HOUSING INDUSTRY ASSOCIATION

Submission to the
Fair Work Commission

National Annual Minimum Wage Review 2020

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contents

Housing Industry Association

1. INTRODUCTION

The residential building industry is one of Australia's most dynamic, innovative and efficient service industries and is a key driver of the Australian economy.

The aggregate residential industry contribution to the Australian economy is over $108 billion per annum, with over one million workers in the construction industry, of which tens of thousands are small businesses reliant on the industry for their livelihood.

The residential building industry is one of the most important sectors of the Australian economy providing housing for millions of Australians. A home is often the greatest source of wealth and savings for many families. The industry contributes to the economy in a number of ways providing hundreds of thousands of Australians with jobs, generating billions of dollars of economic output each year and stimulating spending on housing services.

The residential building industry ranges from single dwelling construction to multi-unit apartment buildings, and also encompasses the home renovations market. The industry has important linkages with other sectors, such as manufacturing and retailing, so that its impacts on the economy go well beyond the direct contribution of construction activities. The flow-on or "multiplier" effects of construction activity on the outputs of other industries are well recognised.[1]

In just one year the number of homes that commenced construction fell from 225,061 in 2018 to just 174,770 in 2019. This contraction of 50,000 starts in a 12 month period is only exceeded by the contraction in home building caused by the introduction of the GST which saw the market decline by 57,000 starts. It has put significant downward pressure on prices in the industry, while input costs continue to advance, squeezing on building margins.

For the first time since the global financial crisis, global factors are also likely to impact on the volume of home building in Australia over the medium term. The effects on trade from COVID-19 now pose a material downside risk to our housing forecasts for 2020 and 2021 and have not been factored in.

A large proportion of employers in the industry are small businesses. These employers rely heavily on award rates of pay and terms and conditions. They operate in a very competitive market where costs are tightly controlled and profit margins are low. These employers are highly sensitive to economic conditions affecting them, including the effects of employment regulation and wage increases.

Whilst measured increases to household income may help alleviate some affordability stresses, increasing labour input costs in the construction of housing at the same time, without any link to productivity improvements, will impact project costs. This in turn affects housing affordability. Increases in wages inherently place added cost pressures on businesses making them less likely to grow, invest or take on additional employees. This can also create demand side implications including tightening the supply of existing skilled trades and reducing the entry of new apprentices to the industry placing further pressure on existing businesses to meet demand.

[1] See speech by Christopher Kent, Assistant Reserve Bank Governor for a summary of the importance of housing to the Australian economy: http://www.rba.gov.au/speeches/2013/sp-ag-140313.html

Another factor impacting the residential building industry is that the Four Yearly Review of Modern Awards (Four Yearly Review) is coming to a close with significant changes expected to the *Building and Construction General Onsite Award 2010* (Onsite Award). Most of these changes are scheduled to commence on 1 July 2020 and some could result in the imposition of significant additional cost burdens on business, both financial and administrative, associated with understanding and implementing these changes.

HIA urges the Expert Panel to take these issues into account when considering its minimum wage decision.

2. MINIMUM WAGES

In making a national minimum wage order the Expert Panel must be guided by the minimum wages objective in section 284 of the *Fair Work Act 2009* (FW Act):

> *The Fair Work Commission must establish and maintain a safety net of fair minimum wages, taking into account:*
>
> - *the performance and competitiveness of the national economy, including productivity, business competitiveness and viability, inflation and employment growth; and*
> - *promoting social inclusion through increased workforce participation; and*
> - *relative living standards and the needs of the low paid; and*
> - *the principle of equal remuneration for work of equal or comparable value; and*
> - *providing a comprehensive range of fair minimum wages to junior employees, employees to whom training arrangements apply and employees with a disability.*

HIA address those factors affecting the residential building industry below.

The Expert Panel also has the discretion to delay the commencement of a minimum wage order. Section 286 (2) of the FW Act sets out that:

> *If the FWC is satisfied that there are exceptional circumstances justifying why a variation determination should not come into operation until a later day, the FWC may specify that later day as the day on which it comes into operation. However, the determination must be limited just to the particular situation to which the exceptional circumstances relate.*

HIA would see the impact of COVID-19 as an exceptional circumstance, within the meaning of section 286(2) and would justify a deferred commencement of any minimum wage decision.

2.1 Performance And Competitiveness Of The National Economy

In just one year the number of homes that commenced construction fell from 225,060 in 2018 to just 174,770 in 2019. This contraction of 50,000 starts – or 22.3 per cent – in a 12 month period is only exceeded by the contraction in home building caused by the introduction of the GST which saw the market decline by 57,000 starts. The slowdown in economic growth and the bank-imposed credit squeeze hit the market just as massive pent-up demand (caused by a decade of underbuilding) was being satisfied.

Despite this whopping contraction, the cycle has just about run its course. The overall housing market reached a turning point at the end of 2019. The significant amount of monetary stimulus from the RBA directed at the economy and the housing market appears to be supporting a shallow trough after this steep contraction. Home lending activity picked up (particularly among owner occupiers) and housing prices returned to growth across all of the eastern seaboard capitals. New home sales are stabilising. Population growth has also remained relatively strong, albeit less so than recent years.

While the stage has been set for a recovery, the new economic shock from COVID-19 is predicted to be extreme and the industry is now facing a dramatic change in circumstance.

Actual dwelling starts naturally lag real time market conditions. Using HIA's forecasts prior to the COVID-19 shock commencing, the data continues to show a declining number of homes that the industry is constructing, reflecting the weak market conditions at the end of 2018. What's more, the latest data actually available only shows activity out to the September 2019 quarter. The industry commenced construction on 41,190 homes in the September 2019 quarter (10.3 per cent fewer than in the previous quarter and 27.0 per cent fewer than a year earlier). This seems to be about the bottom of the building cycle.

Specifically, in annual terms it was expected that starts would trough at 171,010 homes (100,040 detached and 70,970 multi-units) in the 2019/20 financial year, a 13 per cent reduction from the level of starts in the previous year (- 10.7 per cent for detached, -16 per cent for multi-units). This is remarkable: starts would have reached a trough that is more comparable to the peaks of previous building cycles, streaks higher than any previous trough, had the COVID-19 shock not occurred.

Forecasts indicate that the recovery could be well in train by the second half of this year if the impact of COVID-19 is minimal. By the end of 2020/21, it was expected that the industry may have commenced construction on 177,140 homes (101,390 detached, 75,750 multi-units), representing a 3.6 per cent increase on the previous year's construction (+1.3 per cent for detached, +6.7 per cent for multi-units). Starts were forecast to continue rising only modestly over the forecast horizon: by 1.7 per cent in 2021/22 and by 2.9 per cent in 2022/23, meaning the industry would commence construction on 185,330 homes in that last year.

These dynamics are expected to weigh more heavily on multi-unit rather than detached house construction. On average, during the 2014-2018 boom the industry was commencing construction on nearly 105,000 multi-unit homes per annum. HIA forecasts indicate that the industry will commence construction on 75,750 multi-unit homes in 2020/21, 77,390 in the following year and 80,980 in 2022/23.

HIA does not expect the same gap between detached house construction in the coming cycle compared with the previous cycle. During the previous boom the industry was commencing construction on an average of nearly 117,000 detached houses per annum. It is expected that detached house starts will rise from 101,390 houses in 2020/21, to 102,750 houses in the following year and then to 104,350 in 2022/23.

While the forecasted trough is still expected to be high by historical standards, the market is only just on the cusp of returning to a new growth phase. The anticipated recovery (and the next upcycle) in new home building will be a far more modest affair and will not see a return to the hive activity of the boom years, 2014 to 2018. These years set a record that will not be eclipsed in the foreseeable future. The addition of the COVID-19 shock now put these expectations at considerable risk and the industry faces uncertain times for the next six months as the health crisis is managed to its hopeful conclusion.

Population growth, while still strong, has pulled back from previous heady days and massive pent up demand for additional housing will no longer be exerting the same pressure on the overall housing market.

Borrowers will also have to contend with much tighter lending standards. Credit is becoming even cheaper to access but its restricted availability is an adverse theme that will carry over into the next cycle. The credit squeeze was a key brake on the previous cycle, and while some restrictions have since loosened there has been a structural tightening of how we lend money in this country. This is excluding many aspiring home owners from the mortgage market.

Any hole in owner-occupier demand will likely be filled by investors, except this time the same wave of foreign investment cannot be expected, given the barriers they now face with punitive rates of stamp duty when entering the domestic housing market. And while of course investment activity is the basis for rental housing, this owner-occupier – investor dynamic reinforces the structural decline in home ownership.

Throughout the downturn, output prices for builders contracted while input prices continued increasing. This shows that the industry is highly competitive and cost pressures are being absorbed by the builders rather than passed on to consumers.

2.2 Workforce Participation and Apprenticeships

Apprentice and trainee completion, cancellation and withdrawal rates, continue to be a concern for the industry.

The availability of skilled workers to meet business needs continues to be mismatched. Despite the housing market cooling during 2019, demand for skilled trades workers remains strong, with demand for workers in Sydney, Melbourne and Brisbane exceeding their availability. While, most trades registered an improvement during the December 2019 quarter, the availability of bricklayers, carpenters and ceramic tilers all deteriorated further during the quarter to record more substantial shortages.

The two most significant challenges to growing the labour force are the large cohort of workers approaching retirement, and the high rate of attrition amongst new apprentices. Latest NCVER data[2] shows that there were 272,920 apprentices and trainees in-training as at 30 June 2019, a decrease of 1.4 per cent from 30 June 2018.

Apprenticeship commencements followed the same trend with a 3.3 per cent decline for the June 2019 quarter compared to the June 2018 quarter. Cancellations and withdrawals increased to 23,100 in the June 2019 quarter, a 6.0 per cent increase over the June 2018 quarter.

Commencements for the 12 months ending 30 June 2019 are down by 2.5 per cent to 156,215 compared to the 12 months ending 30 June 2018. The decrease in trade commencements coupled with increases in cancellations and withdrawals for trades is also concerning. In the 12 months ending 30 June 2019 the cancellation and withdrawal rates was up to 89,755, representing a 1.2 per cent increase. Trade commencements were down 19.7 per cent to 11 980, with the biggest decrease seen in construction trades workers, down 39.8%, when compared with the June quarter 2018.[3]

Considering completion and attrition rates for employees generally, in 2018 contract completion rates were down 56.7 per cent for all occupations commencing in 2014, a decrease of 3.2 per cent from those commencing in 2013. For trades occupations commencing in 2014 the contract completion rates in 2018 were 54.5 per cent, a decrease of 4.7 per cent from those commencing in 2013.[4]

With an increasing number of withdrawals/cancellations, and a decrease in completions, keeping an apprentice in training seems to be surfacing as a dominant challenge. As recognised by the Commission in its May 2019

[2] NCVER 2019, *Australian vocational education and training statistics: apprentices and trainees 2019 — June quarter*, NCVER, Adelaide
[3] https://www.ncver.edu.au/news-and-events/media-releases/apprentice-and-trainee-commencements-down-in-june-2019-quarter
[4] NCVER 2018, *Completion and attrition rates for apprentices and trainees 2017*, NCVER Adelaide

Annual Minimum Wage Decision (2019 Decision)[5], while a complex issue, arguments that higher rates of pay can act as an incentive for individuals to undertake and remain in apprenticeships[6] must be balanced against the cost of employing such labour, both in terms of their wages and the ability to contribute in a productive way on a construction site.

As also identified in the 2019 Decision the role of government subsidies cannot be underestimated in terms of their impact on the apprentice and trainee framework. In the report, *Strengthening Skills: Expert Review of Australia's Vocational Education and Training System*, released in March 2019, the Honourable Steven Joyce (Joyce Report) outlined the inconsistencies and complexities of the current Vocational Education and Training (VET) funding arrangements summarising the situation as follows:

> *"Responsibility for public funding of the VET system is shared between the Commonwealth and the States and Territories according to the Federal Financial Relations Act 2009 and various related agreements.*
>
> *The funding system is complex, with each jurisdiction responsible for determining its own funding policies, including how and where to prioritise funding, and funding levels...A large amount of training is not subsidised at all, instead full fee-for-service fees are charged.*
>
> *States and Territories overlay different funding policies on top of their skills demand assessments. Most have made regular, and occasionally quite abrupt, changes to the availability of subsidy funding to different provider types. They have sought to manage their student subsidy arrangements and contestable funding for entitlement schemes amid concerns over expenditure overruns, quality issues, and the viability of TAFEs, which are owned by the States and Territories. As a result, RTOs, trainees and employers have experienced big variations in subsidy levels.*
>
> *The same qualifications attract different subsidy amounts across jurisdictions...On the basis of publicly available information, there is currently no qualification where the subsidy amount matches between jurisdictions."*[7]

The Joyce Report also identified that the total public funding for VET has declined in the past ten years[8] and ultimately recommended that:

> *"The Commonwealth and the States and Territories agree to develop a simpler, nationally consistent funding policy for all government-subsidised qualifications, which provides confidence and certainty to trainees, industry, employers and all funded providers, public or private.*
>
> *The policy would involve the Commonwealth preparing agreed national average costs and subsidy levels, with the States and Territories continuing to allocate places on a contestable basis to meet skills demand."*[9]

While the Expert Panel cannot directly influence Government policy on these matters the Panel can certainly give weight to these challenges faced by industry when carrying out its annual wage review.

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[5] [2019] FWCFB 3500 See para 168-169
[6] *Modern Award Review 2012 – Apprentice, Trainees and Juniors* [2013] FWCFB 5411
[7] Joyce Report at pages 67-68
[8] Ibid page 69
[9] Joyce Report at page 73

Also to be considered are the costs associated with on the job training carried out by the employer. The cost of the failure to adequately support businesses in the residential building industry to increase their capacity or attract new entrants is extraordinarily high, as it is likely to lead to further substantial skills shortages and potentially a decline in quality of building.

The majority of apprentices in the residential building industry are employed by small businesses with a turnover of less than $500,000. For some of these firms the increases in apprentice wages, especially in the first two years of progression, have made employing an apprentice financially unviable.

Since the annual minimum wage review commenced, the economic shock from COVID-19 has emerged. As set out above, it is impossible at this time to understand the impacts it will have on the Australian economy broadly, and on the residential building industry specifically.

The Australian Government announced last week a vital wage subsidy for apprentices which will see 50 per cent of their wage for the next six months supported by government. In this context, it appears untimely, if not inappropriate, that the minimum wages for apprentices be increased.

HIA submit that the Expert Panel should have regard to these factors during this minimum wage review.

3. FOUR YEARLY REVIEW OF MODERN AWARDS

In December 2019 the Fair Work Commission (Commission) issued a decision regarding the commencement of a range of determinations arising out of the 4 Yearly Review.[10] It was decided that variation determinations arsing out of a number of decisions would commence on 1 July 2020.[11]

These determinations represent a range of significant changes for the industry across a number of provisions of the Onsite Award. For example, the Onsite Award will be varied to remove and replace a range of industry, disability and expense related allowances, with a single enhanced industry allowance. An employer in the residential building industry will be required to pay an allowance of 4.8 per cent of the weekly standard rate, while those operating in the general building and construction industry, civil construction industry and metal and engineering construction industry will be required to pay an allowance of 6 per cent of the weekly standard rate.

HIA does not dispute the observation by the Commission that in simplifying and consolidating allowances under the Onsite Award:

> *"It is obviously not possible in undertaking the exercise we propose to ensure that no employee will be worse of in any circumstances. Nor is it possible to ensure that some employees will not be better off than under the current system. Our general objective is to simplify the current system on the basis that it will generally be cost neutral for workforces over the longer term".*[12]

However, the changes to the allowance structure, in conjunction with a minimum wage increase may create unreasonable distortions in current wages and entitlements.

[10] [2019] FWCFB 8564
[11] Ibid paragraph 97
[12] [2018] FWCFB 6019 at paragraph 369

Other changes to the Onsite Award that will commence from 1 July 2020 include:

- Changes to the when a travel allowance is payable.
- Changes to how and when Rostered Days Off (RDO) can be scheduled and used.
- The introduction of provisions that allow for the taking of time in lieu instead of overtime.
- Changes to the living away from home allowance.
- A change to the way annual leave loading is calculated.

The outcomes of the 4 Yearly Review represent a significant shift in the drafting and framework of all modern awards, however this shift will be particularly salient for the Onsite Award. Any regulatory change is likely to cause uncertainty and confusion and HIA submit that the cumulative impact of these changes be taken into account when carrying out this annual minimum wage review.

4. CONCLUSION

It is important that minimum wage policy settings as determined by the Expert Panel encourage both investment and employment.

The residential building industry has just experienced its sharpest contraction since the introduction of the GST. The market is only just on the cusp of returning to a new growth phase, with several indicators only recently turning in the right direction. The effect of the structural tightening of how we lend money in this country is carrying over into 2020. The effects of trade and tourism restrictions globally now pose a material downside risk to our forecasts and there is uncertainty regarding the economic state that may face Australia in coming months.

The outcomes of the 4 Yearly Review will also impact both employers and employees in the residential building industry. There will undoubtedly be some confusion and uncertainty in the industry as a result of changes to the Onsite Award. The outcome of the minimum wage review will be yet another change that the industry will need to be cognisant of.

Finally, the current conditions affecting apprentice employment deserves special consideration. These conditions include the continual and consistent reductions in apprentice and trainee completion rates, and growth in cancellation and withdrawal rates nationally. Wage increases undoubtedly affect the capacity of small business in particular to sustain the continued employment of apprentices to obtain completion status, leading to the eventual heightening of skills shortages in industry.

HIA submit that in light of the current uncertainties the Expert Panel use its power under section 286(2) of the FW Act to defer the commencement of any minimum wage increase.

If the Expert Panel is not minded to adopt that approach then in light of the current industrial landscape, HIA strongly submits that the Expert Panel takes a very conservative approach in this year’s minimum wage review. The cumulative impact of minimum wage increases, the ongoing tightening of builder margins, and current market conditions arising from the COVID-19 situation suggest the economy has limited capacity to manage another significant wage increase.