Australian Chamber of Commerce and Industry

# Annual Wage Review 2022-23

## Fair Work Commission

### ACCI Initial Submission

31 March 2023

## Working for business.
## Working for Australia

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# Introduction

1. The Annual Wage Review takes place at an uncertain time for both the global and domestic economy. The Expert Panel ('the Panel') faces a number of complex challenges in determining the outcomes of this Review. It must be wary of the downside risks of any increase in minimum and modern award wages in an increasingly fragile economy which faces headwinds of high inflation, slowing economic activity, and continuing labour and skill shortages.

2. Many of the world economies bounced back strongly in the second half of 2021 and first half of 2022 on the back of the large economic stimulus to sustain their economies during the COVID-19 crisis. However, this could not be sustained, and high inflation emerged as a key threat to the global economy coupled with supply chain disruptions from the ongoing war in Ukraine. Central banks responded by rapidly rising interest rates, but this has since driven many economies to the brink of recession, particularly European Union countries, the UK and USA.

3. The Australian economy was not immune to the volatility in global markets, with rapid growth in inflation in the past year. The Reserve Bank responded to the high inflation by raising the cash rate at the fastest pace in its history – 10 consecutive rate rises over an 11 month[1] period, taking the cash rate from 0.1% to 3.6%.

4. While there are signs that inflation peaked at the end of 2022, the cost of this rapid tightening of monetary policy has been a rapidly slowing economy, with economic activity weakening in the December quarter 2022 and expected to move steadily downward over the year ahead. Despite the projected decline in economic activity, inflation is expected to fall only slowly over the next two years, and not return to the RBA target range until mid-2025.

5. Therefore, in setting the minimum and modern award wages in the current Annual Wage Review, it is important that any increase in the wages doesn't place further pressure on inflation and 'push out the curve' so that inflation stays higher for longer or weighs on economic activity any more than is necessary.

6. It is important to recognise that Australian workers have gained the benefit of exceptionally high employment and participation rates and low unemployment over the past year – there has never been more Australians in work, the participation rate has hovered around a historic high for the past 9 months, and unemployment is around its 48-year low. The focus of the Panel must be on maintaining full employment and must avoid wage increases that risk putting upward pressure on unemployment or downward pressure on the participation rate.

7. Low unemployment and high demand for workers has placed a strain on labour and skills supply and we are beginning to see upward pressure on wages. Over the past decade we have seen a steady fall in enterprise bargaining, with an increasing share of award-reliant employees and those on individual agreements. The growth in award reliance can in part be related to the strong growth in minimum and modern award wages above the rate of average wages growth over this period. There has been little room for employers to negotiate an increase above the award rates, particularly given the weak productivity growth over the past decade. It needs to be recognised that further increases in minimum and modern award wages above the rate of average wages growth will further disincentivise enterprise bargaining and continue to

[1] Noting the Reserve Bank Board does not meet in January.

weigh on productivity.

8. ACCI agrees that workers should share in the benefits of productivity gains. However, it needs to be recognised that labour productivity has slowed considerably over the past three decades, to be well below its 60-year average, and it has slipped further over the past three years. In this Annual Wage Review, the Panel must take into consideration that productivity is exceptionally low and moderate any wage increase to reflect this weak productivity growth.

9. We recognise the cost-of-living pressures on individuals and households in the current high inflationary environment. However, it is also important to take into consideration the increasing costs of doing business. Despite the inflationary pressure over the past year, with rapidly rising input costs, the majority of businesses have resisted the urge to increase prices, due to competitive pressures or long-term contractual arrangements. This has weighed heavily on business profitability and viability.

10. Some sectors are experiencing high profits, but these are mainly in the energy, mining and agricultural sectors due to high international commodity prices as a result of the war in the Ukraine. For sectors with a high proportion of award reliant employees, mainly service sectors, profits have been declining over the past two years. This more granular assessment of profits and businesses' ability to pay wage increases must be considered by the Panel in its assessment for this Annual Wage Review.

11. It is important the Panel determine an increase to minimum and modern award wages that is fair and reasonable for both employees and employers and is responsible in terms of the potential to contribute to inflation and risk to the overall economy.

## ACCI's Proposed Minimum Wage Adjustment

12. In preparing our position for the current Annual Wage review, ACCI has consulted widely with our extensive and diverse network. While reaching an agreed position across the broad range of industries in our network has been difficult, we have sought to establish a position that takes into account differing economic considerations and the risks posed to those considerations. Some employers advance differing perspectives and positions based on the experiences of their members, and we urge the Panel to also take this into account.

13. **ACCI supports an increase in minimum and modern award wages of up to 4.0%** (3.5% plus the legislated 0.5% Superannuation Guarantee increase) **in 2023 as fair, reasonable and responsible, taking into account the full range of economic considerations before us.**

14. The proposed increase is focused on containing inflation and returning it to the middle of Reserve Bank's target range of 2% to 3%, as quickly as possible. It provides a reasonable allowance for workers to share the benefits of productivity growth, with labour productivity growth of 0.9% on a quality adjusted input basis in the year to December 2022.

15. It also takes into account the legislated increase in the Superannuation Guarantee (SG) on 1 July 2023. This delivers all employees a 0.5% increase in wages (albeit a deferred benefit) and has flow through impact on the cost of doing business. In previous decisions the Panel has noted the SG increase as a moderating factor in its consideration of the minimum and modern award wage increase. This approach should again be taken in the 2022-23 Annual Wage Review.

16. It is important that the Panel recognises the cumulative impact of its previous decisions and not just look at the current period in isolation. Over the past decade, the Panel has consistently awarded increases in the minimum and modern award wages that exceeded the growth of the wage price index (WPI). While we acknowledge that wage growth has not kept pace with the exceptionally high inflation experienced over the past year, taken in context, the cumulative wage increases have ensured workers have experienced an increase in real wages over the past decade.

17. A 4% increase (3.5% plus the legislated 0.5% SG increase) is the largest level of increase advanced or not opposed by our network under the current statutory framework, reflecting the changing circumstances and risks to the economy relevant to the statutory considerations in 2023. Our approach provides a substantial minimum and award wage increase, while also taking into account the unknowns and risks which pervade in 2023 and 2024.

18. In advancing our position we have attempted to balance the full range of considerations — the high inflationary environment, the needs of workers, the pressure on household budgets, as well as the increasing cost of doing businesses. It was also cognisant of the urgent need to get on top of inflation and quickly return it to the Reserve Bank's target range of 2% to 3%, so as not to extend the pain on Australian households and businesses any longer than is absolutely necessary.

19. In June 2021, Reserve Bank Governor, Dr Philip Lowe, in voicing concerns about inflationary impacts of substantial wages growth, noted a 3.5% increase in wages was a good "anchoring point". He went on to say that "the steady state wage increases in Australia should be around 3.5 per cent… If wage increases become common in the 4 and 5 per cent range, it's going to be harder to return inflation to 2.5% ...".[2] With inflation rising sharply throughout 2022, it is important that a coordinated, whole-economy effort is made in returning inflation to the target band of 2%-3%.

20. The threat of inflation remaining at its elevated and damaging level due to significant increases in wages is also acknowledged by the RBA's Deputy Governor, Michele Bullock, detailing:[3]

> … with the labour market as tight as it is, it is quite possible that workers will demand and may get wage rises. Businesses might well be willing to pay higher wages if they think they can easily pass on the cost increase in higher prices… If this mindset were to take hold inflation will remain high.

21. Given the sharp forecasted deterioration of economic conditions, notably in GDP growth, private final demand and unemployment, it would be unwise to ignore these expectations and place further pressures on businesses and the economy through a significant and inflationary increase to minimum and modern award wages. Australia has been careless before in downplaying inflation, it is important the expectations of a slowing economy are not similarly treated. It is essential that the Panel lean on the side of caution in making its decision in 2023.

22. We accept that a wage increase of 4% (3.5% plus the legislated 0.5% SG increase) is below the current rate of inflation of 7.3%, however, we contend that any increase above this level would add to inflationary pressure, leading to inflation staying higher for longer and resulting in negative real wages growth for an extended period. Inflation is anticipated to have peaked at the end of 2022 and is predicted to ease over the year ahead.

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[2] RBA, Transcript of Question & Answer Session, *Inflation and Monetary Policy*, Philip Lowe, Speech to American Chamber of Commerce in Australia, 21 June 2022

[3] RBA, Speech, *The Economic Outlook*, Michele Bullock, Australian Business Economists, 9 November 2022

23. An increase of this magnitude recognises that high inflation is placing significant pressure on the cost of living, particularly for low-income households. It also takes into account that wages growth is adding to the cost of doing business. A larger increase in minimum and modern award wages would only add to these pressures — forcing businesses to increase prices and stoking further inflationary pressure.

24. It is expected that many other stakeholders will be focused on the current level of inflation and be arguing the increase in minimum and modern award wages should at least match inflation in the December quarter 2022. Yet, the Panel must be forward looking and not backward looking, as economic conditions will deteriorate in the year ahead and inflation will moderate. The wage increase applies to the financial year 2023-24, so the Panel should base its decision on the expectations for the economy over this period. We note the Panel has for many years stressed that there is no mechanistic or formulaic approach to minimum wage uprating under the Fair Work Act. This should disqualify any assumption of a minimum level of increase being determined by the CPI.

25. We caution that any increase above 4% (3.5% plus the legislated 0.5% SG increase) would be extremely irresponsible in a high inflation environment. This would only add to inflationary pressure and extend the period of high inflation for much longer, leading to much greater pain on Australian households and businesses than is necessary.

26. Finally, the Panel is also now required to take into account a new consideration in this year's decision: the need to improve access to secure work across the economy.[4] The ordinary and natural meaning of the phrase "secure work" is work that is free from fear of joblessness. With redundancies as a primary cause of involuntary job losses, the Panel must avoid immoderate or significant increases to minimum wages and modern award wages which make jobs less secure by causing disemployment effects.

[4] FW Act s 134(1)(aa).

# Economic Considerations

## Domestic Economic Outlook

27. The Australian economy rallied following the removal of domestic COVID restrictions and the opening of international and domestic borders. As these restrictions eased, the pent up demand and savings Australians accumulated through the pandemic were released, delivering a significant boost to the economy. Household consumption grew strongly at the end of 2021 and through the first half of 2022, as consumers made up for lost time during the COVID lockdowns the previous year.

28. This momentum, however, is now beginning to wane due to numerous international and domestic stresses.

29. High international prices due to the war in Ukraine in combination with supply chain disruptions contributed to a soaring inflation through 2022. The Reserve Bank in their resolute determination to curb rising prices responded by raising the cash rate, with 10 consecutive rate increases between May 2022 and March 2023. This has contributed to a slowing in economic activity in the second half of 2022, with GDP growth falling from 0.9% in the June quarter to 0.7% in September than 0.5% in December.

30. Overall, Australia's GDP increased by 2.7% in calendar 2022, notably lower than earlier forecasts by the Reserve Bank, which has projected GDP growth of 3% in its November *Statement on Monetary Policy* and 3¼% in August.[5]

31. The October Budget considered the cumulative pressures and also downgraded real GDP growth to 3¼% in 2022-23 and 1½% in 2023-24.[6] Similarly, the IMF downgraded its real GDP forecasts from a 4.1% in 2022 and 2.6% in 2023 previously to 3.6%[7] and 1.6% respectively.[8] The more recent Reserve Bank forecast presented a more pessimistic view forecasting Australia's GDP to fall from its 2¾% annually to December 2022 to 2¼% in June 2023, then sinking further to a low of 1½% in December 2023, where it is expected to remain for the rest of the RBA forecast period.[9]

32. Australia's major banks have an even more gloomy outlook on economic growth. The Commonwealth Bank of Australia (CBA) forecasts GDP growth falling to 1.1% in calendar 2023[10]. NAB expects GDP to drop to 0.8% through calendar 2023, with only a slight improvement to 0.9% in 2024.[11] Overall, from these forecasts, we can expect a sustained period of slow economic growth for Australia in 2023 and 2024.

33. A significant portion of this expected decline is attributed to an expected steep drop off in private final demand, falling from 4.4% in 2022-23 to 1.4% in 2023-24 according to the CBA. Of which household spending, an important supporter of business and economic growth, declines from 5.9% to 1.3% over the same period.10

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[5] Reserve Bank of Australia (2022) *Statement on Monetary Policy*, August 2022; Reserve Bank of Australia (2022) *Statement on Monetary Policy*, November 2022

[6] The Commonwealth of Australia 2022 *Budget 2022-23: Budget Strategy and Outlook – Budget Paper No. 1* https://budget.gov.au/2022-23-october/content/bp1/index.htm

[7] IMF, *Australia: 2021 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for Australia*, December 2021

[8] IMF, *Australia: 2022 Article IV Consultation-Press Release; and Staff Report*, February 2023

[9] Reserve Bank of Australia (2023) *Statement on Monetary Policy*, February 2023

[10] Commonwealth Bank of Australia; Economic Insights, Global Economics & Market Research, January 2023

[11] NAB, The Forward View: Australia November 2022

34. The October Budget also recognises the likelihood of a substantial decline in private and public demand. Private demand is forecast to rise from its recorded 4½% increase in 2021-22 to 5¼% in 2022-23. However, this is followed by a disruptive drop to 1¼% in 2023-24. Public demand provides no relief, dropping from its recorded 6½% increase in 2021-22 to 1% in 2022-23 before only slightly improving to 1½% in 2023-24.[12] The forecast decline in public and private demand will undoubtedly flow through to the profitability and viability of Australian business.

35. Consumer spending has traditionally been the main driver of GDP and largely supported Australia's recovery from COVID lockdowns. However, as Deloitte Access Economics (DAE) Partner Stephen Smith notes, "it's also an important reason why Australian economic growth is expected to slow dramatically throughout 2023."[13] DAE is forecasting household consumption to decline by 0.7% in 2023-24 before rising slowly to 1.8% in 2024-25 and 2.6% in 2026-27. With households forecasted to spend less and focus on savings, DAE is also forecasting business investment to slow, with weak growth of 0.5% in 2023-24 and 0.8% in 2024-25. This highlights the damaging flow-on impacts to business activity of the slowdown in consumer spending.

36. Headline inflation rose 7.8% annually in December quarter 2022,[14] influenced heavily by global pressures from oil prices, supply chain disruptions and consumer demand. The new monthly consumer price index reached a high of 8.1% in December 2022, but settled back to 7.3% in January 2023, suggesting inflation may have peaked at the end of 2022. The Reserve Bank had forecast CPI to peak at 8% in December quarter 2022, then slowly settle back to 6¾% by June 2023 and 4¾% by June 2024.[15] The October Budget predicted CPI would gradually ease to 5¾% at the end of financial year 2022-23 and 3½% by June 2024.[16]

37. It is clear from these forecast by Treasury, the Reserve Bank and others, that Australia's economic activity will deteriorate considerably over the next two years. GDP growth will slow to 1.4% (annual to June 2024), well below the weak pre-COVID annual economic growth (averaging 2.6% per year for the 2010-19 decade)[17].

## International Economic Outlook

38. The war in Ukraine shocked the global economy just as economic activity was beginning to normalise following the COVID disruptions and consequent supply chain constraints were easing. While the direct implications of the war in Ukraine is modest, Australia is not immune due to our involvement in the global economy.

39. The IMF global growth projections demonstrate the influence of the war on the global economy. In January 2022, the IMF had forecasted global economic growth to be 4.4% in 2022 and 3.8% in 2023.[18] In its most recent world economic outlook in January 2023, these forecasts have been downgraded to 3.4% in 2022 and 2.9% in 2023.[19] Further, the IMF concedes that "the balance of risks remains tilted to the downside".

[12] The Commonwealth of Australia 2022 *Budget 2022-23: Budget Strategy and Outlook – Budget Paper No. 1*
[13] Deloitte Access Economics business Outlook: Australians at the Reserve Bank's mercy in 2023, media release.
[14] ABS 2023, *Consumer Price Index Australia* December Quarter 2022
[15] Reserve Bank of Australia (2022) *Statement on Monetary Policy* February 2023
[16] The Commonwealth of Australia 2022 *Budget 2022-23: Budget Strategy and Outlook – Budget Paper No. 1*
[17] ABS 2022, *National Income, Expenditure and Products*, September 2022
[18] IMF, *World Economic Outlook: Rising Caseloads, A Disrupted Recovery and Higher Inflation*, January 2022
[19] IMF, *World Economic Outlook: Inflation Peaking amid Low Growth*, January 2023

These forecasts are expected to decline even further with Kristalina Georgieva, Managing Director of the IMF, stating they “expect one third of the world economy to be in recession” in 2023.

40. Of particular concern is the slowing down of the three largest economies, the US, EU and China, and the three differing and unresolved stressors they are facing.

41. The IMF forecasts the US economy to slow to 2% in 2022 and 1.4% in 2023. The main driver has been the Federal Reserve’s aggressive approach to control inflation through rapid interest rate rises following their sluggish initial response.

42. The EU is suffering directly from the war in Ukraine, with the IMF projecting a dramatic decline in economic activity, down from 3.5% in 2022 to 0.7% in 2023. The significant supply chain disruptions and decline in energy supplies, as a result of the war and its sanctions, are restricting the growth of European economies, despite efforts to reorient supply chains and improve gas storage capabilities.

43. China’s economy has suffered from an extended COVID-zero policy and their recent fractured exit from restrictions. The impact of COVID is still lingering and constraining their economy, reducing their manufacturing output and pilling further pressure on a property sector crisis. As the IMF states:[20]

> … given the size of China’s economy and its importance for global supply chains, this will weigh heavily on global trade and activity.

44. The IMF forecasts China’s growth to show signs of a recovery in 2023, with GDP bouncing back from a low of 3.0% in 2022 to 5.2% in 2023 before a settling back to 4.5% in 2024. All well below the average growth rate of around 7% in the decade pre-COVID.[21]

45. The “broad-based slowdown as downside risks materialise” illustrates the influences the lingering effect of COVID is having on the world notably through China, the fast-rising inflation and interest rates, and the war is having on international outputs. These three unsolved headwinds are dampening the world’s largest economies that will have significant spill overs onto Australia’s economy.

46. The IMF’s Economic Report on Australia provides a reminder of the vulnerability our economy to the global market, with GDP forecast to slow yet positive growth faces throughout 2023, stating:[22]

> Downside risks to the economic outlook dominate, with significant uncertainty regarding global growth, commodity prices, and domestic developments surrounding wages, housing prices, and the effect of tighter monetary conditions.

47. The IMF also notes that aggregate wage growth is picking up in some industries with survey reading of labour costs spiking. It warns:22

> This could potentially lead to broader wage acceleration and add to inflation.

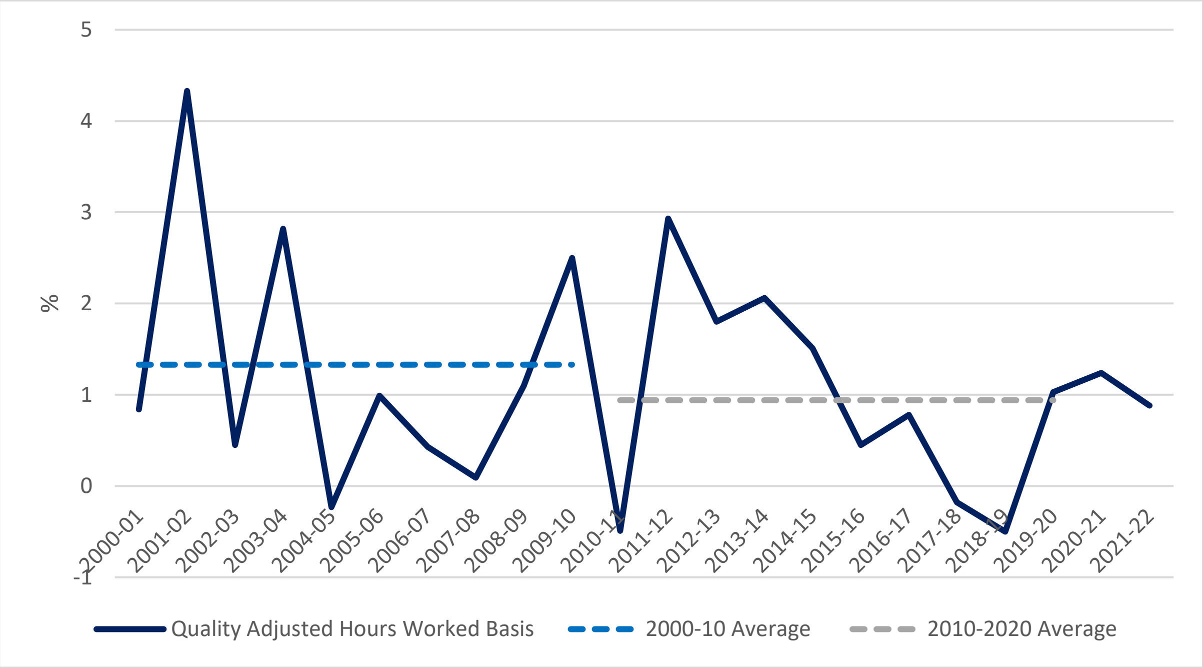
48. With the IMF’s advice in mind, it would be reckless to presume that our economy is resilient enough to withstand unmonitored, excessive and inflationary-tied increases in the national and modern award wages. It is important that the RBA’s actions to return inflation to 2-3% is not tainted by inflationary increases to national and modern award wages, particularly considering the Government’s views in their new industrial relations reforms that “greater access to multi-employer bargaining [will] improve wage outcomes.”[23]

[20] IMF, *World Economic Outlook: Countering the Cost-of-Living Crisis*, October 2022
[21] OECD Economic Outlook, Volume 2022 Issue 2
[22] IMF, *World Economic Outlook: Inflation Peaking amid Low Growth*, January 2023
[23] IMF, *World Economic Outlook: Inflation Peaking amid Low Growth*, January 2023

## Productivity

49. Labour productivity has dipped from its already low levels, with quality adjusted hours worked basis index recording a 0.88% increase in 2021-22 financial year. This is down from the 1.24% and 1.03% recorded in the two years prior[24] and also below the average labour productivity in the decades of 2000-10 and 2010-20, being 1.33% and 0.94% respectively.

**Figure 1:** Labour productivity

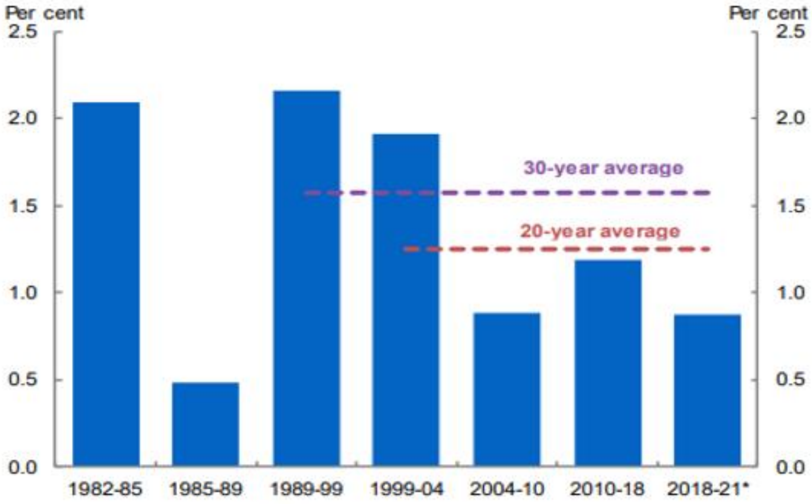



**Source:** ABS 2022, Estimates of Industry Multifactor Productivity, 2021-22 FY

50. Productivity growth has slowed considerably since the mid-2000s. Data collated from the ABS and presented by Treasury shows lacklustre labour productivity growth over the past three productivity cycles.[25]

[24] ABS 2022, *Estimates of Industry Multifactor Productivity*, 2021-22 Financial Year
[25] Duretto Z, Majeed O & Hambur J (2022), *Overview: Understanding productivity in Australia and the global slowdown*, Treasury Round Up, October

**Figure 2:** Average labour productivity growth by productivity cycles




Notes: Productivity cycles determined by the ABS. Final cycle (2018-21*) is incomplete.
Source: ABS Australian System of National Accounts, 2020-21.

51. As noted in Suthaharan and Bleakley (2022), it is paramount that wages growth and productivity growth are linked closely, noting:[26]

> If wages growth exceeds productivity growth and then firms raise prices to preserve margins and profitability, this can drive inflation higher.

52. It is clear that the value businesses and the economy derives from its workers is declining. In this Annual Wage Review the Panel must take note of this weak productivity growth and avoid further decoupling wages growth from genuine productivity improvements. Given the weakness in labour productivity in recent years and its trend downwards, an oversized increase in minimum and modern award wages cannot be justified.

## Business Profitability and Viability

53. There has been much debate over corporate profits in recent months, but it is important to place this in context. For this Review, focus must be on the profits of industry sectors with a high share of award reliant employees.

54. Company gross operating profits (CGOP) across all sectors have been highly volatile over the past three years due to COVID. Government support programs, such as JobKeeper, enabled businesses in many sectors to continue to operate, remain viable and maintain reasonable profits in 2020. However, most of these programs ended in 2021, with many businesses struggling to remain viable, particularly those in service sectors with a large share of award reliant employees. While conditions have improved in most sectors in 2022, profits remain low in many service industries.

55. Total (all industries) profits have been inflated over the past year as a result of high global commodity prices stemming from the war in Ukraine. With prices of gas, iron ore and agricultural products surging in 2022, the

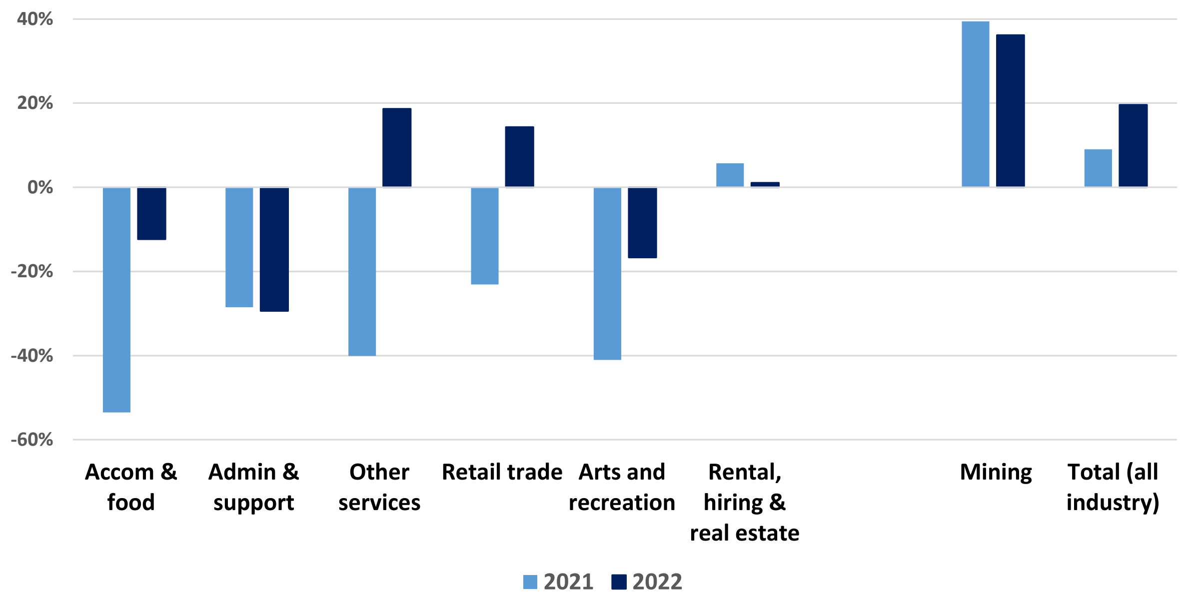
[26] Suthaharan N. and Bleakley J. 2022 *Wage-price Dynamics in a High-inflation Environment: The International Evidence*. RBA Bulletin, September 2022

mining and agricultural sectors have gained substantial profits.

56. Overall, total profits were up 20% in calendar year 2022, following an increase of 9% in 2021. However, over half of these profits can be attributed to the mining sector, which experienced profit growth of 36% in calendar 2022, following profit growth of 39% in 2021.[27] For context, only 1.1% of employees in the mining sector are award-reliant.

57. The most award-reliant industry, accommodation and food services (60% of employees are award-reliant)[28], continued to experience falling profits in 2022, with gross operating profit down 12%, following a 53% decline in 2021. Similarly, administrative and support services (42% award-reliance) experienced a profit decline of 29% in 2022, on top of a 28% decline the previous year. While retail trade (30% award reliance) experienced a profit increase of 14% in 2022, this followed a profit decline of 23% in 2021.[29]

**Figure 3:** Gross Operating Profit of sectors with the highest share of award-reliant employees




*Source: ABS, Business Indicators, December 2022*

58. The most recent ABS Business Conditions and Sentiment survey in June 2022 identified that over 50% of businesses were unable to pass on costs due the need to retain customers (46%), fixed-price contracts (46%) and advertising arrangements (39%).[30]

59. Businesses in Australia are facing difficult times in the year ahead, with global and Australian economic activity expected to slow sharply on the back of rising interest rates and high inflation, along with the continued impact of disrupted supply chains. Corporate profits are expected to turn down even further with the slowing economy.

60. In determining any increase in the minimum and modern award wages in this review, it is important the Panel recognise that over the past two years industry sectors with a high share of award reliant employees

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[27] ABS 2022, *Business Indicator, Australia,* December 2022 https://www.abs.gov.au/statistics/economy/business-indicators/business-indicators-australia/latest-release
[28] RBA, *Wages Growth by Pay-setting Method*, June 2019
[29] ABS 2022, *Business Indicator, Australia,* September 2022 https://www.abs.gov.au/statistics/economy/business-indicators/business-indicators-australia/latest-release
[30] ABS 2022 *Business Conditions and Sentiments*, May 2022; and ABS 2022 *Business Conditions and Sentiments*, June 2022.

have experienced falling profit growth and further declines are expected in 2023-24.

61. It is clear that across a range of economic indicators that a number of industries are struggling. Labour shortages, supply chain constraints and high energy prices are suffocating the competitiveness of businesses. It would be unreasonable for the Panel to generalise and assume all Australian industry sectors are experiencing a broad-based recovery, when at a more granular level many industries, particularly service sectors with a high share of award reliant employees, continue to experience steeply declining profits.

# Labour Market Considerations

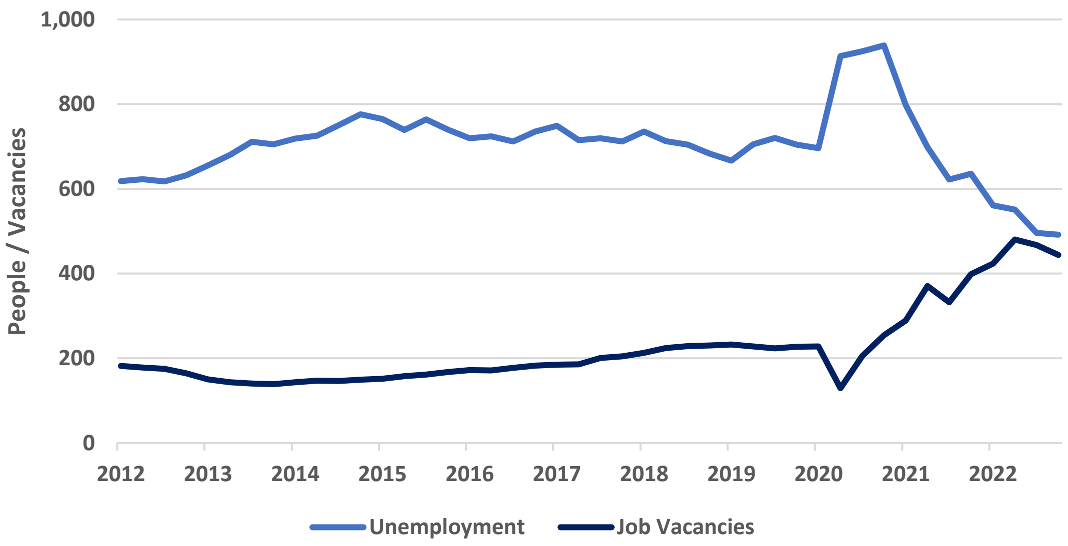
## Employment

62. The labour market remains extremely tight. Employment continues to rise, now at a historic high of 13.8 million, while the unemployment rate has remained consistently around a historic low of 3.5% from July 2022 to February 2023. The participation rate also remains close to its historic high, at 66.6%.[31]

63. While the strength of the labour market is, in general, a positive story, it is also contributing to a severe shortage of labour and skilled workers, which, like inflation, is placing serious strain on the economy. The tightness of the labour market has left most industries and almost a third of businesses struggling to find suitable staff.[32] ABS Labour Force and Job Vacancies data show that there has been almost one job vacancy for each unemployed person since mid-2022. When you take into account job transition, skills mismatch, and dislocation between the job and potential employee, then it becomes clear that there are insufficient workers to fill the available jobs.

64. Although the number of job vacancies are beginning to inch down since peaking in May 2022, the labour market remains extremely tight, with many businesses forced to operate below full capacity, by reducing opening hours and/or the quality of their services.

**Figure 4:** Job vacancies vs unemployed people




**Source:** ABS, Labour Force, December 2022; Job Vacancies, November 2022

65. It is important to recognise that the award-reliant industries of accommodation and food services, administrative and support services and retail trade suffered significantly from labour shortages, with 51%, 43% and 39% of businesses in these industries acknowledging the difficulty from finding suitable staff[33].

66. With international markets and Australia's economy forecast to slow throughout 2023, the unemployment

[31] ABS 2022, *Labour Force*, February 2022
[32] ABS 2022, *Business Conditions and Sentiments*, June 2022
[33] ABS 2022, *Business Conditions and Sentiments*, June 2022

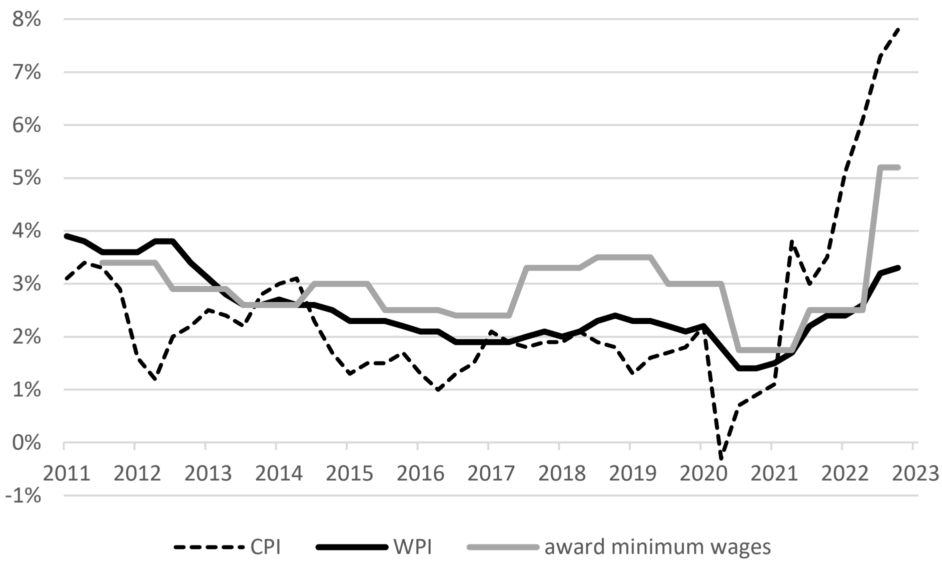
rate is expected to rise. As businesses lose vital consumer spending and economic activity, they will be forced to contract their operations and reduce their workforce. The RBA is expecting the unemployment rate to rise to 3¾% at the end of 2023 and 4¼% at the end of 2024[34]. The Commonwealth's October Budget[35] and NAB's economic analysis[36] are predicting the unemployment rate to reach 4½% at the end of the 2023-24 financial year.

## Wages

67. The tightening of the labour market has already led to an increase in wages. Natural growth in wages is expected as the labour market continues to operate in a tight environment. The October Budget forecasts WPI to increase from 2.6% in 2021-22 to 3¾% in 2022-23 and 2023-24. Comparatively, the RBA's February 2023 Statement on Monetary Policy has the WPI increasing to 4¼% in the year to June 2023 before easing to 3 ¾% by mid-2025.[37]

68. Over the past decade, the Panel has consistently awarded increases in the minimum and modern award wages that exceeded the growth of the wage price index (WPI). Overall, the minimum and modern award wages have moved out of step with average wages, increasing by an average of around 3% per year (30% in total) over the past decade compared to 2.3% per year (23% in total) for the WPI. Similarly, although inflation has been high in the past year, over the past decade inflation has averaged 2.4% per year (24% in total), somewhat below the rate of increase in the minimum and modern award wage.

**Figure 5:** Comparison of the rate of growth of modern award wages, the WPI and CPI.




**Source:** ABS 2023, Wage Price Index, December 2022; ABS 2023, Consumer Price Index, December 2022; Fair Work Commission, Annual Wage Review decisions

69. It is important that the Panel recognises the cumulative impact of its previous decisions and not just look at

[34] Reserve Bank of Australia (2022) *Statement on Monetary Policy* February 2023
[35] The Commonwealth of Australia 2022 *Budget 2022-23: Budget Strategy and Outlook – Budget Paper No. 1* [https://budget.gov.au/2022-23-october/content/bp1/index.htm](https://budget.gov.au/2022-23-october/content/bp1/index.htm)
[36] NAB, The Forward View: Australia November 2022
[37] Reserve Bank of Australia (2022) *Statement on Monetary Policy*, February 2023

the current period in isolation. While we acknowledge that wage growth has not kept pace with the exceptionally high inflation experienced over the past year, taken in context, the cumulative wage increases have ensured workers have experienced an increase in real wages over the decade.

70. The Panel's has repeated insisted that there is no automatic formula or determinism in how it approaches uprating minimum and modern award wages in earlier Reviews, and this applies equally to this Review. The Panel must take all factors into account and not react to what is expected to be a temporary spike in inflation.

71. Any increase in minimum wage will have implications for inflation, which appears to have peaked and is expected to trend down in 2023. Were the Panel to follow its decision in 2022 with a second substantial increase in minimum and modern award wages in 2023, it is likely to add to price pressure and slow the rate of decline in inflation. Businesses in industries with a high share of award-reliant employees, notably retail, accommodation and food services, administration and support services, rental hiring and real estate services, and arts and recreation services, already face considerable cost pressures and low profits. With very tight margins, any increase in wages would need to be passed on to customers through higher prices, further fuelling inflation.

## Effects of Minimum Wage Increases on Employment

72. In last year's decision, the Panel maintained that:[38]

> … moderate and regular increases in minimum wages do not result in significant disemployment effects.

73. This finding supports ACCI's recommendation for a moderate increase to minimum wages and modern award wages of 4.0% in 2023.

74. An increase to minimum wages and modern award wages that exceeds 4.0% is immoderate and risks compromising the strength of the labour market. The mere fact that the labour market is generally performing well, aside from the labour shortages which are hampering businesses, does not justify a willingness to accept some disemployment effects which may result from the annual wage review decision.

75. As noted in last year's decision, Australian research into the relationship between minimum wage increases and employment outcomes remains aged and limited.[39] This forces parties to rely on international research.

76. In last year's review, the Australian Government referred to a recent analysis by Neumark and Shirley (2021),[40] who identified the core estimates within the entire set of published studies in the US literature about the impact of minimum wage variations on employment. The conclusion was that the literature clearly indicates that minimum wage increases negatively impact employment levels.[41] Furthermore, Neumark and Shirley (2021) found that these negative employment outcomes were felt more strongly for teens, young adults, and the less educated.[42] The evidence for these outcomes was even stronger within studies that confined the analysis of employment outcomes to workers that are directly affected by minimum wage decisions.[43]

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[38] *Annual Wage Review 2021-22* [2022] FWCFB 3500 [65] (emphasis added).
[39] *Annual Wage Review 2021-22* [2022] FWCFB 3500 [54].
[40] Australian Government Submission, *Annual Wage Review 2021-22*, 1 April 2022 [255].
[41] David Neumark and Peter Shirley, 'Myth or Measurement: What Does the New Minimum Wage Research Say about Minimum Wages and Job Loss in the United States?', *National Bureau of Economic Research* (January 2021, revised March 2022), DOI 10.3386/w28388.
[42] See ibid.
[43] See ibid.

77. These findings remain highly relevant to this year's review; however, difficulties inevitably arise when attempting to translate international findings across to the Australian context, given the unique characteristics of the modern award system.

78. Nevertheless, the far-reaching impact of annual wage review decisions on labour costs supports these findings for the Australian system. The Panel's decision will not only lead to labour cost increases for employers of minimum wage workers, nor just for employers of workers covered by modern awards, but also for employees earning above award wages, which can be linked to award wages.[44] As demonstrated above (at paragraphs [53]-[61]), businesses in award-reliant industries continue to face declining profits and are therefore less capable of absorbing large increases to labour costs. There is a prospective risk of involuntary job losses from excessive wage increases.

79. If the Commission rejects the submission that an increase to minimum wages and modern award wages that exceeds 4.0% creates risks of causing disemployment effects, it should still take into consideration the compounding effect of wage increases. As the Productivity Commission stated with respect to Australian studies that failed to identify an immediate impact of annual wage review decisions on employment outcomes, the cumulative effects of multiple minimum wage adjustments are not well understood.[45] An increase to minimum wages and modern award wages exceeding 4.0% on top of the increase of 5.2% and 4.6% respectively that resulted from the decision in the Annual Wage Review 2021-22, with a strong potential for further high increases in future reviews given the inflationary environment, increase the risk of disemployment effects.

80. Accordingly, the Panel should remain cautious with respect to the potential for its decision to cause disemployment effects in the labour market. This favours ACCI's recommended approach of a moderate increase to minimum wages and modern award wages of 4.0%.

### Superannuation Guarantee

81. ACCI notes that the legislated increase in the Superannuation Guarantee (SG) from 10.5% to 11% will take effect from 1 July 2023. Under the legislation the SG will progressively increase by 0.5% until it reaches 12% on 1 July 2025.

82. The SG is calculated as a percentage of an employee's earning, with each increase in the SG granting a 0.5% wage increase (albeit as a deferred benefit) to employees.

83. The SG increase has a flow-through effect onto labour costs, raising the cost of doing business and further fuelling inflationary pressure.

84. With extremely tight profit margins, business have little option but to pass on this increase to their customers.[46] This will only add to inflationary pressures and/or lead to inflation remaining higher than it needs to be for longer.

85. Further, the *Treasury Laws Amendment (Enhancing Superannuation Outcomes for Australians and Helping Australian Businesses Invest) Bill 2021* was passed on 10 February 2022, removing the exemption for

[44] See Australian Government Submission, *Annual Wage Review 2021-22*, 1 April 2022 [249].
[45] Productivity Commission, *Workplace Relations Framework* (Report, 2015) 197.
[46] RBA, *Minutes of the Monetary Policy Meeting of the Reserve Bank Board*, March 2022

employers to contribute superannuation for employee earnings less than $450 per month. This increases the burden on employers, as they must make SG contributions regardless of how much the employee earns.

86. The Australian Government estimated 300,000 low-income employees were impacted by this change, mostly within award-reliant industries.[47] This has significantly impacted employers' costs, as the labour on costs of part-time and causal employees with an income below $450 per month increased by 10.5% in 2022 in line with the SG and is scheduled for a further 0.5% rise in 2023.

87. ACCI notes that in previous decisions, the FWC has taken increases in the SG into account with reductions in the overall increase in the minimum wage decision but has not provided any quantifiable figure to the extent minimum wages were factored into the increase.

88. The Panel in the 2021-22 decision noted:[48]

> The increase in the SG rate and the removal of the threshold will increase employment costs and for that reason they are moderating factors in our consideration of the adjustment to minimum wages.

89. Any increase in the national and modern award wages in the 2023 Review should again be moderated downwards by the SG rate increase. As in our previous submissions to the Review, ACCI emphasises the utility in quantifying the increase and its adjustment of the increase for the rise in the SG in this year's decision.

## Labour market transition

90. As noted by ACCI in previous Annual Wage Reviews, in determining any increase in minimum wages, the Panel must take into consideration the important role of the minimum wage as a stepping-stone to higher paid employment. Maintaining the minimum wage at an affordable level enables young and inexperienced workers to access the workforce and gain the experience necessary to build a career.

91. Observing low-paid award-reliant employees, analysis conducted by Wilkins and Zilio 2020[49] identified that 39.1% move to higher paid employment within one year, 56.8% move after 2 years and almost 80% moved after 5 years.

92. ACCI urges the Panel to set minimum and modern award wages at a level that appropriately rewards workers, but ultimately encourages businesses to employ more workers, thereby maximising the opportunity for new and untrained workers to enter the workforce and begin to progress into higher paid work.

93. The minimum wage should not be used to drive wages growth across the economy. The minimum wage is a safety net that applies only to a very small proportion of the workforce (less than 1.5%) that are in transition to higher paid work. Workers that are not able to transition to higher paid work (20% of 1.5%, or 0.3% of the workforce) are best supported through other means, including the welfare system and/or education and training system.

94. We urge the Panel not to use the minimum wage as a means of driving up the living standards of the low paid. It needs to be recognised that improvements to living standards and individual life course trajectories

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[47] Australian Government, *2021-22 Budget Measures, Budget Paper No. 2*, 11 May, p26
[48] Annual Wage Review 2021-22 decision, FWCFB 3500, from [146]
[49] 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

is ultimately achieved through successful labour market transition, integrating into the workforce and moving from lower paying employment to higher paid employment. It is important that increases in the minimum wages should not making it difficult for young and inexperienced workers to enter the workforce nor discourage employers from offering higher paying work.

# Living Standards and Needs of the Low Paid

## Low Income Households

95. ACCI maintains that minimum wage fixation is not an effective way of addressing the needs of lower income households and should not be relied upon solely to do so. The tax and transfer system is better targeted to address the actual circumstances of lower income households and is a more appropriate mechanism to provide necessary support.

96. 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. A large share of minimum wage workers were dependent students (17%), dependent children living with their parents (17%) or were secondary earners in couple households (21%).[50]

    b. A large proportion of minimum wages earners work part-time (77.2%) and/or casually (79.6%).

    c. While, as would be expected, 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.

97. ACCI is concerned with the Panel's continued use of the arbitrarily determined threshold for the 'low paid.' In the 2022 Decision, the Panel noted it consistently adopts the:[51]

    > threshold of two-thirds of median adult full-time ordinary earnings as the benchmark we use to identify who is 'low paid'.

98. There is no clear explanation given in the research referenced, or in earlier Decisions, why two-thirds of median earnings is any more representative of the low-paid than any other number. Just because some contributors to the Annual Wage Review use the two-thirds median earning in campaigns to seek increases to the national minimum and modern award wages does not make it a valid assumption to benchmark decisions.

99. Wilkins and Zilio (2020) found that previous literature has found no unanimous consensus as to the definition of 'low paid.' The research by Wilkins and Zilio found that 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. Their findings suggest that living standards have been improving, with the proportion of low paid award-reliant dropping 21% since 2009 levels of 7.5%.[52] However, this does not justify further increases in the minimum and modern award wages for the purpose to reduce the pool of low paid award-reliant employees further.

100. Their research also found that low paid award-reliant employees are more likely to be part-time (58%) and/or in casual employment (66.5%), more likely to be younger employees (29% between 20-25 years, and 60%

[50] 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
[51] [2022] FWCFB 3500, pg 24, [70]
[52] Wilkins R. and Zilio F. (2020), *Prevalence and Persistence of Low-Paid Award-Reliant Employment*, Fair Work Commission, Research Report 1/2020, February

between 20-35 years). This suggests they are more likely to be less experienced workers, beginning their careers and developing important skills. They are also likely to be in a couple (58.5%) or dependent students/non-dependent children (19.9%) still living with their parents. Almost 60% of low-paid award-reliant employees in couple households are secondary earners and a high proportion receive Government welfare benefits (25%) that supplement their lower incomes.52

101. In determining their Decision, the Panel needs to realise that changes to award and minimum wages will have a very limited impact on household disposable income and poverty levels in Australia. It would be far more prudent to improve the situation of households with low disposable income through:

    a. the tax and transfer systems; and

    b. balanced decisions which support job creation, with jobs clearly the best measures to counteract poverty.

## Budget Standards

102. We appreciate the recent research by the University of NSW Social Policy Research Centre in updating the Budget Standards for this Review. This work has been needed for some time, with the previous work on the Budget Standards last prepared in 2013, with a minor revision in 2016 to update the numbers using the CPI.

103. While we recognise the challenges in preparing the Budget Standards, there are a number of assumptions and judgments which cast doubt on the conclusions of the report.[53] The paper suffers from significant limitations in the report's analysis of the budget standards for low paid families and their comparison to expenditure.

104. Overall the Budget Standards are heavily weighted to the high side, representing the budget requirements of the highest percentile of households, not the average minimum wage earner.

105. The report assumes low-paid workers are between the age of 35-40. This is not representative of the average age of minimum wage employees, with 22.3% of national minimum wage (NMW) earners between the age of 15-20, 18.7% between 21-24, and 14.9% between 25-29. Overall, 56% of minimum wage employees are in these younger age groups, compared to 24% of all employees. Younger workers have different expenditure and budget requirements[54], so the use of an older age group is likely to distort the outcomes of the focus group discussions and analysis.

106. The representativeness of the focus groups, which sampled only low-paid workers in the Greater Sydney areas, are acknowledged in the report as a "consultative rather than determinative" process. Instead, it relied on the "judgements" made by the research team on the calculation of heathy living standard. It should be acknowledged that living costs in Sydney are typically higher than those in other parts of Australia, so choosing Sydney results in the budget standards determined being in the upper bound of expenditure by minimum wage employees.

107. ACCI questions the inclusion of discretionary spending, given that the focus of the Budget Standards is on determining the minimum income requirements for low-paid employees. Some of the expenditure included in discretionary spending are questionable, notably the $18 per week allowance for a full-time minimum

[53] UNSW Sydney 2023, *Budget Standards for Low Paid Families*, Fair Work Commission, Research Report, 3 February 2023
[54] For example, a high proportion of minimum wage employees below 30 are likely to living either in share houses or still with their parents.

wage worker for eating out lunch at work. This contradicts the focus group discussions, both in the regularity and amount, with "very few of the participants [speaking] about buying lunch at work." The allowance of $24.54 lost on gambling per week is also a questionable inclusion. Using the average gambling loss per adult in Australia is a broad generalisation of gambling prevalence in Australia and by lower-paid households. A recent study has found 43% of Australian's are non-gamblers[55].

108. The decision to set the housing allowance at the 40th percentile of Sydney rents, which the research team admits is arbitrary and unrepresentative of the housing budgets of the low-paid. It assumes the low-paid livein and pay rent at a rate that approximates the average of rental housing available in Australia's most expensive city. It is unlikely that low paid employee would be renting in the 40th percentile and the report provides no explanation of why this is chosen as the appropriate level of housing for the low-paid. It would be more likely that a low-paid employee would rent in the lower percentiles, rather than the middle percentiles as presented in the report. Regardless, the use of Sydney rents unnecessarily biases the results of the analysis, to the point that if capital city rents in any other state were used as the base for the comparison, the minimum wage would provide sufficient income to support the budget plus housing for all household categories. Using the data provided by the research report and calculated by ACCI, a single adult, single parents working full-time with one or two children, and dual-earner couples with no, one or two children all recorded above 100% in their minimum wage disposable income as a percentage of their budget using the rent in Melbourne, Brisbane, Perth, Adelaide and Hobart, as well as the regional areas in each state.

[55] Hing, N. et al. 2022, *Gambling prevalence and gambling problems amongst land-based-only, online-only and mixed-mode gamblers in Australia: A national study*, Computers in Human Behaviour, July 2022

# Social Considerations

## Secure Work

109. Following the commencement of Part 4 of Schedule 1 of the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022*, the Panel is now required to take into account new considerations under the modern awards objective. Relevantly, the new paragraph (aa) of the modern awards objective provides that the Commission must now ensure that "modern awards, together with the National Employment Standards, provide a fair and relevant minimum safety net of terms and conditions, taking into account":[56]

> the need to improve access to secure work across the economy …

110. The term "secure work" is not defined in the FW Act or the explanatory memorandum accompanying the legislative changes. It is yet to be subject to any judicial interpretation. Accordingly, the Commission is tasked with construing this term.

**Definition of secure work**

111. In the President's statement regarding the *Fair Work Legislation Amendment (Secure Jobs Better Pay) Act 2022*, the Acting President noted that "Parties making submissions to the Annual Wage Review Expert Panel should address the new objects and objectives as part of the submissions process." ACCI will do so.

112. The starting point for the ascertainment of the meaning of s 134(1)(aa) is the text of the FW Act whilst, at the same time, regard is to be had to its context and purpose.[57] The natural and ordinary meaning of its words, namely, how they are ordinarily understood in discourse, must be considered.[58]

113. The meaning of "work" is unambiguous. The adjective "secure" in the relevant sense ordinarily means "free from fear of or about something".[59] In the context of work, that "something" would naturally be understood to primarily refer to joblessness. In other words, in the composite expression "secure work", the modifier "secure" denotes a lack of risk or anxiety about the availability of or entitlement to the work not persisting into the future.

114. Accordingly, improving access to secure work means reducing the risk of joblessness.

115. The meaning of the term "secure work", its antithesis, "insecure work", and the broader concept of "job security", is contested, and to some degree, controversial. It has been the subject of extensive public debate among peak councils and industry bodies since the launch of the ACTU's national campaign in 2011.[60]

116. The definition of the term "secure work" as advocated for by the trade union movement, which will undoubtedly be repeated in their submissions to this review, cannot be accepted by the Panel. In essence, these parties contend that the only work that is "secure work" is permanent full-time employment, while casual employment, fixed term work, seasonal work, independent contracting, labour hire and part-time

[56] FW Act s 134(1)(aa).
[57] *SZTAL v Minister for Immigration and Border Protection* (2017) 262 CLR 362, 368 [14] (Kiefel CJ, Nettle and Gordon JJ).
[58] See ibid.
[59] *Oxford English Dictionary* (online, 2023) 'secure, adj., adv., and n.1' (def 1b).
[60] Australian Council of Trade Unions, 'Unions launch new campaign for secure jobs and a better future for Australian workers' (Media Release, 28 September 2011).

employment are all characterised as “insecure work”.[61]

117. This definition does not accord with the natural and ordinary meaning of the words constitutive of the term. There is nothing indicative of a legislative intention for a construction of the term that would mean that the Commission should aim to “improve access” to permanent full-time employment “across the economy” by disfavouring, disincentivising or disturbing the usage of alternative forms of work. Submissions proposing that the Panel adopt this definition or similar definitions (such as by merely including part-time work within its scope) must be rejected.

**Effect of secure work considerations on annual wage review decisions**

118. As noted, improving access to secure work means reducing the risk of joblessness. However, it is crucial that the Commission recognises the many forms in which joblessness can occur. It is not solely restricted to dismissal, which the union movement’s definition to some extent presupposes, given its confinement of “secure work” to only forms of work which are protected from unfair dismissal (full-time and part-time employment). Critically, joblessness also arises due to redundancy.

119. In fact, ABS data reveals that only around 5% of involuntary job losses are caused by dismissal.[62] Meanwhile, 38% of involuntary job losses are caused by retrenchment, 38% because the job was temporary or seasonal, and 19% due to ill health or injury.[63]

120. Essentially, the Panel must take into account “the need to improve access” to work for which there is a lack of fear about retrenchment, temporariness, and injury “across the economy”; however, the capacity of the Panel to improve access to work that lacks the latter two concerns is severely limited.

121. The Panel cannot be confident that increases to wages in modern awards will have any beneficial impact on improving access to work that is non-seasonal or non-temporary. Nor can the Panel be confident about any impact of wages increases on an improvement to safer work.

122. Contrastingly, the Panel *can* be confident about the propensity of wage increases to cause greater risks of redundancy and retrenchment. Significant increases to labour costs have disemployment effects and harm the viability of businesses, as discussed above at paragraphs [72]-[80].

123. In summary:

  a. the natural and ordinary meaning of the phrase “secure work” is work that is free from fear of joblessness;

  b. the Panel must take into account the fact that excessive wage increases worsen access to work that is free from fear of retrenchment because of their disemployment effects and harm to business viability; and

  c. the “need to improve access to secure work across the economy” is therefore a factor that tends in favour of a more cautious approach to setting modern award and minimum wages.

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[61] See Australian Council of Trade Unions, Submission No 98 to Select Committee on Job Security, *Inquiry into the impact of insecure or precarious employment* (30 April 2021) [3].
[62] Australian Bureau of Statistics, *Job mobility* (Catalogue No 6223.0, February 2022).
[63] See ibid.

## Gender Equality

124. Following the commencement of Part 4 of Schedule 1 of the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022*, the Panel is now required to take into account new considerations under the modern awards objective and minimum wages objective.

125. In the establishment and maintenance of a safety net of fair minimum wages, the Panel must take into account:[64]

> the need to achieve gender equality, including by ensuring equal remuneration for work of equal or comparable value, eliminating gender-based undervaluation of work and addressing gender pay gaps;

126. In ensuring that modern awards provide a fair and relevant minimum safety net of terms and conditions, the Panel must take into account:[65]

> the need to achieve gender equality in the workplace by ensuring equal remuneration for work of equal or comparable value, eliminating gender-based undervaluation of work and providing workplace conditions that facilitate women's full economic participation;

127. These two considerations are broadly similar. One difference lies in the express measure for achieving gender equality by "addressing gender pay gaps" under the minimum wages objective, whereas the modern awards objective expresses that gender equality should be achieved by "providing workplace conditions that facilitate women's full economic participation". Another difference lies in the non-exhaustive nature of the measures listed in the minimum wages objective, expressed by the preposition "including", whereas the modern awards objective suggests that gender equality should be achieved through the three subgoals that are listed, lacking the preposition.

128. Changes to minimum wages and modern awards wages cannot assist the Commission in "ensuring equal remuneration for work of equal or comparable value". Neither can they improve gender equality by "eliminating gender-based undervaluation of work".

129. In the past, the Commission has held that "moderate increases in the NMW and modern award wages would be likely to have a relatively small, but nonetheless beneficial, effect on the gender pay gap".[66] This "relatively small, but nonetheless beneficial, effect on the gender pay gap", which is a suggested measure listed under s 284(1)(aa), must be balanced against the potential negative effect of increases to minimum wages and modern awards wages on "women's full economic participation", which is a subgoal for gender equality considerations under s 134(1)(ab).

130. Significant increases to minimum wages and modern awards wages have disemployment effects, as discussed above at paragraphs [72]-[80]. Accordingly, given that women are more award-reliant,[67] these disemployment effects will disproportionately impact women's economic participation in the labour market.

131. It is therefore crucial that a cautious approach is adopted to ensure that the "relatively small, but nonetheless beneficial, effect on the gender pay gap" of minimum wage increases is not outweighed by the potentially negative impact on women's workforce participation. Accordingly, the considerations relating to gender equality favour ACCI's submission for an increase to minimum wages and modern award wages of 4.0%

[64] FW Act s 284(1)(aa).
[65] FW Act s 134(1)(ab).
[66] *Annual Wage Review 2021-22* [2022] FWCFB 3500 [87].
[67] *Annual Wage Review 2019-20* [2020] FWCFB 3500 [403].

(3.5% plus the legislated 0.5% Superannuation Guarantee increase) in 2023.

## Social Inclusion

132. The Panel is required to take into account "the need to promote social inclusion through increased workforce participation" in the setting of minimum and modern award wages.[68] As the Commission has held previously, the use of the conjunctive "through" clarifies that social inclusion is a concept to be promoted exclusively "*through* increased workforce participation".[69]

133. This consideration is therefore one which is fundamentally about the impact on workforce participation. As noted, significant increases to minimum wages and modern awards wages have disemployment effects (as discussed above at paragraphs [72]-[80]) and therefore worsen workforce participation. Accordingly, the need to promote social inclusion is a factor that tends in favour of a more cautious approach to increases in the setting of minimum and modern award wages and supports ACCI's position.

## Junior, Trainee and Disabled Employees

134. The Panel is required to take into account the need to provide "a comprehensive range of fair minimum wages to junior employees, employees to whom training arrangements apply and employees with a disability."[70]

135. ACCI submits that any changes made to modern award wages in this Review should flow through to junior rates of pay in modern awards, employees to whom training arrangements apply, employees with a disability and piece rates.

## Flexible Work, Additional Remuneration, and Stable and Sustainable Modern Award System

136. In setting minimum wages and modern award wages, the Panel is required to take into account "the need to promote flexible modern work practices and the efficient and productive performance of work";[71] "the need to provide additional remuneration" for certain work;[72] and "the need to ensure a simple, easy to understand, stable and sustainable modern award system for Australia that avoids unnecessary overlap of modern awards".[73]

137. The Panel traditionally does not discuss these considerations in annual wage review decisions. ACCI agrees that these factors are neutral because the setting of minimum wages and modern award wages is unlikely to directly impact any of these objectives.

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[68] FW Act s 134(1)(c). See also FW Act s 284(1)(b).
[69] *Re Family Friendly Working Arrangements* [2018] FWCFB 5753 [72].
[70] FW Act s 284 (1)(e).
[71] FW Act s 134(1)(d).
[72] FW Act s 134(1)(da).
[73] FW Act s 134(1)(g).

# Collective Bargaining

## Need to Encourage Collective Bargaining

138. In setting minimum and modern award wages, the Panel is required to take into account "the need to encourage collective bargaining".[74] In prior decisions, the Panel has determined that it "cannot be satisfied that the increase … determined will *encourage* collective bargaining".[75]

139. ACCI agrees with this finding, albeit likely for different reasons than previously held. The Panel cannot be satisfied that increases to modern award wages will encourage collective bargaining because instead, significant increases risk discouraging collective bargaining. This will remain unchanged following the commencement of all the amendments to the enterprise bargaining system provide for in the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022*.

140. As the Panel will be well aware, the Commission may only approve a proposed enterprise agreement if it is satisfied that it passes the better off overall test (**BOOT**).[76] From 6 June 2023, an enterprise agreement will pass the BOOT if, at the test time:[77]

> … each award covered employee, and each reasonably foreseeable employee, for the agreement would be better off overall if the agreement applied to the employee than if the relevant modern award applied to the employee.

141. It is incontrovertible that, the higher wages are under modern awards, the higher wages stipulated in enterprise agreements will need to be to ensure that each award covered employee and each reasonably foreseeable employee would be better off overall. This means that high wage increases to modern awards will make the BOOT more difficult to satisfy.

142. The more difficult the BOOT becomes to satisfy for employers, the less attractive enterprise bargaining becomes. This *discourages* collective bargaining on behalf of employers. If wages increase substantially under modern award wages, employers are less able to afford the even higher wages that must necessarily be offered under an enterprise agreement.

143. Additionally, higher award wages mean that employees have less room to negotiate with employers during enterprise bargaining for terms and conditions that they consider more desirable. Significant increases to modern award wages can therefore also make bargaining less attractive from the perspective of employees.

144. Accordingly, the Panel should find that the requirement to take into account the need to encourage collective bargaining tends in favour of a more cautious approach to increases in the setting of modern award wages.

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[74] FW Act s 134(1)(b). See also FW Act s 3(f).
[75] *Annual Wage Review* [2022] FWCFB 3500 [85].
[76] FW Act s 186(2)(d).
[77] FW Act s 193(1), following the commencement of *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* s 526.

# About ACCI

The Australian Chamber of Commerce and Industry represents hundreds of thousands of businesses in every state and territory and across all industries. Ranging from small and medium enterprises to the largest companies, our network employs millions of people.

ACCI 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.

# ACCI Members

## State and Territory Chambers

Business NSW
Business SA – Chamber of Commerce and Industry South Australia
Canberra Business Chamber
CCIQ – Powering business potential
Chamber of Commerce and Industry WA
Northern Territory Chamber of Commerce
TCCI
Victorian Chamber of Commerce and Industry

## Industry Associations

accommodation association
accord – hygiene, cosmetic & specialty products industry
AMCA
Animal Medicines Australia
APRA AMCOS
AUSactive
Australia Arab Chamber of Commerce & Industry
AACS – Australasian Association of Convenience Stores
AuSAE – The Australasian Society of Association Executives
AADA
Australian Beverages
ACFA
ADA – Australian Dental Association
ADIA – Australian Dental Industry Association
AFEI – Australian Federation of Employers & Industries
afta – Australian Federation of Travel Agents
Australian Finance Industry Association
AHA
AICM – Australian Institute of Credit Management
Australian Made
AMTA – Australian Mobile Telecommunications Association
Australian Regional Tourism
AREEA
ARITA
ARA – Australian Retailers Association
ARTA
Australian Steel Institute
ATEC – Australian Tourism Export Council
AVA – Australian Veterinary Association
ATIC
BIA – Boating Industry Association
BIC – Bus Industry Confederation – moving people
Business Council of Co-operatives and Mutuals
BECA – Business Events Council of Australia
Caravan Industry Association of Australia
Cement Concrete & Aggregates Australia
Chemistry Australia
Clubs Australia
ClubsNSW
CMAA
Consult Australia
Consulting Surveyors National
Consumer Healthcare Products Australia
CPA Australia
CLIA Australasia
Customer Owned Banking Association
Exhibition & Event Association of Australasia
Governance Institute of Australia
HIA
IHEA – Independent Higher Education Australia
iteca – Independent Tertiary Education Council Australia
IPWEA – Institute of Public Works Engineering Australasia
ieaa – International Education Association of Australia
LFRA – Large Format Retail Association
Live Performance Australia
Master Builders Australia
master plumbers – Expert. Committed. Professional.
Medicines Australia
NALSPA
neca – national electrical and communications association
nesa – national employment services association
National Fire Industry Association Australia
NRA – National Retail Association
NRMA – MYNRMA.COM.AU
NSW Taxi Council
Outdoor Media Association
The Pharmacy Guild of Australia
Printing Industries Association of Australia
Queensland Tourism Industry Council
rcsa – Leading in the world of work
Restaurant & Catering
Road Freight NSW
SP
Think Brick Australia
TAA – Tourism Accommodation Australia – A division of the AHA
Tourism Training Australia
VACC – You're in good hands

Australian
Chamber of Commerce
and Industry