty line), has increased for all household types over the past five years and that the disposable income of the majority of household types is above the 60% of medium income.¹⁷¹
332. In July 2019, the only household types that were below this threshold were single parent households with children working part-time and single earner couples. Given the nature of these households, with dependent children and/or a dependent spouse, the tax and transfer system will be more effective and better targeted at improving the disposable income of these households than any increase in the minimum wage. It is also difficult to proceed on the basis that less than full time hours of work should meet any claimed community-wide floor for income.
333. The disposable incomes of households with children have been improved in recent years as a result of changes to childcare funding. In July 2018 of the Child Care Subsidy was introduced to replace the Child Care Benefits and Rebate schemes. The changes provided a single means-tested subsidy paid directly to the provider.

¹⁶⁸ Statistical Report – Annual Wage Review 2019-20, Table 8.4

¹⁶⁹ The exceptions were those working part-time where the increase was around \$14 per week and those on the new start allowance, where the increase was over \$16 per week.

¹⁷⁰ Statistical Report – Annual Wage Review 2019-20, Table 8.5

¹⁷¹ Statistical Report – Annual Wage Review 2019-20, Table 8.6

334. Overall, this has lowered the cost of childcare, particularly for low income households, increasing the disposable income of minimum wage employees with children.
335. Similarly, changes in the tax and transfer system over the past year have had a positive impact on the equivalised household disposable income of low paid employees. The low to middle income tax offset (LMITO), in August 2019, but backdated to apply to tax paid in the 2018-19 financial year, provides a tax offset of between \$255 and \$1,080 for low and middle income employees, dependent on their level of income. For minimum wage employees working full-time, i.e. earning \$38,500, workers will a tax offset receive \$255. The LMITO applies between the tax years 2018-19 to 2021-22.
336. We agree the NMW and award minimum wages may be important for the real disposable incomes of a cohort of low-income households. However:
- The level of increases of recent years manifestly exceeded that necessary to maintain incomes / there have been significant real increases across the business cycle (from 2012).
 - The tax and transfer system should be the primary mechanism for addressing wealth inequity and poverty income redistribution to low-income households.
 - It is not the role of the minimum wage to offset changes in the tax and transfer system.
 - These cases are about balancing and weighing considerations, and no single consideration or factor can dominate or be determinative under the Fair Work Act.

6.5 Relative earnings and earnings inequality

337. One of the factors considered by the Panel is earnings inequality with reference to changes in the minimum wage relative to median earnings of full-time employees (the minimum wage bite) and, more broadly, in the distribution of real weekly earnings for full-time non-managerial adult employees.
338. The Panel has previously noted that the relative living standards of low-paid workers are affected by the degree of dispersion in earnings. The Panel has said *“if the earnings of workers in the lowest deciles are growing more slowly than those in the higher deciles, then the relative earnings of the low paid will fall.”*¹⁷²
339. We have reviewed Section 8 of the Statistical Report, and make the following observations:
- The ratio of the C14 rate (minimum wage rate) relative to median weekly earnings of full-time employees (or minimum wage bite) has remained relatively stable, albeit with some year-on-year volatility, within the range of 53% and 54.5% over the past decade.¹⁷³ In 2019, the minimum wage bite is in the middle of this range (53.7%).

¹⁷² [2018] FWCFB 3500 at [302]. See also [2017] FWCFB 3500 at [444].

¹⁷³ Statistical Report – Annual Wage Review 2019-20, Table 8.1.

- b. This suggests those paid on the lowest award rates are not going backwards relative to other wage earners in the community. Thus, there is no basis for any inflated increase in 2020, if there is ultimately a basis for any increase at all.
 - c. Two thirds of median weekly earnings is not a reasonable basis for comparison with the minimum wage. It is not reconcilable with the minimum wage objective nor the general objects of the Act.
 - d. The nominal value of the minimum wage has increased markedly in the past five years, such that it is \$100 per week higher in 2019 than it was in 2014, a 15.5% increase.¹⁷⁴
 - e. Comparing changes in modern award minimum wages with broader measures of wage growth (WPI, AWOTE, AWE) over the past five years, the growth rate of modern award and minimum wages has drifted considerably higher than the other measures (refer to Chart 8.1 of the Statistical Report).¹⁷⁵
 - f. While there was a notable surge in AWOTE and AWE in 2012, since 2014 the rate of growth of these measures has been similar to that of the WPI, while NMW and award minimum wages have surged ahead. This development has significantly improved the relative position of the low paid (although we suspect it has done little to improve productivity or job security and sustainability).
 - g. Table 8.3 in the Statistical Report indicates there has been very little change in the ratio of the mean relative to median real earnings for each of the selected income percentiles.
340. Overall, the relative earnings of minimum wage and award-reliant employees and the capacity of the low paid to meet their needs has improved in recent years. The degree of dispersion in earnings does not point to the need for an increase in the minimum wage in 2020, particularly not beyond the rate of inflation.

6.6 Income and wealth inequality

341. The 2019 Decision the Panel concluded that despite evidence of wealth inequality “*it is unlikely that any moderate adjustment of the NMW or modern award minimum wages arising from this Review would have any discernible effect upon wealth inequality*”.¹⁷⁶ The Decisions of earlier Reviews have concluded that income inequality had stabilised and there were some indicators that income growth in households at the bottom of the distribution was increasing more than households at the middle and top of the income distribution.¹⁷⁷
342. The research provided by Wilkins and Zilio discussed in section 6.1 supports this conclusion, suggesting that the trend in income growth of households at the bottom of the distribution is increasing, with the share of *low-paid award reliant employees* in the workforce continuing to decline and the overall living standards of workers progressively improving.

¹⁷⁴ Statistical Report – Annual Wage Review 2019-20, Chart 8.2.

¹⁷⁵ Statistical Report – Annual Wage Review 2019-20, Chart 8.1.

¹⁷⁶ [2019] FWCFB 3501 at [263].

¹⁷⁷ [2018] FWCFB 3500 at [326], see also [2017] FWCFB 3500 at [63];[484].

343. Table 8.7 of the Statistical report clearly shows stronger growth in real weekly equivalised household disposable income for lower income households than that at the top, with the percentage change in disposable income of the bottom percentile much greater than that of the 50th and 90th percentiles over the past decade.¹⁷⁸ Further, while growth in real household disposable income has been low over the past five years, it was positive for the bottom percentile but negative for the 50th and 90th percentiles.
344. The 2019 Decision gave weight to the conclusions of research by the Productivity Commission into inequality in Australia, which found:¹⁷⁹
- 27 years (now 28 years) of economic growth has delivered significantly improved living standards for the average Australian across every income decile. (And this will remain the case unless and until data following the impact of the COVID-19 pandemic shows otherwise, and even in such a situation a substantial uprating of minimum wages may well be the worst possible policy response).
 - Australia's progressive tax and highly targeted transfer systems has substantially reduced income inequality.
 - Economic mobility is high in Australia, with almost everyone moving across the income distribution over the course of their lives. HILDA data shows the fluid nature of income and wealth, indicating most people are not in the same income decile today that they were in 15 years ago.
 - A small group of Australians do experience entrenched economic disadvantage, in particular those without jobs. While many Australians experience economic disadvantage at some stage of their life, for most it is temporary. Those who experience entrenched disadvantage are generally in receipt of substantial transfer payments.
345. ACCI concurs with the previous Panel's earlier conclusion that income inequality is lessening, with income growing faster for household at the bottom of the income distribution than at the top.¹⁸⁰
346. Overall, the minimum wage is a blunt tool for tackling the living standards of the low paid. Reforming the tax and transfer system is a far more effective way to lift people's living standards. The tax and transfer system can target income according to people's needs such as family size, in a way the minimum wage can never do.
347. We urge the Panel maintain its approach from previous reviews that wealth inequality is a matter that should be assigned little weight in determining whether to increase award minimum wages, and by how much. In a time of crisis and uncertainty the case to maintain this approach seems stronger.

6.7 The Gini Coefficient

348. The Gini coefficient depicts inequality over the whole income distribution, expressed as a ratio between 0 and 1, with naught indicating perfect equality and one indicating perfect inequality.

¹⁷⁸ Statistical Report – Annual Wage Review 2019-20, Table 8.7.

¹⁷⁹ Productivity Commission *Rising Inequality: A stocktake of the evidence*. August 2018 <https://www.pc.gov.au/research/completed/rising-inequality>

¹⁸⁰ [2018] FWCFB 3500 at [326].

349. Chart 8.5 of the Statistical report shows that while there has been year-on-year volatility in the Gini coefficient over the past decade, it has remained relatively stable within a range of 0.32 and 0.335.¹⁸¹ In 2017-18, the Gini coefficient was in the middle of this range at 0.328.
350. Although the chart shows that the Gini coefficient was notably lower prior to the peak in 2007-08, we draw attention to the footnote of the which states that *Estimates presented for 2007-08 onwards are not directly comparable with estimates for previous cycles due to improvements made to measuring income introduced in the 2007-08 cycle.*
351. We agree with comments by the ACTU noted in the 2019 Decision on the limitations of the Gini coefficient and caution against using it as a ‘comprehensive measure of inequality’.¹⁸²

6.8 Budget Standards and the Needs of the Low Paid

352. ACCI maintains that budget standards cannot in themselves be determinative of the NMW or an uprating of minimum award rates and we welcome the position put forward by the Panel in the 2019 Decision that *the 2017 Budget Standards report is ‘useful and relevant’, but budget standards cannot in themselves determine the outcome of the review.*[303]
353. We note the budget standard research has not been revised since 2017. Therefore, there is no basis for it to have any more or less determinative value in 2020 than it did in 2018 and 2019. Added to this, the 2020 pandemic appears set to change economic circumstances significantly for many Australians and for the economy as whole.
354. We note the view of the authors of the 2017 Budget Standards report, that the budget standards *are extremely tight and leave no room for even the most modest of “special treats”*.¹⁸³ We question the logic behind this statement. In setting the “minimum income for healthy living”, it is not the role of budget standards to provide “special treats”. Budget standards determine the “minimum” income and it is the amount of income received above this “minimum” that lends scope for “special treats” or other discretionary expenditure.
355. As stated in the 2019 decision, *(t)he revised budget standard for a single adult employee is \$611.07, the disposable income of a single adult on the NMW is \$645.15, a difference of \$35.08 per week. Hence, the disposable income of a single adult earning the NMW is above the corresponding MIHL budget standard.*[308] This income in excess of the MIHL Budget Standard is available for discretionary expenditure.
356. Further, we note the approach taken in the 2019 Decision of updating the budget standards using the CPI to “maintain their relevance”. [207] With the increase in the minimum wage (3%) much greater than the increase in the CPI (1.8%), the difference in the minimum wage and budget standards will have increased further in 2019.
357. We note the ACBC submission to the 2019 Review that *a full-time job at the NMW rate is sufficient to provide a single adult with a reasonable standard of living.*[305]

¹⁸¹ Statistical Report – Annual Wage Review 2019-20, Table 8.5.

¹⁸² [2019] FWCFB 3501 at [267].

¹⁸³ Saunders P and Bedford M (2017) New Minimum Income for Healthy Living Budget Standards for Low-Paid and Unemployed Australians. SPRC Report 11/17, Social Policy Research Centre, UNSW Sydney, p.34;41.

358. It appears that the impact of the COVID-19 pandemic may further decrease the accuracy and reliability of the budget standards research as the real economy changes markedly during this period.

6.9 Poverty and poverty lines

359. Employers agree that the low paid should not be forced to live in poverty, and the minimum wage should be set at a level that provides a ‘decent standard of living’ for NMW and award reliant employees, as those concepts are operationalised in legislation. We recall that Australia has – periodically – the highest minimum wage in the world, clearly the highest when the lowest effective classification rates in key minimum wage industries are taken into account (e.g. retail or hospitality).
360. We reiterate comments in previous decisions, that because families differ in size, composition and the extent of employment, it is not feasible for the minimum wage to be set at a level that ensures all families with a full-time minimum wage worker have incomes that exceed poverty levels.[324] Some larger families may need help from the welfare system, and they do get that help.
361. We note the comment in the 2019 Decision that there is no consensus on how to measure poverty, and that absolute poverty is not a relevant in Australia, the issue is only that of relative poverty.¹⁸⁴
362. While the Panel has previously taken the approach of setting a relative poverty line as the equivalised household disposable income derived from 60% of the median income, there does not appear to be a clear rationale for setting the relative poverty line at this level. We take this as illustrative only. This in no way should be taken to infer that ACCI agree that this is the appropriate level for such measures. To the contrary, we consider this to be arbitrary and would like the Expert Panel to explain further why it believes this to be the correct illustrative threshold.
363. We note the Panel’s previous conclusion¹⁸⁵ that the NMW provides a disposable income that exceeds the threshold / illustrative poverty line adopted by the Panel by 20% in 2017. This margin was much higher for those on award wages. Following the Panel’s decision to raise the NMW by 3.5% in 2018 and a further 3.0% in 2019, which were both well in excess of inflation, living costs and wages growth, it is expected that the minimum wage will exceed the threshold poverty line by a much greater amount in 2019.
364. Therefore, we argue that the minimum wage is more than meeting its purpose and there is no justification for a further increase in the minimum wages if other concerns outweigh the case for an increase.
365. The NMW applies to only 1.7% of employees (less than 200,000 people). For most people the NMW is a stepping stone, providing an entry to the workforce that enables them to then transition to higher paid employment. We draw the Panel’s attention to earlier discussion in Section 4 on labour market transitions, which showed two thirds of those on low paid work transitioning to higher paid work within one year and only 2.3% remaining on the minimum wage more than five years.
366. Therefore, the ACCI submits that the minimum wage is not an appropriate tool to address poverty. We believe poverty in Australia should be addressed through the tax and transfer system.

¹⁸⁴ [2019] FWCFB 3500 at [317].

¹⁸⁵ [2018] FWCFB 3500, [336]

6.10 Financial stress and deprivation

367. The Expert Panel has previously found:¹⁸⁶

[359] ...The Panel considers that changes in the levels of financial stress and deprivation reported by low-paid households over time, both in absolute terms and relative to other households, assists with its assessment of the extent to which the needs of the low paid are being met, and that minimum wages are fair.

368. Table 12.2 of the Statistical Report includes data on financial stress experienced by lower-paid employee households.¹⁸⁷

369. The data shows that the level of financial stress experienced by low-paid employee households increased marginally in 2018 to 28.2%. However, overall there has been a notable decline in stress of low-paid employee households over the past 5 years, down from 31.3% in 2014. This is relatively consistent with the trend in relation to the level of financial stress experienced by all employee households, as shown in Table 12.1 of the Statistical Report, where the level of financial stress either decreased or remained steady when comparing 2014 to 2018.¹⁸⁸

6.11 Conclusion

370. The Panel should conclude that:

- a. The budget standards research, well preceding the real economy of 2020, showed that the NMW is sufficient to provide a minimum income for healthy living, and that with the NMW increasing at a rate higher than inflation the difference between the NMW and MIHL is becoming greater – i.e. NMW employees are becoming better off.
- b. The NMW provides a disposable income that exceeds the threshold / illustrative poverty line employed by the Panel to date for most household types and the situation for all household types has been improving over the past five years.
- c. Consideration of employee needs, in the context of the wider balance of considerations the Panel has regard to does not:
 - i. Compel the awarding of any minimum wage increase where the wider balance of considerations indicates this would be damaging, unduly risky or speculative, or unmerited
 - ii. Favour a minimum wage increase based on available data in 2020.

¹⁸⁶ [2018] FWCFB 3500 at [359], see also [2017] FWCFB 3500 at [471]; [2016] FWCFB 3500 at [443]; [2015] FWCFB 3500 at [398]; [2014] FWCFB 3500 at [379].

¹⁸⁷ Statistical Report – Annual Wage Review 2019-20, Table 12.2.

¹⁸⁸ Statistical Report – Annual Wage Review 2019-20, Table 12.1.

7. AGREEMENT MAKING

7.1 Numbers of new and in-term agreements

371. It is well established that one of the matters the Panel must take into account in giving effect to the modern awards objective is ‘the need to encourage collective bargaining’.¹⁸⁹ The Panel has noted in numerous previous decisions that while the minimum wages objective does not refer to the ‘the need to encourage collective bargaining’, one of the objects of the Act is to encourage collective bargaining, and ‘on that basis it is appropriate to consider that legislative purpose in making the NMW order’.¹⁹⁰
372. The data on trends in the making of enterprise agreements indicates that enterprise bargaining is, unfortunately, in continuing decline. The statistics show there has been a 53% decrease in the number of current (in term) enterprise agreements in the private sector since 2009, with the majority of the decline occurring in the past five years.¹⁹¹
373. The most recent *Trends in Federal Enterprise Bargaining Report* (September quarter 2019) shows:
- a. A further decrease in the number of current (not expired or terminated) agreements, with 10,877 current agreements as at 30 September 2019. This is lower than the 11,335 agreements current as at 30 June 2019, and lower than the 10,996 agreements as at 30 September 2018.¹⁹²
 - b. 1,249 agreements were approved in the September quarter 2019, down from 1,581 in the June quarter 2018.¹⁹³ At its peak (2009 – 2012) more than 2,000 agreements were regularly approved per quarter.
 - c. Data on number of agreements approved in the quarter by sector is set out in the *Statistical Report – Annual Wage Review 2019-20* published by the FWC:

¹⁸⁹ *Fair Work Act 2009*, s 134(1)(b).

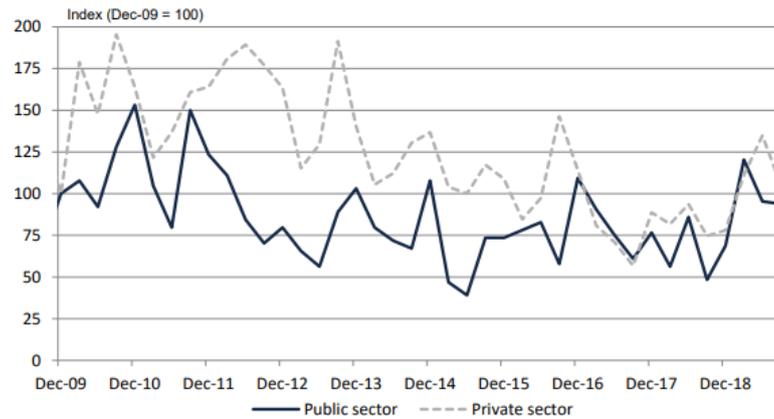
¹⁹⁰ See, for example, [2019] FWCFB 3500 at [364]; [2018] FWCFB 3500 at [373]; [2017] FWCFB 3500 at [592].

¹⁹¹ Historical Trends data – current by quarter, March 2019, Australian Government Attorney General's Department.

¹⁹² Trends in Federal Enterprise Bargaining Report, September Quarter 2019, June Quarter 2019, and September Quarter 2019.

¹⁹³ Trends in Federal Enterprise Bargaining Report, September Quarter 2019, Item 4.

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



Source: Attorney-General's Department, *Trends in Federal Enterprise Bargaining*, September quarter 2019, <<https://www.ag.gov.au/industrial-relations/enterprise-agreements-data/Pages/trends-in-federal-enterprise-bargaining.aspx>>.

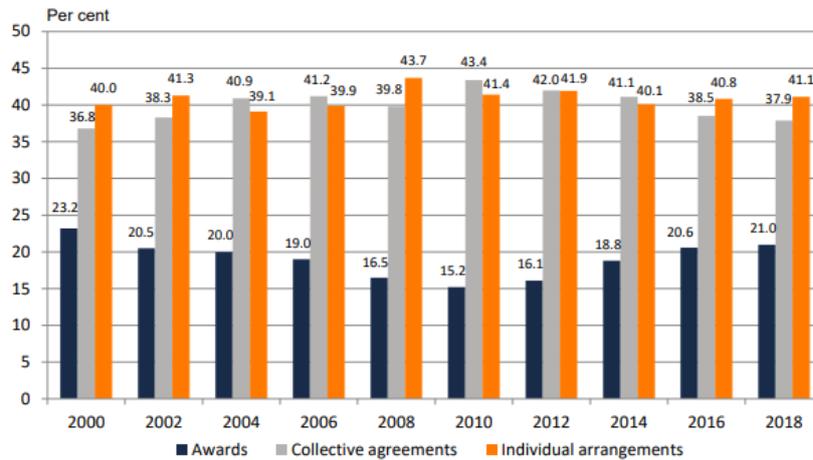
374. The September 2019 *Trends in Federal Enterprise Bargaining Report* also shows that employee coverage by current, in term, agreements has also fallen:
- 2.16 million employees were covered by current agreements at 30 September 2019. This is lower than the 2.19 million employees covered at 30 June 2019, but is higher than the 1.90 million employees at 30 September 2018.¹⁹⁴
 - Of that, 1.33 million employees in the private sector were covered by current agreements at 30 September 2019. This is lower than the 1.37 million private sector employees covered at 30 June 2019, but higher than the 1.19 million private sector employees at 30 September 2018.¹⁹⁵
 - This remains in stark contrast to the 2.4 million employees covered by current agreements in 2015, and 2.6 million employees covered in 2011.
375. While the ABS data in relation to method of setting pay has not been updated since last year's Annual Wage Review decision, the relevant data reveals:¹⁹⁶
- In 2018, 37.9% of employees were covered by collective agreements, down from an indicative comparable estimate of 38.5% in 2016.
 - A sustained increase in award reliance and a decrease in the percentage of employees covered by collective agreements since 2010, as demonstrated by Chart 7.1 from the Statistical Report (below).
 - Award reliance increased slightly over the two years to 2018, from 20.6% to 21.0%. This continued the pattern of increasing levels of award reliance in every survey since 2010.

¹⁹⁴ Trends in Federal Enterprise Bargaining Report, September Quarter 2018, Chart 6.

¹⁹⁵ Historical Trends Data, current by quarter.

¹⁹⁶ Fair Work Commission, Statistical Report – Annual Wage Review 2019-20, Chart 7 (Version 2 – 24 February 2020).

Chart 7.1: Method of setting pay



376. The trend of increased award reliance is evident across almost all industries since 2010.¹⁹⁷

Table 7.1: Award reliance by industry, per cent

	2010	2012	2014	2016*	2018*
All industries	15.2	16.1	18.8	22.4	22.5
Mining	1.9	0.6	0.8	0.1	0.9
Manufacturing	14.6	11.3	15.7	17.7	20.8
Electricity, gas, water and waste services	3.1	4.3	6.9	6.5	4.1
Construction	10.0	10.6	13.7	19.7	16.6
Wholesale trade	10.9	8.1	11.9	16.8	16.1
Retail trade	22.3	25.6	28.5	34.5	30.1
Accommodation and food services	45.2	44.8	42.8	42.7	44.9
Transport, postal and warehousing	8.0	7.3	10.9	11.9	12.7
Information media and telecommunications	5.7	5.7	5.2	5.5	7.1
Financial and insurance services	2.1	4.7	5.0	3.6	5.2
Rental, hiring and real estate services	22.8	20.9	22.1	27.2	29.4
Professional, scientific and technical services	4.2	6.0	9.9	9.3	8.0
Administrative and support services	31.4	29.0	37.3	42.0	41.3
Public administration and safety	1.9	6.9	12.8	15.2	10.9
Education and training	5.1	6.8	5.1	8.5	10.0
Health care and social assistance	17.1	19.0	22.3	27.8	31.7
Arts and recreation services	15.1	19.7	22.0	26.2	22.5
Other services	27.2	24.6	25.1	34.3	38.1

¹⁹⁷ Noting again that the ABS data has also not been updated since last year's Annual Wage Review decision. Trends in Federal Enterprise Bargaining Report, September Quarter 2019, Chart 6.

7.2 Wage increases

377. In relation to average annualised wage increases (AAWI) in enterprise agreements, the latest *Trends in Federal Enterprise Bargaining Report* for the September Quarter 2019 shows:
- The AAWI for enterprise agreements approved in the September quarter 2019 was 2.8% equal to the June quarter 2019, and down from 3.2% in the September quarter 2018.¹⁹⁸
 - For the private sector, the AAWI for enterprise agreements approval in the September quarter 2019 was 2.7%, down from 2.8% in the June quarter 2019, 2.9% in the March quarter 2019, and 3% in the December quarter 2018.
 - For the 7,773 enterprise agreements current as at September 2019 (that is, agreements that have not passed the nominal expiry date and have not been terminated) that had a quantifiable wage increase, the AAWI was 2.6%, down from 2.7% in the June quarter 2019 and the September quarter 2018.¹⁹⁹
378. This data precedes the current, real economy in which businesses are trading, and consumers are consuming and meeting actual household budgets at the time of this review, which has changed markedly between 2019 and 2020. In particular, the latest trends in enterprise bargaining data precedes the bushfires in Australia and the global COVID-19 pandemic.
379. Predictions of bargaining behaviours in advance need to be cautious. However, we see nothing in the economy or geopolitical affairs that could lead anyone to predict that in 2020:
- The rate of enterprise bargaining or in-term agreements is going to increase, reversing its sustained, long term decline.
 - There could be any significant increase in average wage increases under new or in-term enterprise agreements. In fact, it is far more likely that uncertainty and downside risk will favour even lower levels of increases under enterprise agreements, particularly given that few if any genuinely tackle or link pay to productivity.

7.3 Implications for setting the NMW / award minimum wages

380. A reduction in the gap between the national minimum wage / award minimum wages (which should be a safety net), and wages bargained for in enterprise agreements, is, and will continue to be, an impediment to bargaining, and an impediment to bargaining being used to improve productivity, competitiveness or enterprise sustainability.
381. Enterprise bargaining was introduced with the aim of allowing employees and employers to negotiate above-award pay and conditions, in return for workplace-specific productivity enhancements, that were designed to be a win-win for both parties.²⁰⁰

¹⁹⁸ *Trends in Enterprise Bargaining Report*, September Quarter 2019, Item 1.

¹⁹⁹ *Trends in Enterprise Bargaining Report*, September Quarter 2019, Item 1.

²⁰⁰ See, for example, Prime Minister Keating, Speech to the Institute of Directors, 21 April 1993: <https://pmtranscripts.pmc.gov.au/release/transcript-8849>, Fair Work Act 2009, ss 3(f) and 171(a).

382. Parties will likely not be inclined to pursue enterprise agreements unless the agreement will deliver these benefits, with the relative level of minimum wages a key consideration. There has to be some return on effort for bargaining, a concept which is also reduced by the risks, costs and delays in bargaining under the Fair Work Act.
383. While ACCI agrees with the previous Panel's conclusion that there are a number of factors determining propensity to bargain,²⁰¹ where agreement making is under consideration, the level of the minimum wage floor does impact on employers' assessments of whether bargaining is worth pursuing. This is because minimum wages, combined with award conditions, provide a floor against which the Better Off Overall Test (BOOT) is applied. If minimum wages are set at a rate that is too close to the rates paid in workplaces (e.g. expectations in the market), this will be a key consideration in relation to the decision of whether or not to bargain, and will likely give weight to a decision not to bargain.
384. This is amplified where other benefits, particularly productivity improvements, are more difficult to achieve via enterprise bargaining than they traditionally were. ACCI's understanding from our members is that fewer employers are pursuing productivity improvements or cost savings in enterprise agreements than was the case in previous generations of agreement making across the past three decades. Our understanding is that bargaining is increasingly, for more and more employers, simply a matter of processing wage claims without industrial action to provide budgetary certainty.
385. The relevance of this consideration weighs in favour of the Panel seeking to ensure that any increase to minimum wages is at a level that maintains incentives for enterprise bargaining that rewards fair and flexible arrangements and productivity improvements, or at the very least does not further discourage enterprise bargaining by adding to the range of other factors which may impact on a decision of whether or not to engage in bargaining.
386. The Panel found last year, as it had previously, that as there are a wide range of factors which may impact on the decision to engage in bargaining, it is "unable to predict the precise impact of our decision":²⁰²

[385] We accept that there has been a decline in current enterprise agreements, but a range of factors impact on the propensity to engage in collective bargaining, many of which are unrelated to increases in the NMW and modern award minimum wages. Given the complexity of factors which may contribute to decision making about whether or not to bargain, we are unable to predict the precise impact of our decision.

[386] When the wide range of factors which impact on collective bargaining are taken into account, it is unlikely that the adjustments to wages made by the Panel in recent Reviews have discouraged collective bargaining, particularly in light of the increase in collective agreement coverage in at least some of the award-reliant industries. Further, the rate of the decline in collective agreement making from the peak around 2010 has not increased significantly to the extent where it could be concluded that wages outcomes from recent Reviews have discouraged collective bargaining.

²⁰¹ [2019] FWCFB 3500 at [385].

²⁰² [2019] FWCFB 3500.

[387] For the reasons given it is likely that an increase we have determined in a Review may impact on bargaining in different sectors in different ways and we cannot be satisfied that the increase we have determined will encourage collective bargaining. We have taken this into account along with the other statutory considerations in determining the outcome in this Review.

387. In the current climate, we do not yet know what rapidly increasing uncertainty and downside risk may do to bargaining behaviours / propensity to bargain in 2020, nor do we know how a real or contextually high minimum wage increase may combine with the wider economic and social climate to impact on bargaining. This therefore is a further factor warranting genuine caution and moderation in the unique circumstances of this case / 2020.
388. It is in fact a consideration weighing in favour of significantly greater caution in 2020 in regard to any uprating of minimum wages.

8. OTHER CONSIDERATIONS / SETTINGS

390. Each annual minimum wage review decision concludes with a series of ancillary or additional matters / determinations that the Panel addresses:
- a. Arising out of the Fair Work Act, and the statutory considerations for minimum wage setting.
 - b. Arising from the structure of modern award / rates that need to be varied / considered as part of any decision to increase rates generally (were that awarded).
391. These matters were addressed in Sections 4 and 5 of the Panel's 2019 decision and are grouped together in this final section of the first ACCI submission for the current review.

8.1 Equal remuneration and the Gender Pay Gap

392. The Panel has previously found that it must take into account the principle of equal remuneration for work of equal or comparable value, under ss.134(1)(e) and 284(1)(d) of the Fair Work Act 2009.²⁰³

“The application of the principle of equal remuneration for work of equal or comparable value is such that it is likely to be of only limited relevance in the context of a Review”²⁰⁴.

“But the broader issue of gender pay equity, and in particular the gender pay gap, is relevant to the Review”.

“moderate increases in the NMW and modern award minimum wages would be likely to have a relatively small, but nonetheless beneficial, effect on the gender pay gap”

393. The latest data from WGEA (based on ABS data) has the gender pay gap for Full-Time Adult Weekly Ordinary Time Earnings in November 2019 at 13.9% - a decrease of 0.3 pp since November 2018.²⁰⁵
394. The Statistical Report also includes an estimate of the gender pay gap based on EEH adult hourly ordinary time cash earnings, at 15.2%, although this figure has not been updated since May 2018.²⁰⁶
395. ACCI has previously argued, and argues again that:
- a. The causes of gender pay disparity are complex and multifaceted, and much of the gap appears explicable from the operation of the labour market more widely, well beyond the specific minimum and award wage remit of the Expert Panel in these reviews.

²⁰³ [2018] FWCFB 3500 at [415] and [2019] FWCFB 3500 at [388].

²⁰⁴ [2018] FWCFB 3500 at [415].

²⁰⁵ See Workplace Gender Equality Agency, *Australia's Gender Pay Gap Statistics*, 20 February 2020.

²⁰⁶ Statistical report—Annual Wage Review 2019–20, 24 February 2020, Item 11.

- b. The Panel’s obligations to address this consideration are best satisfied by setting wages that do not discriminate between men and women.
 - c. A single percentage increase applied to the minimum wage and all adult rates in awards (the Panel’s recent approach), remains an effective mechanism, taking gender pay disparity considerations into account, were any general increase to be awarded in 2020.
 - d. Gender pay disparity considerations do not favour any particular level of increase or approach to uprating minimum wages.
396. The Panel has found that “*Increases in the NMW and modern award minimum wages are likely to have a relatively small, but nonetheless beneficial, effect on the gender pay gap*”²⁰⁷. In response we note that:
- a. This would need to be considered in 2020 against more general economic and labour market considerations raised by the COVID-19 pandemic and threats of general economic downturn and job losses, the impact of which would likely disproportionately effect women were the minimum labour costs of award jobs increased unduly.
 - b. Some caution or caveat is needed. There must be a tipping or critical point at which any uprating in minimum wages that seeks to take into account gender pay disparity, may risk adding to underemployment or reducing hours and jobs to the lower paid, which would disproportionately negatively impact women, and perversely serve to reduce incomes and opportunities.
397. The complexity of arguing any direct or significant causation between minimum wages and gender pay disparity was highlighted by the Panel in its 2018 Decision, which identified a number of factors driving gender pay disparity, including “*differences in the types of jobs performed by men and women; discretionary payments; workplace structures and practices; the degree to which occupations involve majority female employment; and the historical undervaluation of female work and female-dominated occupations*”.²⁰⁸
398. The complexity of arguing any direct or significant causation between minimum wages and gender pay disparity is also underscored by the Workplace Gender Equality Agency (WGEA).²⁰⁹
399. Finally, it is quite unclear what the impact of the COVID-19 pandemic may be relatively for (a) men and women and (b) how this may differ, if at all. It appears that this consideration is of even less utility in 2020 in determining the Panel’s approach to minimum wage uprating.

8.2 Transitional Instruments

400. As set out at paragraph [400] of the 2019 Decision:

²⁰⁷ [2019] FWCFB 3500, [395], p.103

²⁰⁸ [2018] FWCFB 3500 at paras [35]–[38], cited at [2019] FWCFB 3500, [388], p.102

²⁰⁹ <https://www.wgea.gov.au/newsroom/media-releases/national-gender-pay-gap-hits-record-low>

[400] The Panel is required to review, and may make a determination varying a number of transitional instruments as part of the Review. Transitional instruments include:

- Transitional Australian Pay and Classification Scales (APCSs);⁴⁴²
- State reference transitional awards, which include:
 - Division 2A State reference transitional awards;⁴⁴³
 - Division 2A State reference transitional enterprise awards;
 - Division 2A State reference public sector transitional awards;
 - Division 2B State reference transitional awards;⁴⁴⁴
 - Division 2B State reference public sector awards; and
 - Division 2B State awards.⁴⁴⁵
- Transitional Pay Equity Orders;⁴⁴⁶
- Certain copied State awards.⁴⁴⁷

401. ACCI notes that only some of these transitional instruments continue to operate, identified at [402] of the previous decision to include:
- a. Transitional instruments that cover employees also covered by enterprise instruments.
 - b. Transitional instruments not terminated as part of the termination of modernisable instruments commenced in 2010.
 - c. Transitional instruments for the public sector.
 - d. In relation to this review, the ACCI network:
 - e. Does not seek the termination of any transitional instrument²¹⁰, although ACCI member organisations may seek to do so.
 - f. Does not oppose maintaining the approach taken by the Panel in previous Reviews, such that the rates in relevant transitional instruments be increased consistently with any increase to modern award minimum wages generally, were an increase to be awarded (i.e. varied by the same percentage).²¹¹
 - g. Does not oppose the same approach again being applied to “copied State awards”.²¹²
 - h. Notes that variations will not be published.²¹³
402. After 10 years, it would seem however opportune to better understand the role and relevance of the transitional instruments, any work still being done by them, and who they apply to, in which numbers.
403. We propose the Panel / Modern Awards, Economics and Research Section of the FWC consider how the panel / submitting interests could better understand how much work is being done by the transitional instruments / in relation to which employees.

²¹⁰ [2019] FWCFB 3500, [403], p.105

²¹¹ Drawn from [2019] FWCFB 3500, [404], p.105

²¹² [2019] FWCFB 3500, [405], p.105

²¹³ [2019] FWCFB 3500, [404], p.105

404. We request that this be placed on the agenda of the Minimum Wages Research Group as an area in which there may be scope to better understand the application and relevance of the Panel's decisions to transitional instruments, for the next review.

8.3 Junior Employees

405. Paragraphs [407] to [420] of the 2019 Decision²¹⁴ addressed junior rates of pay in modern awards.
406. ACCI again supports proportionately flowing on any increase that may be awarded to junior rates of pay in modern awards, in accordance with long standing practice and established proportions of relevant adult rates.
407. Were any additional matters relating to minimum wage rates for junior employees raised in other submissions (as they were in the 2019 review), ACCI and its members will address such matters in reply submissions during April.

8.4 Apprentices and Trainees

408. Consistent with paragraphs [421] to [422] of the 2019 Decision²¹⁵, ACCI supports the proportionate flow on of any increase that may be awarded to modern award minimum wages for employees to whom training arrangements apply through the National Training Wage Schedule (NTWS) under the relevant awards.

8.5 Employees with Disability

409. Consistent with paragraphs [423] to [425] of the 2019 Decision²¹⁶, ACCI does not oppose a flow on of any increase that may be awarded in this matter to modern award minimum wages of pay for employees with a disability, in accordance with previously established approaches (applicable to the SWS schedule and its minimum payment, as well as to the SES Award).
410. We note that the Review of the *Supported Employment Services Award 2010* remains underway²¹⁷ as a Tranche 3 award²¹⁸, with an amended exposure draft most recently being issued on 29 January 2020²¹⁹. ACCI member organisations may wish to address the Panel on matters arising from the award review that are germane to this minimum wage review.

²¹⁴ [2019] FWCFB 3500, [404], pp.105

²¹⁵ [2019] FWCFB 3500, p.109

²¹⁶ [2019] FWCFB 3500, pp.108-109

²¹⁷ <https://www.fwc.gov.au/awards-and-agreements/modern-award-reviews/4-yearly-review/award-stage/award-review-documents/MA000103?m=AM2014/286>

²¹⁸ [2020] FWCFB 421

²¹⁹ <https://www.fwc.gov.au/sites/awardsmodernfouryr/ma000103-ed-tracked.pdf>

8.6 Piece Rates

411. Noting paragraph [426] of the 2019 Decision²²⁰, ACCI does not seek any changes to the method of calculation of piece rates in modern awards.

8.7 Casual Loadings

412. Paragraphs [427] to [432] of the 2019 Decision²²¹ address:
- a. Casual loadings in modern awards.
 - b. The default casual loading for award/agreement free employees in the NMW order.
413. ACCI submits that the standard casual loading in modern awards and for award/agreement free employees should be maintained at 25%. We note the discussion on the Business Equipment Award in the previous decision²²², and that ACCI member organisations may wish to address the FWC / Panel in relation to any modern awards including casual loadings that differ from 25%.

8.8 Special National Minimum Wages

8.8 Award/Agreement Free Junior Employees

414. Consistent with [435] to [436] of the 2019 Decision²²³, the Panel should continue to use the junior wage percentage scale in the Miscellaneous Award to set the special NMW for award/agreement free junior employees.

8.8 Award/agreement free apprentices and trainees

415. Consistent with [437] to [438] of the 2019 Decision²²⁴, the Panel should continue to adopt the wage rates in the Miscellaneous Award for award/agreement free apprentices and trainees. Applicable rates from these awards should again be adopted as the basis for the special NMWs for employees to whom training arrangements apply. Any 2020 NMW order should again incorporate, by reference, the apprentice and NTWS provisions of that award.

8.8 Award/agreement free employees with disability

416. Paragraphs [439] to [445] of the 2019 Decision²²⁵ address special NMWs for award/agreement free employees with disability.
- a. ACCI does not oppose Special NMW1 (for employees with disability whose productivity is not affected) continuing to be set equal to the NMW.

²²⁰ [2019] FWCFB 3500, p.109

²²¹ [2019] FWCFB 3500, pp.110 - 111

²²² [2019] FWCFB 3500, pp.109-110

²²³ [2019] FWCFB 3500, p.110

²²⁴ [2019] FWCFB 3500, p.110

²²⁵ [2019] FWCFB 3500, pp.110 - 111

- b. Special NMW2 should continue to be adjusted in accordance with the methodology under the SWS Schedule.
 - c. The minimum payment should continue to be fixed in accordance with the disability support pension income-free threshold.
417. Again, ACCI member organisations may choose to address the Panel on particular matters arising out of the review of the *Supported Employment Services Award 2010*.

8.9 Wording of conclusions / orders concerning commencement

418. Paragraphs [453] to [463] of the 2019 Decision²²⁶ effectively summarise the Panel's determination and encapsulate the form of the National Minimum Wage Order.
419. Distinct from determining the level of any minimum wage increase in 2020, one paragraph of these conclusions should be reworded in the 2020 decision to remove ambiguity, illustrated as follows:

2019 Conclusion	2020 Conclusion (proposed amendment)
[455] The outcome of this Review in relation to modern award minimum wages is that from the first full pay period on or after 1 July 2019 minimum weekly wages are increased by 3.0 per cent, with commensurate increases in hourly rates on the basis of a 38-hour week.	[455] The outcome of this Review in relation to modern award minimum wages is that from the first full pay period <u>that starts</u> on or after 1 July 2020 minimum weekly wages are increased by X.X per cent, with commensurate increases in hourly rates on the basis of a 38-hour week.

420. ACCI maintains the paragraph is ambiguous without the addition of the clarifying wording drawn from s.286(5) of the Fair Work Act.
421. We note in this regard that equivalent wording, using the word 'commencing' rather than 'that starts', is a very long-standing part of our industrial relations system, as the following extract from the Yearbook for 1960²²⁷ illustrates:

²²⁶ [2019] FWCFB 3500, pp.113 - 114

²²⁷ Official Year Book of the Commonwealth of Australia No. 46 - 1960

BASIC WAGE: WEEKLY RATES^(a), CAPITAL CITIES, PRESCRIBED BY COMMONWEALTH CONCILIATION AND ARBITRATION COMMISSION ^(b) FOR ADULT MALES.

Date Operative. ^(c)	Sydney.	Melbourne.	Brisbane.	Adelaide.	Perth.	Hobart.	Six Capitals.
	<i>s. d.</i>						
September, 1939 ..	81 0	81 0	76 0	78 0	77 0	77 0	79 0
November, 1941 ..	89 0	88 0	84 0	84 0	85 0	85 0	87 0
„ 1942 ..	97 0	97 0	91 0	93 0	91 0	92 0	95 0
„ 1943 ..	99 0	98 0	93 0	94 0	94 0	95 0	97 0
„ 1944 ..	99 0	98 0	93 0	93 0	94 0	94 0	96 0
„ 1945 ..	99 0	98 0	93 0	93 0	94 0	94 0	96 0
„ 1946 ..	101 0	99 0	94 0	95 0	95 0	97 0	98 0
December, 1946 ..	108 0	106 0	101 0	102 0	102 0	103 0	105 0
November, 1947 ..	112 0	109 0	105 0	106 0	106 0	107 0	109 0
„ 1948 ..	122 0	120 0	115 0	116 0	116 0	118 0	119 0
„ 1949 ..	132 0	130 0	125 0	126 0	129 0	128 0	129 0
„ 1950 ..	146 0	143 0	135 0	137 0	139 0	139 0	142 0
December, 1950 ..	165 0	162 0	154 0	158 0	160 0	160 0	162 0
November, 1951 ..	207 0	199 0	185 0	195 0	197 0	199 0	200 0
„ 1952 ..	237 0	228 0	216 0	229 0	228 0	230 0	231 0
August, 1953 ^(d) ..	243 0	235 0	218 0	231 0	236 0	242 0	236 0
June, 1956 ..	253 0	245 0	228 0	241 0	246 0	252 0	246 0
May, 1957 ^(e) ..	263 0	255 0	238 0	251 0	256 0	262 0	256 0
May, 1958 ^(f) ..	268 0	260 0	243 0	256 0	261 0	267 0	261 0
June, 1959 ^(g) ..	283 0	275 0	258 0	271 0	276 0	282 0	276 0

^(a) Rates include prosperity loadings where applicable. ^(b) Prior to 30th June, 1956, Commonwealth Court of Conciliation and Arbitration. ^(c) Rates operative from the beginning of the first pay-period in the month indicated, unless otherwise stated. ^(d) Automatic adjustment discontinued (see p. 431). ^(e) Operative from the beginning of the first pay-period commencing on or after 15th May, 1957. ^(f) Operative from the beginning of the first pay-period commencing on or after 21st May, 1958. ^(g) Operative from the beginning of the first pay-period commencing on or after 11th June, 1959.

422. The FWO seems to have reckoned with this risk of ambiguity and to have on its own initiative added the word “starting”²²⁸ in its 2019 advice:

2019 Annual Wage Review – our pay tools are ready

We've updated our pay tools following the Fair Work Commission's decision to increase base rates of pay by 3.0%. The increase applies from the first full pay period starting on or after 1 July 2019.

423. We support this approach. We acknowledge that s.286(5) of the Fair Work Act provides that a variation determination does not take effect until the start of the employee’s first full pay period that starts on or after the day the determination comes into operation, which would provide guidance as to the application of the determination. However, it would be far clearer and less ambiguous were the Panel to return to the form of wording including the clarifying text from s.286(5) ‘that starts’.
424. In support of this, ACCI recalls the widespread community debate and pending legislative amendments on underpayments. The wording of awards should be formulated to minimise any risks of misunderstanding and misapplication, particularly where direct pay rises and their timing are concerned.

²²⁸ Which is then however omitted from the link - <https://www.fairwork.gov.au/about-us/news-and-media-releases/website-news>

425. The small clarification we propose, entirely consistent with decades of award practice and the Fair Work Act, would help reduce at least this element of the risk of ambiguity and non-compliance.

9. ABOUT THE AUSTRALIAN CHAMBER

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

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

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

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

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

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

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

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

CHAMBER



INDUSTRY ASSOCIATION

