



Submission to the Annual Wage Review 2021-22

ACTU Submission, 1 April, 2022
ACTU D. No 12/2022

CONTENTS

INDEX TO FIGURES	iii
INDEX TO TABLES	vi
1. Introduction and overview	1
2. Promoting social inclusion through increased workforce participation.	9
2.1 Outlook and performance against forecasts.....	10
2.2 Employment.....	13
2.3 Unemployment, underutilisation, and participation	27
2.4 Findings from Recent Minimum Wage Research.....	37
2.4.1 Recent Research on Employment Effects of Higher Minimum Wages.....	37
2.4.2 Other Impacts of Higher Minimum Wages.....	40
2.4.3 Minimum Wages Under Monopsony	43
2.4.4 Conclusions on recent minimum wage research.....	45
3. The National Economy.....	46
3.1 Outlook and performance against forecasts.....	48
3.2 International Perspective.....	50
3.3 Economic Growth	53
3.4 Growth by industry	58
3.5 Consumption.....	62
3.6 Productivity.....	65
3.7 Inflation.....	67
3.8 Wages	70
3.9 Profits.....	74
3.10 Retail performance	78
3.11 Business entry and exit	82
3.12 Business bankruptcy	84
3.13 Investment.....	85
4. Relative Living Standards.....	90
4.1 The employees most effected by the decision	90
4.1.1 How many people rely on minimum wages in Australia?	91
4.1.2 Individual characteristics	94
4.1.3 Employment characteristics.....	100
4.1.4 Change in award reliance: general remarks	105
4.2 Essential and award reliant workers impacted by COVID-19.....	106
4.3 Relative earnings.....	112
4.4 Living Standards and the tax-transfer system.....	115
4.5 International comparison	120
5. The Needs of the low paid.	123
5.1 Relative Poverty	123
5.2 Financial stress facing the low paid	127

5.2.1 Melbourne Institute survey of the impact of Covid-19	130
5.2.2 ACTU Attitudes, Sentiment and Knowledge Survey	134
5.2.3 NAB Household Financial Stress Index	137
5.3 Inflation and the cost of living	138
5.4 Food insecurity.....	142
5.5 Trends in hours of work and multiple job holders.....	144
5.6 The impact of a delay in implementation	148
6. Gender equity and diversity	150
6.1 COVID-19 – Continuing impact on women’s employment	152
6.2 Causes of the gender pay gap	153
6.3 Measuring the gender pay gap	156
7. Encouraging Collective bargaining	163
7.1 Obligation to Consider Encouraging Collective Bargaining.....	163
7.1.1 How the Consideration affects the Review	164
7.1.2 The Decline or Otherwise of Collective Bargaining	164
7.1 Previous Panel Findings	168
7.2 How the Panel should discharge its obligation to consider encouraging collective bargaining	169
8. Other Matters	172
8.1 Juniors.....	172
8.2 Apprentices and Trainees	174
8.3 Employees with a disability.....	178
8.4 Casual loading	180
8.5 Piece rates.....	180
8.6 Other instruments.....	180

INDEX TO FIGURES

Figure 1: Unemployment rate - performance against forecasts	10
Figure 2: Employment Growth - Performance against forecasts.....	11
Figure 3: OECD - How long to return to pre-pandemic employment rates	13
Figure 4: Employment and growth in employment, monthly seasonally adjusted, Jan 2020-Feb 2022 ...	14
Figure 5: Growth in employment, monthly and year to February, seasonally adjusted	15
Figure 6: Forms of employment, Nov 2016-21	16
Figure 7: Growth (%) in employment by State, July-December 2021.....	17
Figure 8: Payroll Jobs Indexes – selected industries.....	18
Figure 9: Employment, payroll jobs and wages, November 2021	19
Figure 10: Employment, payroll jobs and wages, February 2022.....	20
Figure 11: Duration of Job Search and Long Term Unemployment, Jan 2021-Feb 2022	22
Figure 12: Vacancy rate and proportion of business reporting industry, award reliant industries, 2019-2021.....	23
Figure 13: Full time underemployment.....	28
Figure 14: Hours based underemployment (%), 2016-2021.....	29
Figure 15: Underemployment ratios (%), selected industries.....	34
Figure 16: Share (%) of factors contributing to less hours being worked, Jan 2015-2022	36
Figure 17: Economic performance against forecasts.....	48
Figure 18: OECD Quarterly growth rates of GDP, G7 countries and Australia, 2021, real, percent	51
Figure 19: Real GDP for OECD countries, annual to December, 2019-21.....	52
Figure 20: Quarterly growth in RNNDI, RNNDI per capita and GDP per capita, December 2000-21	54
Figure 21: Growth (quarters year on year) in GDP and GDP per capita, 1999-2021	55
Figure 22: Quarterly RNNDI (LHS), chain volume \$ million, RNNDI per capita (RHS), chain volume \$ million, terms of trade (index 2000=100), December 2000-2021	56
Figure 23: Contribution to GDP growth, chain volume measures.....	57
Figure 24: GDP growth and industry contributions to GDP growth (selected industries, 2019-2021).....	58
Figure 25: Quarterly GVA growth by industry (Dec 2019-21), ranked by density of award reliance	59
Figure 26: Growth in GVA by industry, 2020-21	60
Figure 27: Quarterly GVA by industry (Dec 2020-21)	61
Figure 28: Quarterly growth in real household consumption and real household net disposable income, %.....	63

Figure 29: Annualised growth in quarterly real household consumption and real household net disposable income, %	64
Figure 30: Indexes of real private sector wages and real labour productivity, 1997-2021	66
Figure 31: CPI All Groups (original series).....	67
Figure 32: WPI - all sectors (excluding bonuses), annual growth (seasonally adjusted), 1997-2021	70
Figure 33: Various measures of wages growth, year to June 2021 (%)	71
Figure 34: Real wage movements by industry (%), September and December Quarter 2021	72
Figure 35: Real total factor income, total compensation of employees and total gross operating surplus, quarterly (seasonally adjusted) \$ million (December 2006 = 100).....	75
Figure 36: Growth in gross corporate operating profits, December quarter 2020-21, by industry	76
Figure 37: Sales to wages ratios, selected industries, quarterly December 2016-21	77
Figure 38: Income from sales of goods and services, current prices, quarterly December 2016-21, selected industries.....	78
Figure 39: Total retail turnover levels, current prices, seasonally adjusted, \$ millions.....	79
Figure 40: Retail sectors, monthly turnover 2019-2022, seasonally adjusted, current \$million	80
Figure 41: Annual growth in real turnover, seasonally adjusted, December quarter to December quarter, retail industries, chain volume 2020 and 2021	81
Figure 42: Actual capital expenditures - mining vs non-mining chain volume measures, seasonally adjusted (2016-2021)	86
Figure 43: Mining and non-mining private investment, quarterly, chain volume measures, seasonally adjusted (\$ millions), 2015-2021	87
Figure 44: Public and private gross fixed capital formation, quarterly, seasonally adjusted, real \$millions	88
Figure 45: Shares of public and private capital formation in GDP, quarterly, seasonally adjusted, current prices, percent	89
Figure 46: Employees by method of setting pay	92
Figure 47: Proportion of employees by method of setting pay (%), 2020-2021	93
Figure 48: Award only employees by age (2018, 2021), comparison to other employees	94
Figure 49: Share (%) of females in award reliant v. non award reliant work (2018, 2021)	95
Figure 50: Share (%) of females in award reliant v. non award reliant part time work (2018, 2021)	96
Figure 51: Share (%) of females in award reliant v. non award reliant casual work (2018, 2021)	97
Figure 52: Award reliant employees, form of employment (2021)	98

Figure 53: Non-award reliant employees, form of employment (2021)	98
Figure 54: Average weekly total cash earnings, by type of employment (2021).....	99
Figure 55: Average weekly hours paid for, by type of employment (2021)	100
Figure 56: Paid leave entitlements by lower and higher paid workers	107
Figure 57: Minimum wage bites, ratio of the NMW to AWOTE and Median Full Time Earnings (%), 1983-2021.....	113
Figure 58: Median hourly earnings by industry vs. key minimum wages, August 2021.....	114
Figure 59: Social assistance as a share of gross income (%) 2000-2021	116
Figure 60: Minimum wage as a percentage of the median, OECD countries, 2015-2020	121
Figure 61: EU Minimum wage increases for 2021 and 2022, nominal % in national currency.....	122
Figure 62: National minimum wage, Average Weekly Ordinary Time Earnings, Median Earnings, and 60% of Median Earnings, nominal (current) dollars 1983 - 2021	125
Figure 63: The current dollar gap between NMW and 60% median earnings and 60% AWOTE.....	126
Figure 64: Financial stress by income level.....	131
Figure 65: Financial stress by age groups	132
Figure 66: Financial stress amongst workers from industries with high density of award reliance	133
Figure 67: Financial stress by gender.....	134
Figure 68: Percentage of employed persons working more than one job	144
Figure 69: Growth in multiple job holders, main job holders and employed persons 2012-2021	145
Figure 70: Growth in secondary jobs, 1994-2021.....	146
Figure 71: Secondary jobs by industry.....	147
Figure 72: Gender pay gaps for Average Weekly Ordinary Time Earnings, Full Time Earnings and total earnings	158
Figure 73: Average Weekly Earnings, Full Time Earnings and total earnings (real dollars), female and male	159
Figure 74: Gender pay gap for AWOTE, more award reliant industry sectors and for all industries, percent of male earnings.....	160
Figure 75: Adult Average Weekly Ordinary Time Earnings, male and female, more award reliant industries and total industry (real)	161
Figure 76: Unemployment and participation rates, 15-19 years, 2012-22.....	173
Figure 77: Employed persons aged 15-19, selected industry shares.....	174
Figure 78: Apprentice and trainee entry and exit, June Quarter 1999-2021.....	176

Figure 79: Apprenticeship entry and exit, June Quarter 2016-2021	177
Figure 80: Trainees entry and exit, June Quarter 2016-2021	178

INDEX TO TABLES

Table 1: Impact of our claim	8
Table 2: Internet Vacancy Index, Skill Level Groups	26
Table 3: Internet Vacancy Index, Major Occupational Groups	26
Table 4: Internet Vacancy Index, detailed occupational groups with highest growth relative to pre-COVID levels	26
Table 5: RBA measures of inflation, annual change (%)	69
Table 6: Growth in Number of Businesses by Industry and Share of Employment	83
Table 7: Businesses and Bankruptcies, 2017 - 2021	84
Table 8: Density of Award Reliance by Industry (Non managerial employees, 2018,2021)	101
Table 9: Density of Award Reliance by Occupational Group (Non managerial employees, 2018,2021) .	104
Table 10: Award-only employees by size of business – (2018,2021)	105
Table 11: Share of workers unable to work, by personal characteristics (Jan 2022).....	108
Table 12: Availability of COVID-19 Disaster Payments FY2021-22	111
Table 13: Selected Award rates as % of median weekly earnings	127
Table 14: Financial situation by income level	135
Table 15: Financial situation by gender	135
Table 16: Financial situation by density of award reliance in industry.....	136
Table 17: Affordability of expenses by income.....	136
Table 18: Affordability of expenses by gender	137
Table 19: Affordability of expenses by density of award reliance in industry	137
Table 20: Top items weighted higher in low paid CPI.....	140
Table 21: Proportion of secondary jobs and award reliant industries.....	148
Table 22: Current Agreements and Employees Covered	165
Table 23: Agreement Approvals and Employees Covered.....	166
Table 24: Australian Apprenticeships Incentive System	175

1. INTRODUCTION AND OVERVIEW

1. The Australian Council of Trade Unions (ACTU) is the peak body for Australian Unions. For 95 years it has played the leading role in advocating for the rights and conditions of working people and their families.
2. Australian unions and their members believe that the national minimum wage (NMW) should be a living wage. It should reduce poverty and inequality, improve the absolute and relative living standards of workers that rely on awards, and reduce the gap between award and agreement rates of pay. This is the position taken by the ACTU Congress - our three-yearly democratic decision-making forum where the views of all 1.6 million members are represented.
3. Australia is getting further and further away from delivering a living wage. Technically defined, anyone working full time but earning less than 60% of full-time median earnings is below the poverty line or a living wage. Today our NMW is only 51.5% of median earnings, or \$126.40 less each week than this standard. In 1983, the NMW was 68% of median earnings. We used to have the second strongest minimum wage in the OECD, now we have slid down to 17th.
4. To achieve progress towards this goal the ACTU submits that the Panel should award an increase of 5% - a fair and sensible increase. As this submission outlines in considerable detail, the economy and business are in a strong position. Yet workers are seeing their wages go backwards in real terms – the result of low pay increases and the bite of rapidly rising prices. Everything is going up except for their pay. Low paid workers are already suffering acute levels of financial stress, housing stress, and food hunger. This situation will have only worsened in early 2022 as prices of essentials continue to rise rapidly.
5. A 5% increase to the NMW and Award minimum wages would meet rising costs of living and enable workers to enjoy their fair share of rising productivity. It would also take Australia back in the direction of all workers enjoying at least a living wage.

6. Rising inflation will not be addressed by further weak wages growth. That will just hurt low paid workers further. The current underlying drivers of inflation have nothing to do with the spending habits of low paid workers. Nor will awarding them a 5% increase spur on further inflation. The ACTU claim sits well within projections of future inflation and productivity - the formula for delivering fair pay increases without putting pressure on prices, as both the Treasury and Reserve Bank of Australia have stated.

7. This submission presents a considerable amount of data, research and commentary in support of our position. To assist the Panel, a summary of key points are as follows:
 - a. The Panel had reason to be optimistic last year about the labour market recovery from the COVID impacts of 2020. Whilst the second half of 2021 saw additional heavy restrictions imposed in some parts of Australia for lengthier periods than had been anticipated, the labour market impacts of these restrictions were demonstrably less severe than had previously been the case and the recovery was swift.

 - b. Current levels of employment are reasonably consistent with growth returning to pre-pandemic trends and current levels of growth are above what might be considered a long term normal level. Unemployment and participation rates are exceptionally strong and at levels rarely seen in conjunction, at 4% and 66.4% respectively. This evidence of tightness in the labour market is backed up by growing job vacancies in industries and occupations associated with award reliant work and declines in both the median duration of job search and in numbers of long term unemployed. The underemployment rate has decreased to 6.2% - a level not seen for a decade - and underemployment ratios at the industry level vary from low to unexceptional given medium-term averages. Furthermore, labour demand factors are currently exerting very little influence on reductions in hours of work.

 - c. The strength of the labour market generally is reflected in the improved prospects for young jobseekers, with participation and unemployment figures for 15-19 year olds from

late 2021 to the latest figures consistently better than have been seen for at least a decade. Around 72% of these workers are employed in the most award reliant industries. In addition, numbers of workers undergoing apprenticeships or traineeships have increased to levels not seen for at least 5 years. On any view, the state of the labour market is consistent with pressure being put on wages to rise and official forecasts are predicting headline unemployment to remain at 4% before falling to 3.75% for the next two financial years.

- d. Whilst the level of demand in the labour market should not be understated, experiences of workers are not equal. The approximately 24% of employees – 2,659,499 workers as at May 2021– who are directly reliant on the Panel’s decision are distinguished not only by their receipt of the lowest wages that can legally be paid by their employers but by the fact they are more likely to have working arrangements that offer insecure incomes and less than full time hours. For those that do work full time hours, between one fifth and one quarter earn less than the low paid benchmark consistently adopted by the Panel.
- e. Award reliant workers are more likely to be women, more likely to be in jobs with lower skills requirements and more likely to work in service based industries, some of which have seen troughs in demand associated with the pandemic response and some of which have been regarded as essential. Whilst the casual employment status of close to half of these workers has enabled their employers to manage labour costs, the workers themselves have endured the incongruous honour of being labelled as essential yet having their livelihoods treated as expendable by the gaps in and diminishing level of support available to them during the pandemic. Many have also, for the second time, not shared equally in the benefit of an equal annualised adjustment to their wages, distorting the valuation of their work relative to that of other award reliant workers with comparable skills.
- f. Because the majority of low-paid award-reliant workers are women, increases to award wages, particularly increases which exceed bargained outcomes, raise the value placed on women workers and the work they perform, thereby contributing to addressing the

systemic gender-based undervaluation of female-dominated work evidenced through the gender pay gap. Women left employment and the labour force disproportionately during 2020 and their reliance on income supports grew. The structures of some income supports disadvantaged women, given their overrepresentation in insecure work and secondary employment. Breaks in employment of this nature can have lasting effects on career progression, career earnings and retirement earnings – key areas in which women already face detriment because of gendered norms regarding work and care. As women’s employment has grown and continues to grow during this recovery phase, women will return to work in award-reliant sectors, magnifying the positive impact of an increase in the national minimum and award wages on the gender pay gap and gender pay equity. In addition, the roll-on effects of an increase in the national minimum wage for the overwhelmingly female claimants under the paid parental leave scheme should be considered as factor weighing in favour of an increase in this review.

- g. As the temporary compositional distortions associated with the 2020 lockdowns begin to wind out of median and average earnings measures, the long term decline in the ratio or “bite” of the national minimum wage appears to be resuming and there is a considerable margin between award wages and paid wages across skill levels in industries, including those that are traditionally lower paid and more heavily award reliant. Modern award minimum wages for skill levels up to and including Certificate II qualified workers now fall below 60% of median full time wages and some modern award minimum wages for workers qualified at rates up to and including Certificate IV are below the low paid threshold of two-thirds of median earnings.
- h. On measures of relative poverty the situation of the low paid has deteriorated since the last review. The FWC’s 14 hypothetical households reliant on the minimum wage all saw a reduction in equivalised household disposable income (EHDI) by an average of 8.6% compared to the median income poverty line as at September 2021. Eight of those household types are now in poverty, as compared to five in December 2020 when the Panel considered this last year.

- i. Low paid workers are also facing absolute poverty and increased financial stress over 2021 and into 2022 on a number of measures, particularly for groups of workers who are more likely to be award reliant. These levels of financial stress are only being exacerbated by high and rising prices - particularly for essential items including food, child care, and, more recently, rents. When more than half of Food Insecure Australians are those that are working in low paid jobs and more than a third are working full time, it is clear that significant numbers of the low paid are unable to enjoy a decent standard of living and to engage in community life, assessed in the context of contemporary norms. With the costs of living increasing, this situation may reasonably be expected to deteriorate.

- j. As inflation picked up in the second half of last year, Award reliant workers have seen real wage growth - previously growing a glacial pace - now turn into a sudden and steep decline. The Panel can and should address this. The health of the economy and businesses supports a fair and sensible increase of minimum wages and all modern award minimum wages on 1 July 2022. Similarly, academic and empirical research is continuing to proffer the view that minimum wage adjustments – including those of a much greater order than sought in this review – have no significant disemployment effects and may rather have desirable effects at both firm and aggregate levels.

- k. The strong economic recovery evident during last year’s review has continued over the year to December 2021, notwithstanding a negative September quarter. The negative result in the September quarter was related to COVID restrictions as was the case with the June Quarter 2020, but at -1.9% was far less severe than the -7.0% experienced at that time. The recovery in December Quarter 2021 was “V” shaped as previously, with 3.4% real GDP growth leading annual growth at 4.25%. The budget projects this to be 3.5% over the next fiscal year, before moderating to 2.5% in the following two years, still well above medium term averages.

- l. The lifting of COVID restrictions in the second half of 2021 brought with it a surge in spending in many of the more award reliant industries with all growing in gross value added terms over the year to December and some exceptionally so in the December

quarter itself. Sales to wages ratios in 4 of the 5 most award reliant industries are at the highest levels in 5 years and retail turnover in all major groups is ahead of or on par with their pre-pandemic levels – important context for interpreting the decline in observed profits over 2021 associated with the withdrawal of *JobKeeper* revenues. While the business survival rate continued its positive trend, some of the strongest growth in new businesses has been seen in the most award reliant industries. Non-mining business investment remains elevated, suggesting business confidence.

- m. Whilst overall company profits grew 13%, the wages share of national income is resuming its trend of decline pre-pandemic, if not accelerating. In real terms, the share of national income has been growing glacially against the overall trends in real profits and real national income over the last 5 years. The wage price index grew 2.3% over the year to December relative to inflation of 3.5%, resulting in real wage cut of 1.2%. The situation is acute for award reliant workers who experienced a 2.05% real wage reduction as the 1.75% awarded from July 2020 was eclipsed by inflation of 3.8% by the time of the 2021 decision of 2.5%, which has also since been surpassed by inflation at 3.5% as at December 2021 and predicted to rise further. Workers covered by awards which had deferred increases will have suffered even steeper real wage reductions. More broadly, only one industry – professional scientific and technical services – has seen *any* real wage growth in the last two quarters.
- n. Price rises facing working people are becoming more widespread and cannot be dismissed as transitory. Whilst fuel is current major driver, the contributions of the Russian Federation’s invasion of Ukraine are not yet evident in the official headline inflation figure of 3.5% or the alarming underlying inflation indicators which have tended to be between 2% and 3% for two successive quarters. An economy that is so reliant on household spending cannot afford any further real wage cuts, nor can the households that depend on those wages.
- o. The most recent movements in the level of collective bargaining are positive although likely related to the unwinding of the dampening effects of the pandemic. Whilst a long

term decline in the extent of collective agreements remains evident, the Panel ought not be persuaded that its adjustment of national minimum wages and modern award minimum wages discourages collective bargaining. As the Panel has previously concluded, there are a number of influences on bargaining behaviour. In any event, the average earnings gap between award reliant employees and others remains significant on 2021 data, particularly having regard to the prevalent forms of award reliant employment. This gap is likely to remain a significant incentive for employees to pursue bargaining in many industries, and employers to resist it, even if our claim in this review is awarded in full.

8. This year's review presents an opportunity to materially improve the living standards of low paid workers. The impact of our claim is set out in Table 1 below by reference to the classification structure in the *Manufacturing and Associated Industries and Occupations Award 2020*, and provides guidance as to impact our claim would have at multiple pay rates for similar or comparable classification levels in other modern awards.

Table 1: Impact of our claim

Award classification	Current rates		Proposed rates		% increase	Weekly \$ increase	Hourly \$ increase
	Weekly	Hourly	Weekly	Hourly			
NMW/C14	\$ 772.60	\$ 20.33	\$ 811.23	\$ 21.35	5.0	\$ 38.63	\$ 1.02
C13	\$ 794.80	\$ 20.92	\$ 834.54	\$ 21.97	5.0	\$ 39.74	\$ 1.05
C12	\$ 825.20	\$ 21.72	\$ 866.46	\$ 22.81	5.0	\$ 41.26	\$ 1.09
C11	\$ 853.60	\$ 22.46	\$ 896.28	\$ 23.58	5.0	\$ 42.68	\$ 1.12
C10	\$ 899.50	\$ 23.46	\$ 944.48	\$ 24.63	5.0	\$ 44.98	\$ 1.17
C9	\$ 927.70	\$ 24.41	\$ 974.09	\$ 25.63	5.0	\$ 46.39	\$ 1.22
C8	\$ 955.90	\$ 25.16	\$ 1,003.70	\$ 26.42	5.0	\$ 47.80	\$ 1.26
C7	\$ 981.50	\$ 25.83	\$ 1,030.58	\$ 27.12	5.0	\$ 49.08	\$ 1.29
C6	\$ 1,031.30	\$ 27.14	\$ 1,082.87	\$ 28.50	5.0	\$ 51.57	\$ 1.36
C5	\$ 1,052.40	\$ 27.69	\$ 1,105.02	\$ 29.07	5.0	\$ 52.62	\$ 1.38
C4	\$ 1,080.60	\$ 28.44	\$ 1,134.63	\$ 29.86	5.0	\$ 54.03	\$ 1.42
C3	\$ 1,137.20	\$ 29.93	\$ 1,194.06	\$ 31.43	5.0	\$ 56.86	\$ 1.50
C2(a)	\$ 1,165.60	\$ 30.67	\$ 1,223.88	\$ 32.20	5.0	\$ 58.28	\$ 1.53
C2(b)	\$ 1,216.50	\$ 32.01	\$ 1,277.33	\$ 33.61	5.0	\$ 60.83	\$ 1.60

9. We recommend our claim be adopted in full and express our interest in participating in the Panel's consultations on 18 May 2022.

2. PROMOTING SOCIAL INCLUSION THROUGH INCREASED WORKFORCE PARTICIPATION.

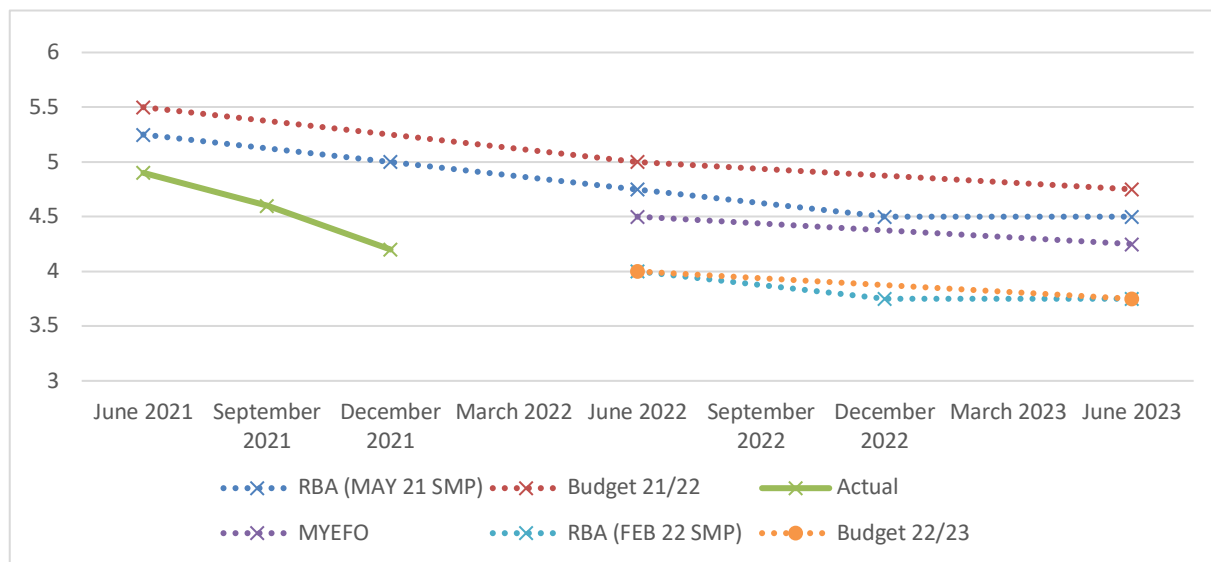
10. Past decisions of the Panel have confirmed the obligation in sections 134(1)(c) and 284(1)(b) of the Act to “take into account... the need to promote social inclusion through increased workforce participation” require the Panel to consider the potential employment impacts of any increase to the NMW and modern award minimum wages.
11. In this Chapter, we review the performance of the labour market by reference to the usual indicators and comment on its likely influences. We additionally review research on the interaction between minimum wages and employment.
12. Whilst the Panel approached the last review with some optimism given the economic and labour market recovery from COVID impacts of 2020, the second half of 2021 saw additional heavy restrictions imposed in some parts of Australia for lengthier periods than had been anticipated, including in our most populous states. Nonetheless, it is clear that labour market impacts of these restrictions were less severe than had previously been the case and that the recovery was swift. The Panel is confronted this year with a strongly labour market and reason to be confident in its further improvement.
13. We acknowledge that the recent severe weather events in parts of QLD and NSW have been distressing to those effected. As at the time of writing, the labour market effects of those weather events could not be determined, however we expect, consistent with budget forecasts, for those effects to be transient and localised. Additionally, there are risks associated with the further development of the pandemic. Nonetheless, with more than 95% of the eligible population vaccinated and more than 67% of the eligible population boosted¹, there is good reason to be confident that level of hospitalisations can be controlled at a level which reduces the need to impose restrictions which prevent the performance of work.

¹ Australian Government, [COVID-19 Vaccine Rollout Daily Report, 31 March 2022](#)

2.1 Outlook and performance against forecasts

14. In last year's decision, the Panel was faced with a labour market which had outperformed previous dire predictions and was recovering strongly. The labour market has continued to exceed expectations on many measures and the overall outlook continues to be optimistic.

Figure 1: Unemployment rate - performance against forecasts



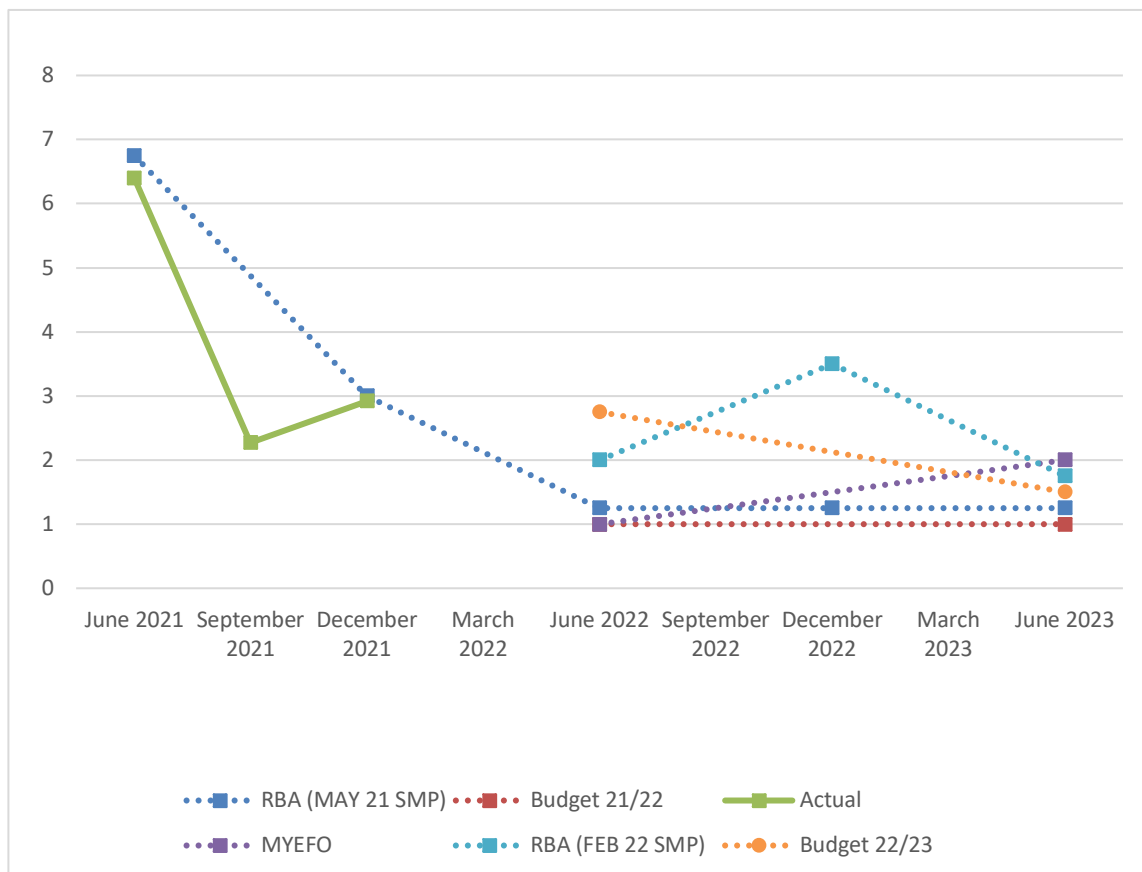
Source: RBA, Treasury, ABS

15. At the time the Panel made its last decision, the Reserve Bank was predicting the unemployment rate to reach 5.25%, an improvement on the 2021/22 Budget forecast of 5.5%. The unemployment rate is now at 4%, strongly exceeding those predictions. Both the most recent budget and RBA Statement on Monetary Policy predict the rate will round out the financial year at 4%. The current and projected unemployment rates are, on any view, encouraging.
16. The positive performance and outlook on unemployment is not at the cost of solid expectations and observations on participation. Although Treasury mildly downgraded its participation rate forecast from 66.25% to 66.0% for the June quarter 2022 between the 2021-22 budget and MYEFO, it has revised it up again to 66.5% for that year in the 2022-23 budget. These high levels of expected participation are set against the backdrop of the seasonally adjusted monthly

participation rate between November 2020 and February 2022 only falling below 66% on three occasions, and not reaching such levels in at least four decades prior to May 2019.

17. Employment growth forecasts are now more optimistic for the year to June 2022, moderating (as shown in Figure 2 below) to be more consistent with the medium-term range of annual employment growth seen in Table 6.1 of the statistical report prior to the onset of the COVID driven recession and recovery. Recent strong employment growth is reflective of the strength of the labour market notwithstanding reasonably stringent COVID restrictions in the two most populous states in the second half of the 2021 calendar year. The 2022-23 budget expects that the labour market impacts of recent the floods in QLD and NSW to be largely confined to temporary shifts in hours worked, rather than in employment.²

Figure 2: Employment Growth - Performance against forecasts



Source: RBA, Treasury, ABS

² Commonwealth Treasury, "Budget 2022-23 – Budget Paper No. 1", at page 47.

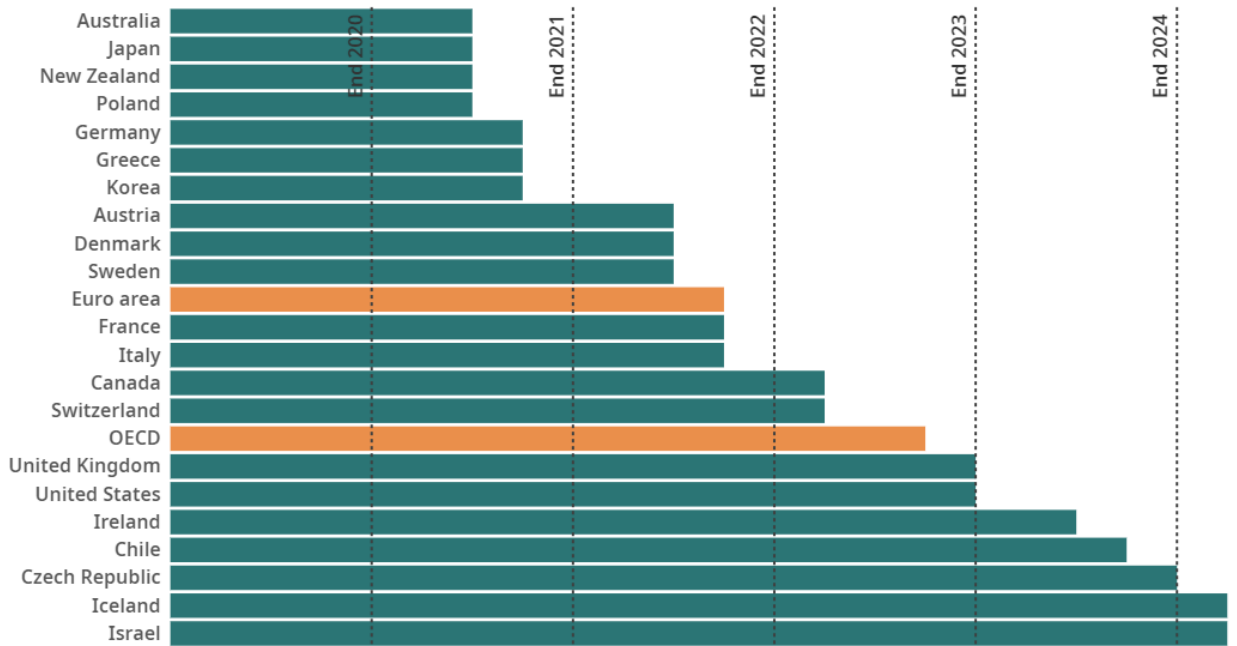
18. The threat of further COVID-19 impacts has been factored into the forecasts in the 2022-23 Budget³, with the central assumption being that further waves will occur but will not have material impacts on economic activity. A downside risk scenario has also been modelled, which assumes:
- a. a new, more virulent, variant of the virus;
 - b. an outbreak which coincides with the winter flu season;
 - c. higher case numbers for a longer duration and more severe illness than Omicron;
 - d. public health measures imposed nationally (rather than only in some States), including physical distancing and density limits as well as precautionary behaviour; and
 - e. A strong rebound as restrictions recede, consistent with what has been observed with other outbreaks.

The outcome of these circumstances is estimated to lead to only a .25% increase in the unemployment rate, leaving it at 4% in 2022-23, and a .5% reduction in GDP as against the central forecast. The model of upside risks, which assumes a more stable health environment, predicts stronger (but not quantified) employment growth than the central forecast, but only a small, unquantified impact on unemployment due to rising participation. The upside model does however predict a .75% increase in GDP on the central forecast.

19. The Department of Education, Skills and Employment's [Leading Indicator of Employment](#) provides reason to be confident of the central forecasts being met, having been positive for three consecutive months to February 2022.
20. A comparison across the OECD of the length of time that economies will take to return to pre-pandemic levels of employment displays the relative strength of the Australian labour market and economic performance compared to its international counterparts. The OECD Employment Outlook 2021 shows that Australia was anticipated to return to pre-pandemic employment levels in mid-2021 (which the ABS' Labour Force statistics confirm did occur), well ahead of a number of other economies (for example, the US which is anticipated to achieve this by the end of 2023) and the OECD average (of mid-to-late 2023).

³ The alternative forecasting scenarios are set out on pages 48-49 of Budget Paper No. 1.

Figure 3: OECD - How long to return to pre-pandemic employment rates



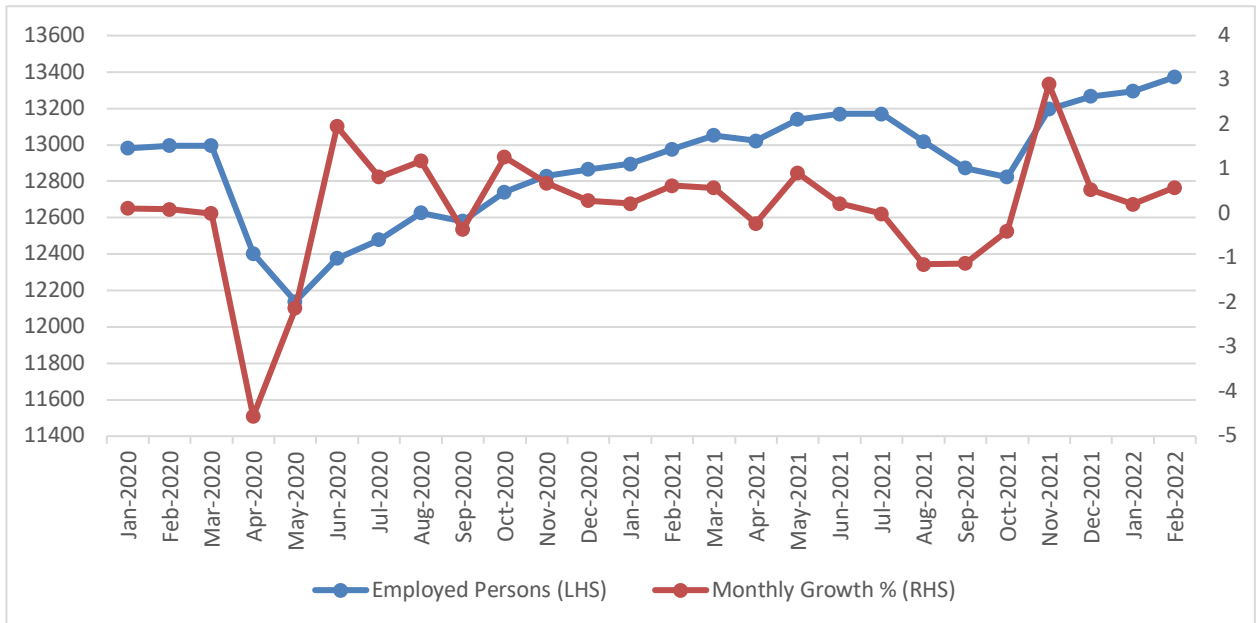
Recovery to pre-pandemic level" refers to a sustained increase in employment level above its Q4 2019 level. • Source: OECD (2021), [OECD Employment Outlook 2021](#)

Source: Reproduced from [OECD Employment Outlook 2021](#)

2.2 Employment

21. There were some declines in employment during periods of 2021 associated with COVID lockdowns, however it is clear that the scale of job losses never reached anything like the degree experienced in 2020, as shown in Figure 4 below. The reduction in employment seen in 2021 was not only smaller but more gradual at the aggregate level than seen in 2020, however the rebound appeared even more swift.

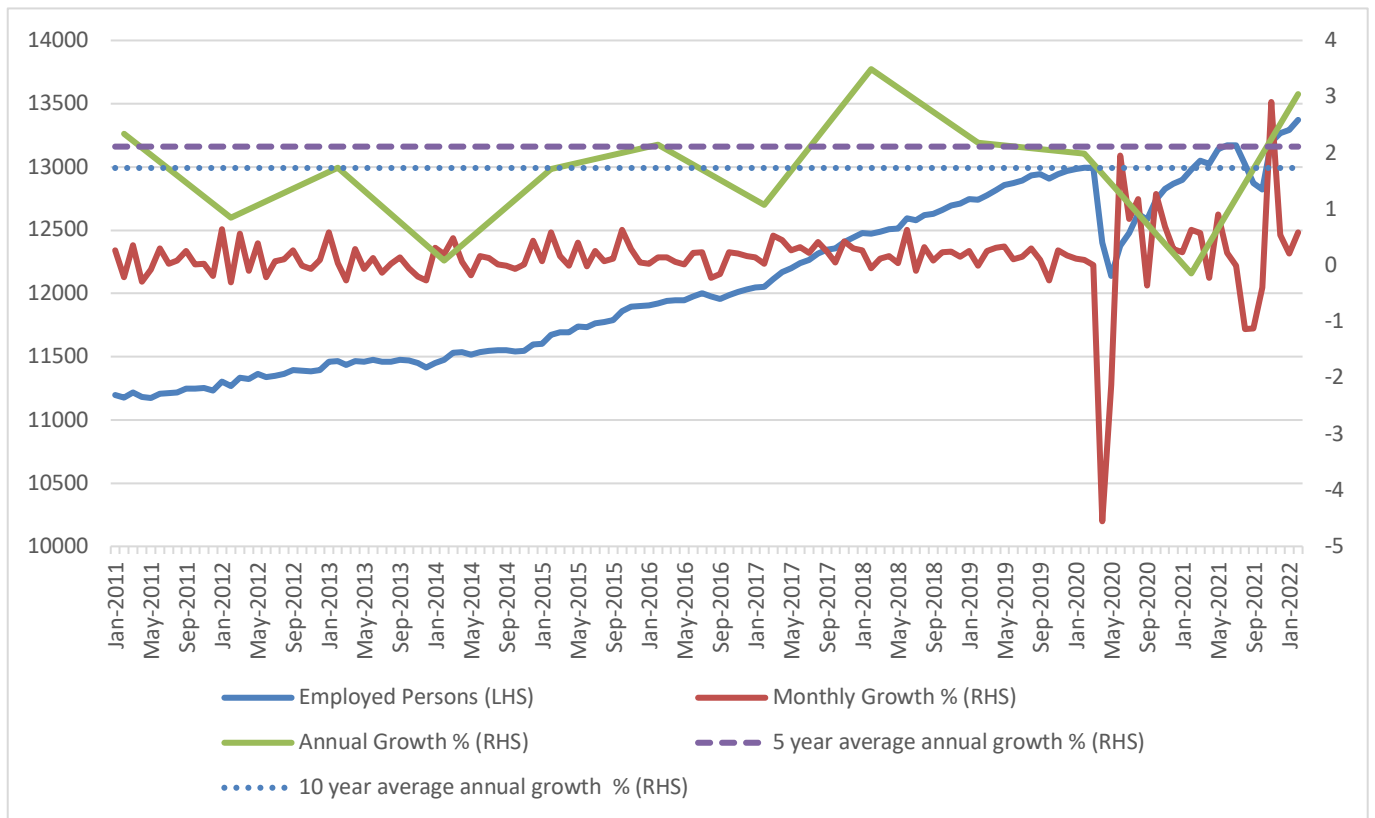
Figure 4: Employment and growth in employment, monthly seasonally adjusted, Jan 2020-Feb 2022



Source: ABS 6202, ACTU calculations, employed persons in 1000s

22. Monthly employment growth remains positive at February 2022, with aggregate employment stabilising from the initial resurgence in late 2021. A longer time series as used Figure 5 in below suggests that the current levels of employment are reasonably consistent with growth returning to pre-pandemic trends at and that current levels of growth are in the upper range of normal.

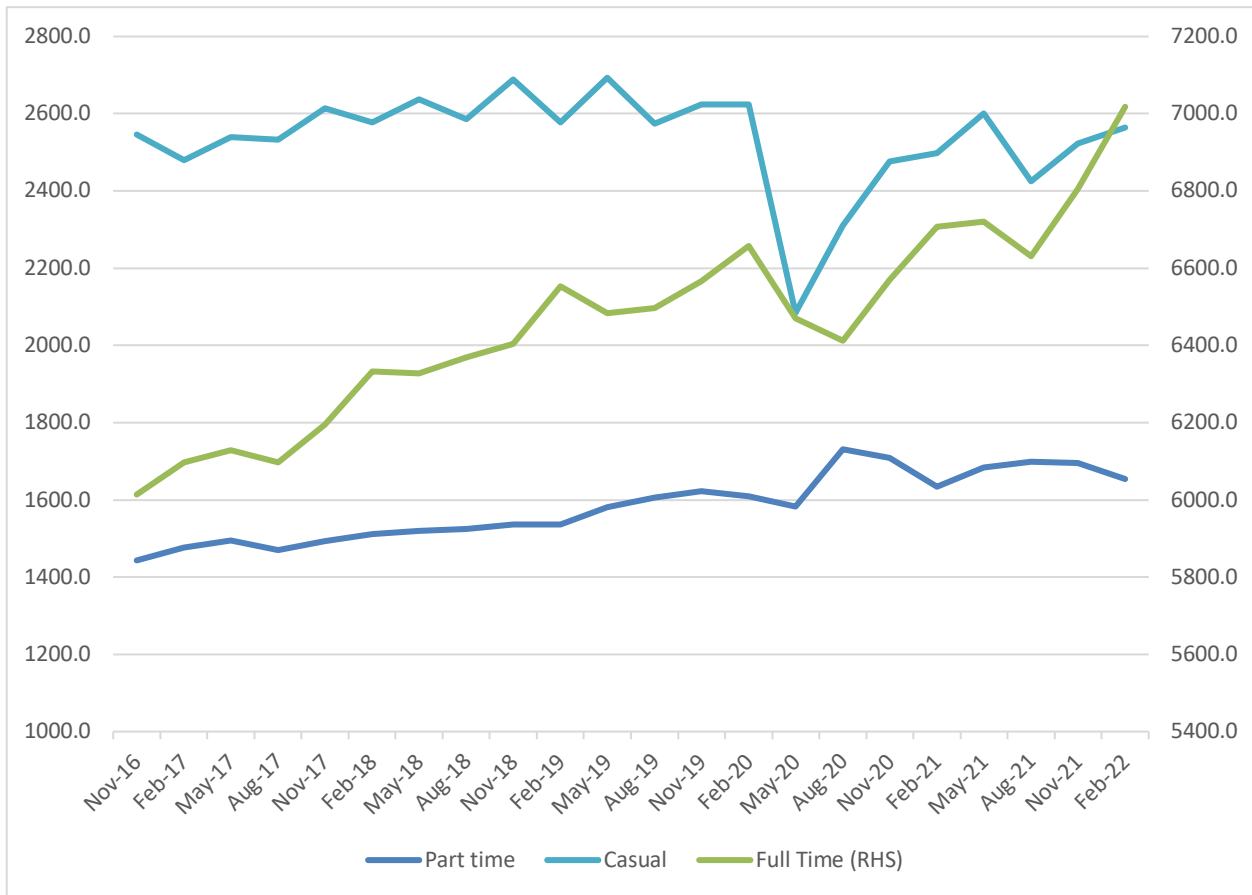
Figure 5: Growth in employment, monthly and year to February, seasonally adjusted



ABS 6202.0 (Table 12) and ACTU calculations, employed persons in 1000s

23. In a welcome sign of confidence, full time employment appears to have recovered from the worst of the pandemic shocks and to be increasing at a level faster than its medium-term trend, as seen in Figure 6 below. The flatter part time employment numbers in the most recent observations may suggest some further unwinding of substitution that occurred with full time employment during 2020-21. Meanwhile, casual employment levels have faltered since their strong recovery in that period, although appear to be on the rise again as of November 2021 and into February 2022.

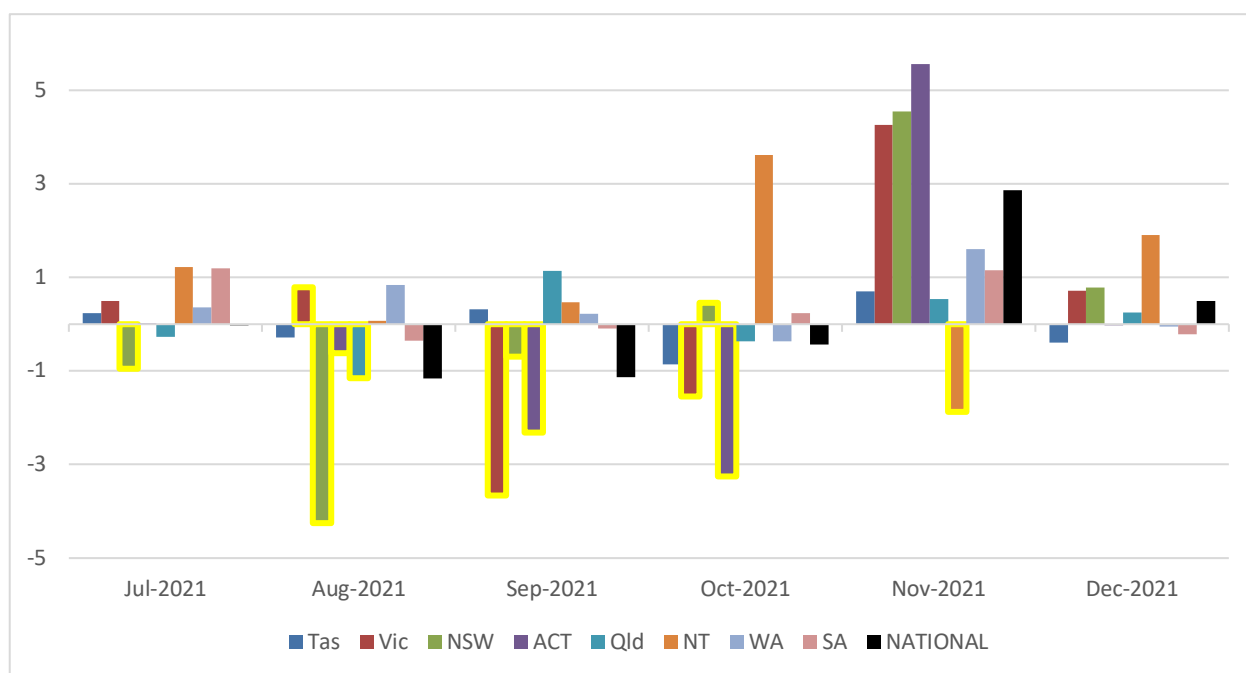
Figure 6: Forms of employment, Nov 2016-21



Source: ABS 6291.0.55.001. ABS classification of “employee without paid leave entitlements” is used as a proxy for casual employment.

24. Whilst it is clear that the second half of 2021 was marked by some declines in employment, there was once again considerable geographic variation to this, consistent with the varying impact of COVID restrictions. In Figure 7 below, we have highlighted in yellow the columns which represent States or Territories which had to any extent been declared national “hotspots” during the first two weeks of the month. This is used as a proxy for heavy COVID related restrictions being in place during the labour force survey period and reference week for the relevant month.

Figure 7: Growth (%) in employment by State, July-December 2021



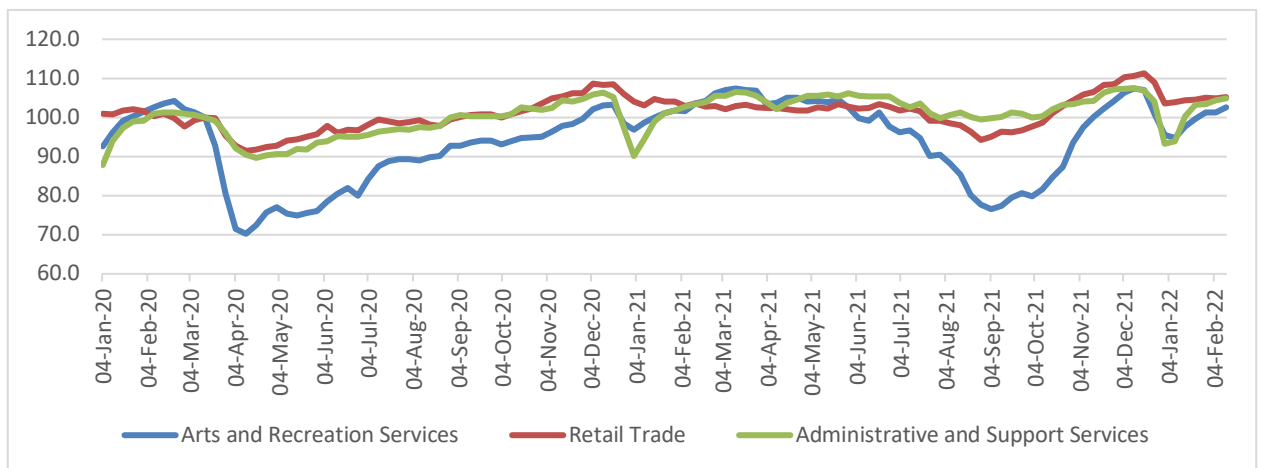
Source: ABS 6202 (Note figures for the ACT and NT are original data, remainder seasonally adjusted), [Department of Health](#).

25. It seems clear from Figure 7 that the most significant driver of negative growth outcomes at a national level during this period were indeed localised COVID related restrictions, with no clear evidence of bleed through outside State/Territory boundaries. It is equally clear that the effects of localised restrictions reversed rapidly.

26. Data on employment by industry is mixed, as seen in Table 6.3 of the statistical report, but this in itself is not unusual. It is heartening that strong growth in employment was seen in some heavily award reliant industries, including Accommodation and food services, Other services, Health Care and social assistance and Rental, hiring and real estate services. By comparison, the declines in Retail Trade, Administrative and support services and Arts and recreation services were minimal. As business apply learnings from operating under heavy COVID restrictions to relatively unrestricted operations, it becomes increasingly difficult to attribute overall employment levels to incapacity to pay wages at safety net rates.

27. Employment in award reliant industries may be tracked with less of a lag than is associated with the quarterly labour force data by relying on payroll jobs data. Additionally, whilst the labour force data tracks employment in a respondent’s “main job”, the payroll jobs data captures all jobs and is therefore a different measure of labour demand, with the caution that it is not seasonally adjusted. Figure 8 below shows that the payroll jobs indexes for the award more heavily reliant industries which showed declines in Table 6.3 of the Statistical Report in the year to November 2021 did not, with the exception of Arts and recreation services, show any prolonged decline in the number of jobs over that period. Further, it can be seen that the decline in January of 2022 is similar to that seen in January 2021 and 2020 (suggesting seasonality) and that the more recent measures are consistent with relatively normal levels.

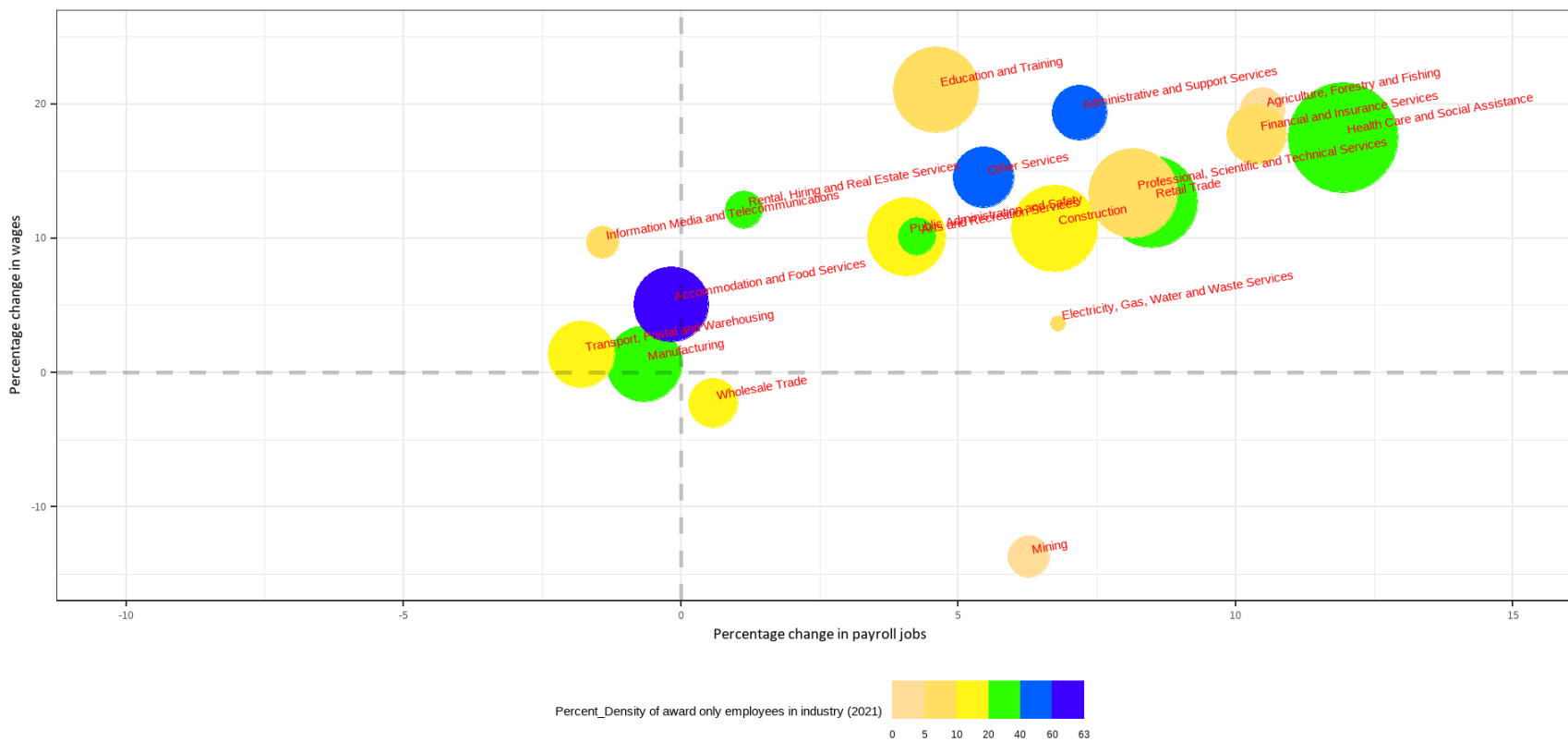
Figure 8: Payroll Jobs Indexes – selected industries



Source: ABS Weekly Payroll Jobs and Wages in Australia

28. Certainly, the current situation concerning industry employment differentials is vastly different to that which confronted the Panel in its previous two decisions. Any “clustering” that is evident does not seem to be related to the level of award reliance, as seen in Figure 9 and Figure 10 below, whether one bases the measure on Payroll Jobs figures which align with the November 2021 quarterly labour force data, or the later quarterly labour force release for February 2022.

Figure 9: Employment, payroll jobs and wages, November 2021

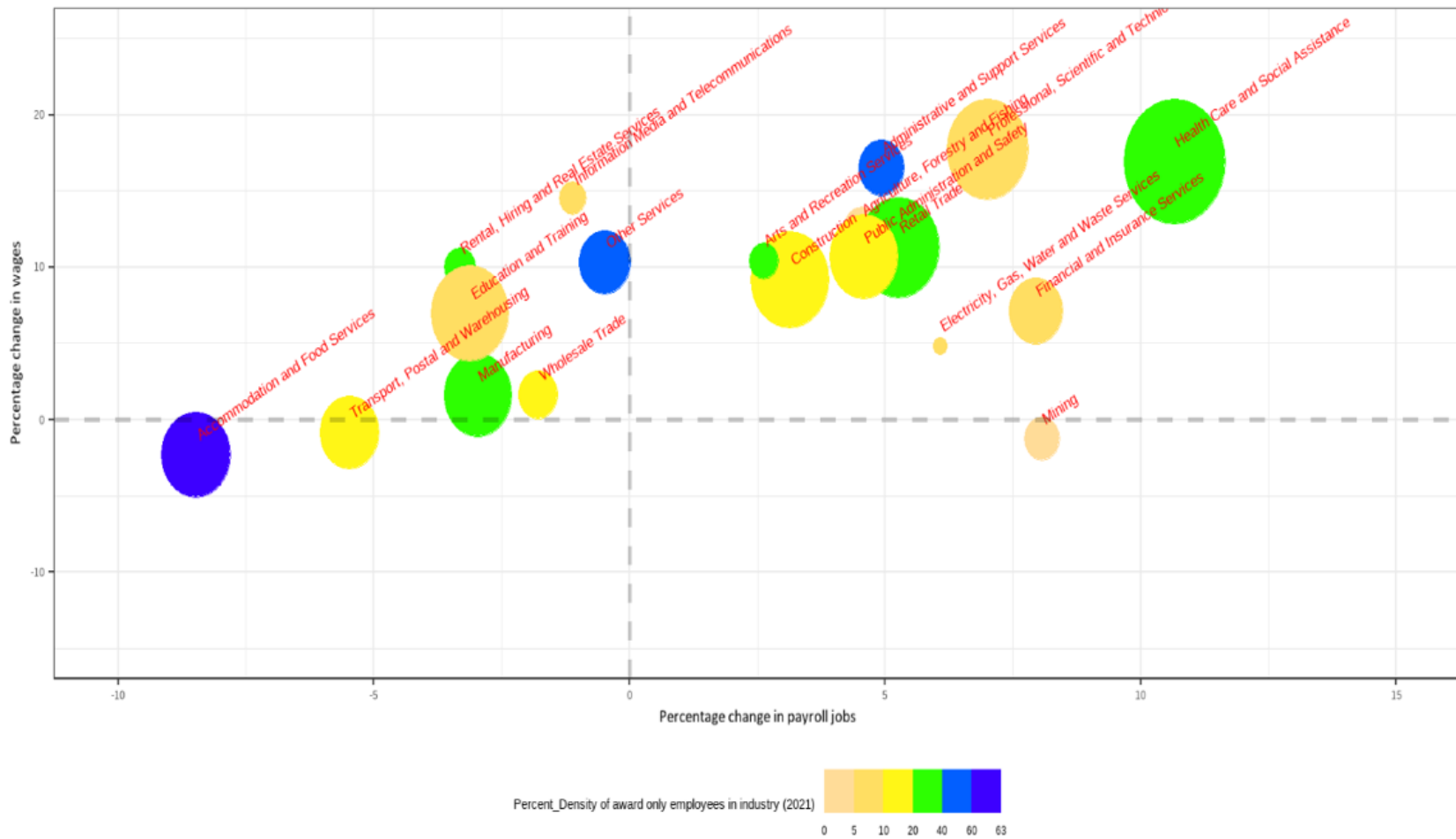


Changes in payroll jobs, wages and employment level (14 March 2020 = 100)

November 2021 Data from March 2022 Release

Source: ABS Payroll Jobs and Wages (27 November 2021 Index), Labour Force (detailed) (November quarter 2021). Size of data points reflects number of employees.

Figure 10: Employment, payroll jobs and wages, February 2022



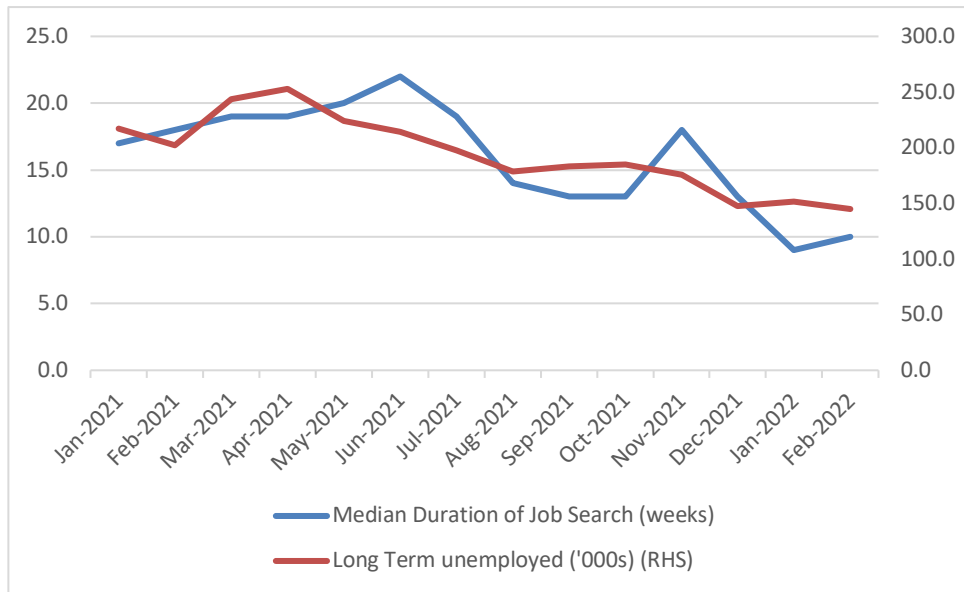
Changes in payroll jobs, wages and employment level (14 March 2020 = 100)
 February 2022 Data from March 2022 Release

Source: ABS Payroll Jobs and Wages (14 February 2022 Index), Labour Force (detailed) (February quarter 2022). Size of data points reflects number of employees.

29. It is unclear to what to make of the differentials between the position of various industries in above. Taking the Accommodation and Food Services Industry as an example, although it moved further toward the left side of the axis in the February payroll jobs data, there were 39,401 more persons employed in that industry as their main job in the February 2022 quarter labour force data than in the November 2021 quarter data (growth=4.61%). In addition, there was a rise of 1,367,962 hours worked in all jobs in that industry recorded in the February 2022 quarter labour force data compared to the November 2021 quarter labour force data (growth=6.33%). In terms of the distribution of those hours for the employees whose main job was in that industry, there were 34,100 more working 20 hours or more per week in the February quarter labour force data compared to November (growth=6.75%) and only 4,400 more working less than 20 hours (growth=1.48%). Contrary to the payroll jobs measures, these labour force measures suggest a greater level of labour demand, consistent with the overall position in the labour market as discussed in this Chapter and in the ABS Commentary on 31 March that the Accommodation and Food Services Industry had seen a 213% rise in vacancies in February 2022 compared to February 2020⁴. One at least partial explanation for the disparity could be in the fact that the payroll jobs index only measures the number of people *paid* in the reference week, not those employed. If a high proportion of employees were absent due to isolation requirements in February (as they were in January as discussed in Chapter 4) and were casual (as most in this industry were), they would not be expected to be paid during that time, yet remained employed. Additional employees may have been taken on, perhaps at lower wages, and hours of work re-distributed in a cost effective way, even though there was a net gain in hours.
30. Looking ahead, the positive indications given in the forecasts discussed above are reinforced by data on median duration of job search and vacancies. The reductions in both median job search and long term unemployment over 2021 shown in below are consistent with a tightening of the labour market, particularly given that they co-existed with high participation as shown in Chart 6.2 of the statistical report.

⁴ ABS (2022), "[200,000 more job vacancies than before the pandemic](#)", 31/3/2022

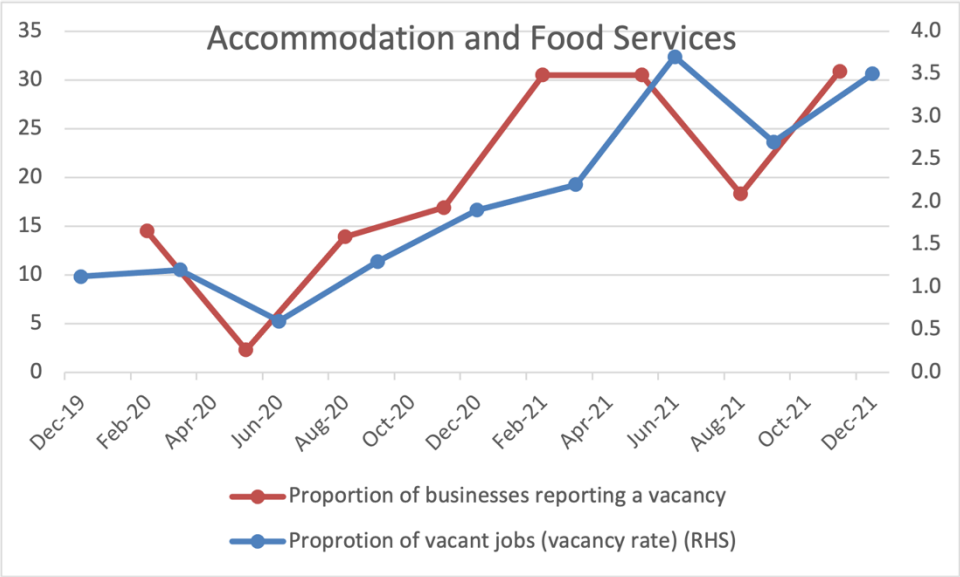
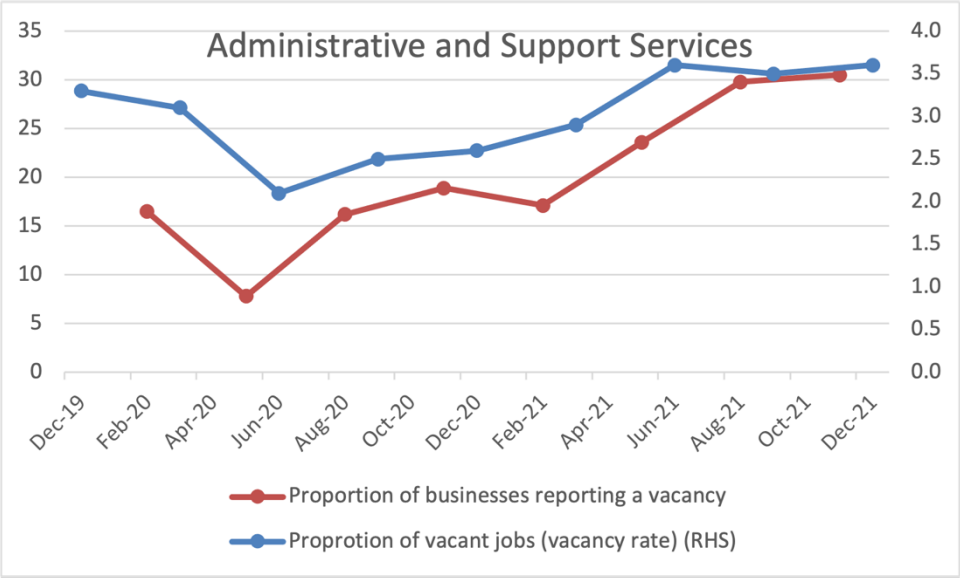
Figure 11: Duration of Job Search and Long Term Unemployment, Jan 2021-Feb 2022

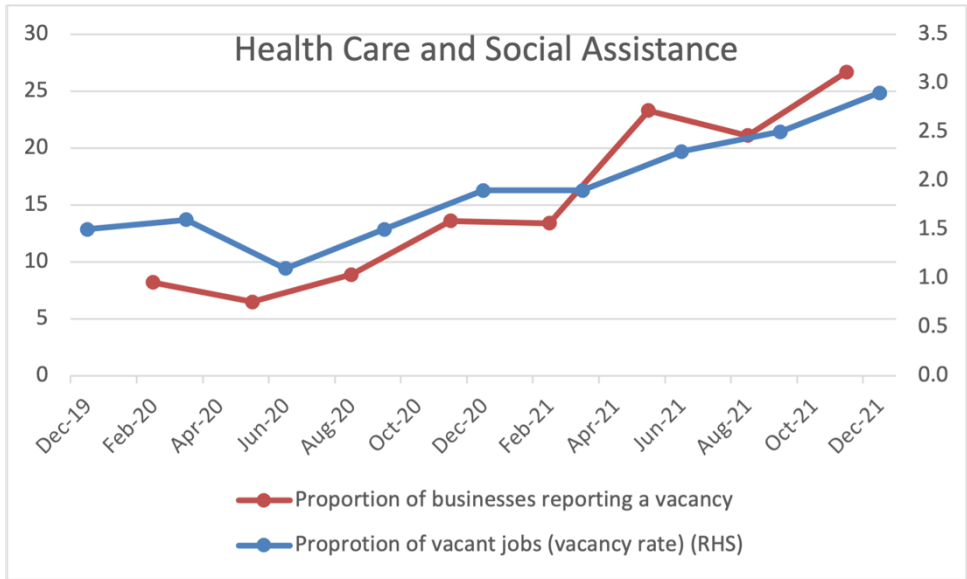
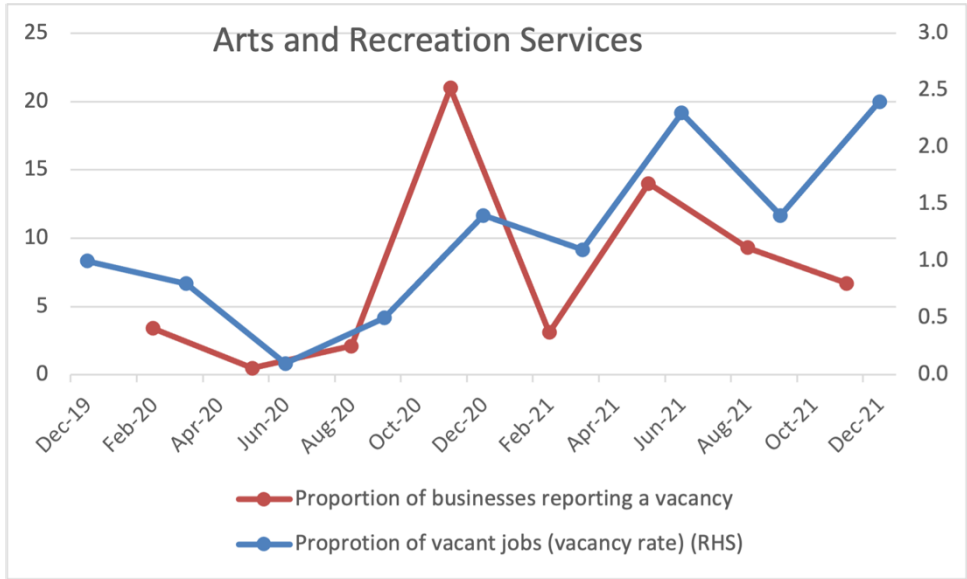


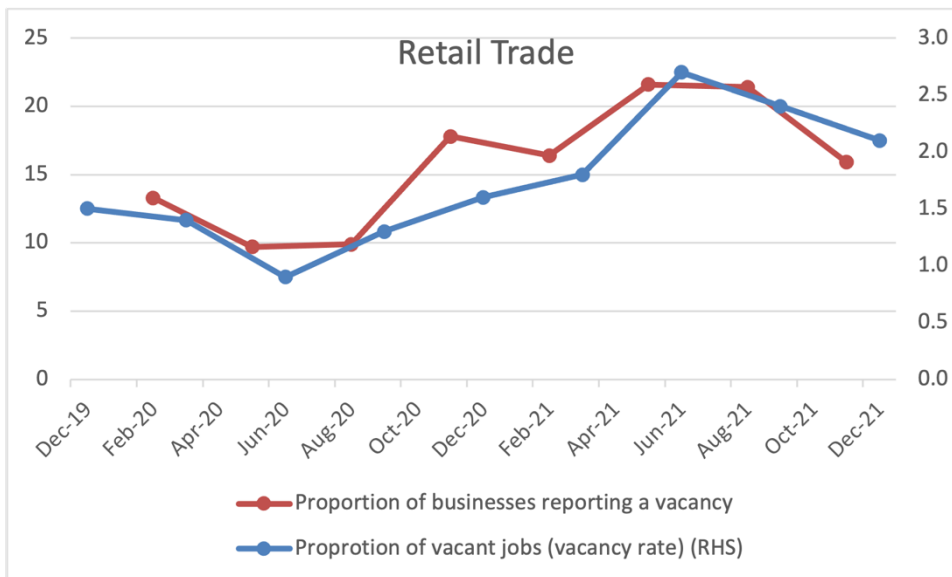
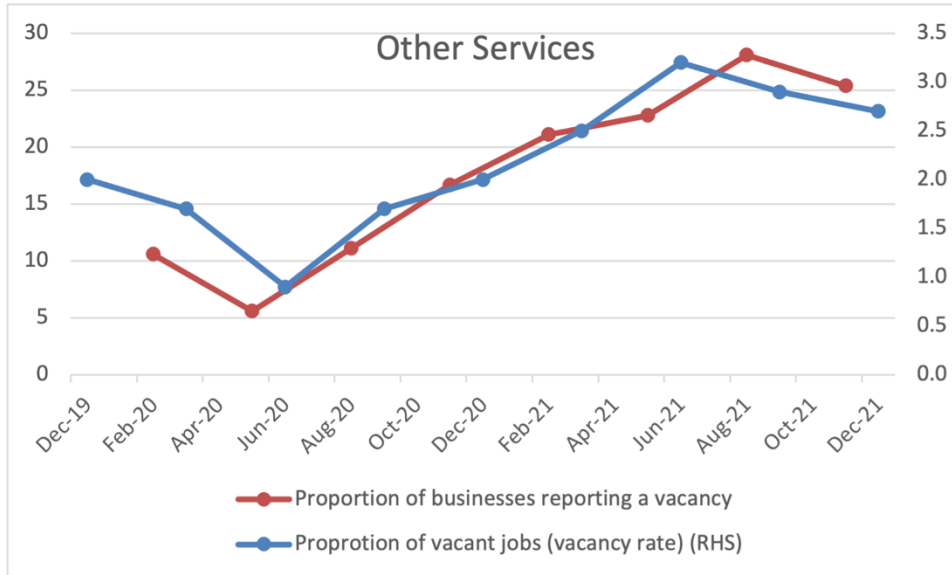
Source: ABS 6291.0.55.001

31. The vacancy data presented in charts 6.11 and 6.12 provides evidence of increased labour demand over the year in all industries, including those which are highly award reliant. The charts shown in Figure 12 below cover the six most award dependent industries and show both the vacancy rate and the proportion of business reporting vacancies in each industry. Although the series are measured at different intervals, they follow a similar pattern and in each case the labour demand is greater at the end of the measurement period shown than it was prior to the onset of COVID restrictions. This level of competition and demand for labour should be regarded as consistent with wage levels rising.

Figure 12: Vacancy rate and proportion of business reporting industry, award reliant industries, 2019-2021







Source: ABS 6354.0, 6150.0.55.003

32. The *Internet Vacancy Index* maintained in the Australian Government’s [Labour Market Information Portal](#) also suggests strong and broad based demand, including for occupations and skill levels associated with award reliant work.⁵ The detailed vacancy report for January 2022 relevantly includes a “pre covid” comparison period, defined as the 12-month average in the

⁵ See Yuen, K., Ellis, G. and Nelms, L (2018), [Characteristics of workers earning the national minimum rate and the low paid](#), FWC research report 3/2018; Appendix 1 to ACTU initial Submission to 2019/20 Annual Wage Review.

seasonally adjusted series to February 2020. Table 2 to Table 4 below are reproduced from the January 2022 vacancy report.

Table 2: Internet Vacancy Index, Skill Level Groups

IVI by Skill Level - January 2022	Index (Jan-06 = 100)	Monthly change (%)	Monthly change (no.)	Pre-COVID change (%)	Pre-COVID change (no.)	Number of job advertisements
Skill Level 1 - Bachelor degree or higher	143.0	3.7%	3,200	34.9%	23,400	90,700
Skill Level 2 - Advanced Diploma or Diploma	132.0	4.1%	1,000	37.6%	7,200	26,200
Skill Level 3 - Certificate IV or III* (Skilled VET)	142.6	4.6%	1,700	58.2%	13,900	37,700
Skill Level 4 - Certificate II or III	120.3	3.0%	2,000	64.6%	26,800	68,300
Skill Level 5 - Certificate I or secondary education	79.9	4.1%	1,400	113.0%	18,700	35,300
Australia	116.2	4.4%	10,900	54.0%	90,900	259,000

Source: Australian Government [Labour Market Information Portal](#). *Includes at least two years of on-the-job training.

Table 3: Internet Vacancy Index, Major Occupational Groups

IVI by Occupation - January 2022	Index (Jan-06 = 100)	Monthly change (%)	Monthly change (no.)	Pre-COVID change (%)	Pre-COVID change (no.)	Number of job advertisements
Managers	136.9	6.6%	1,700	31.3%	6,700	27,900
Professionals	147.9	3.1%	2,100	37.7%	19,400	70,900
Technicians and Trades Workers	147.0	4.4%	1,500	57.8%	12,900	35,200
Community and Personal Service Workers	214.2	-2.0%	-540	82.7%	12,100	26,700
Clerical and Administrative Workers	95.8	4.7%	1,800	40.0%	11,300	39,500
Sales Workers	92.3	7.6%	1,500	67.9%	8,600	21,400
Machinery Operators and Drivers	116.2	9.6%	1,300	89.3%	6,900	14,700
Labourers	77.1	3.3%	700	127.0%	12,400	22,100
Australia	122.5	4.4%	10,900	54.0%	90,900	259,000

Source: Australian Government [Labour Market Information Portal](#).

Table 4: Internet Vacancy Index, detailed occupational groups with highest growth relative to pre-COVID levels

Largest growing detailed occupations – January 2022	Index (Jan '06 = 100)	Pre-COVID change (%)	Pre-COVID change (no.)	Number of job advertisements
Largest increasing detailed occupations as compared to pre-COVID-19 levels				
Sales Assistants and Salespersons	105.5	92.9%	6,800	14,200
General-Inquiry Clerks, Call Centre Workers, and Receptionists	101.7	54.0%	6,700	19,000
Carers and Aides	300.3	84.0%	5,600	12,200
Hospitality Workers	174.8	107.4%	4,400	8,600
Drivers and Store-persons	97.7	125.1%	4,300	7,800

Source: Australian Government [Labour Market Information Portal](#).

- The alignment between the occupations referred to in Table 4 and the highly award reliant industries of Retail Trade, Administrative and Support Services, Accommodation and Food

Services and Health Care and Social Assistance should be regarded as confirmation for growing labour demand in those industries and consistent with a wage increase being awarded. The preliminary vacancy report for February 2022 notes that the level of recruitment activity nationally remains significant elevated compared to pre-COVID levels, with growth reflected across all jurisdictions.⁶

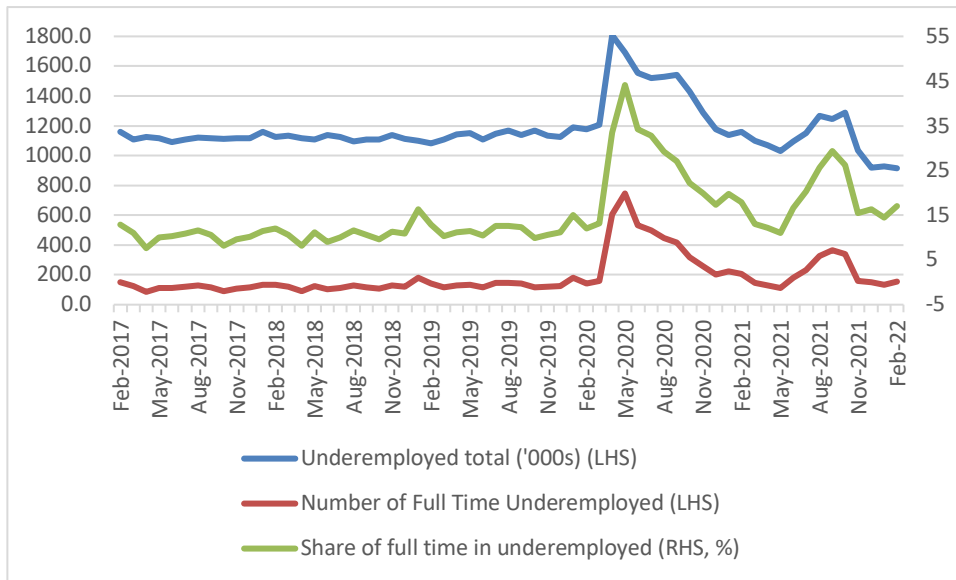
2.3 Unemployment, underutilisation, and participation

34. Chart 6.1 of the statistical report places the unemployment effects of lockdowns in the second half of 2021 into medium term perspective, showing the rise in unemployment was brief and only took unemployment to a level that was relatively normal through the two years preceding the pandemic. As noted above, the participation rate outside of COVID restriction periods has risen to the very high levels (66%+) seen in 2019 but rarely before. The participation and unemployment rates in both January and February of this year show growing strength in the labour market, moving from 66.2% to 66.4% and 4.2% to 4% respectively.

35. A brief rise in underemployment in the second half of 2021 associated with COVID restrictions can be seen from Figure 13 below to have been driven by a spike in full time underemployment, similar in appearance although clearly far less severe than what was seen in 2020. Underemployment overall is currently at very low levels overall relative to what has been seen in the last 5 years. The higher than typical share of full time underemployment at the current time does not seem indicative of a particularly high number of full time unemployed workers, rather, the suggestion is that there are less part time underemployed workers, consistent with the other signals we have seen of labour demand.

⁶ Australian Government National Skills Commission, [Vacancy Report \(Preliminary\) – February 2022](#).

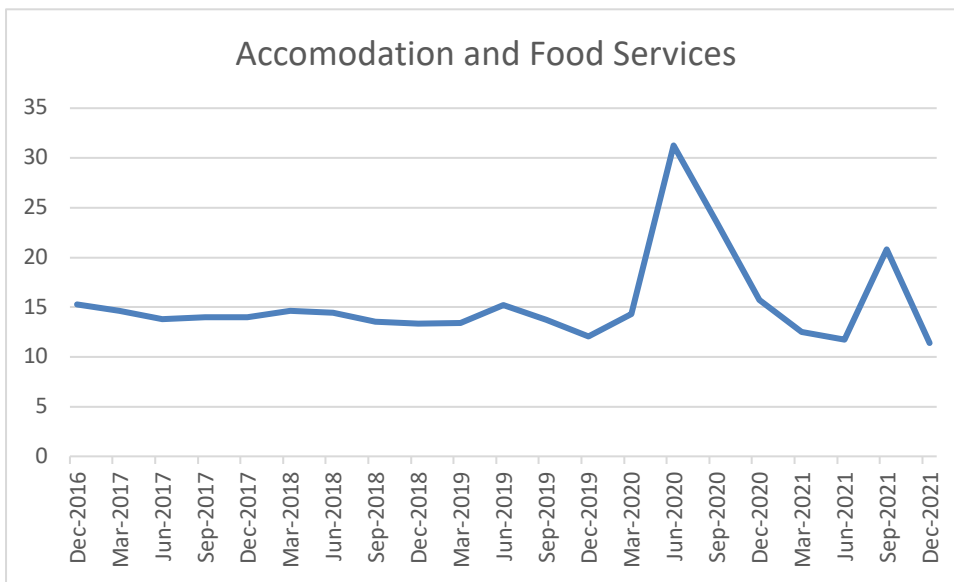
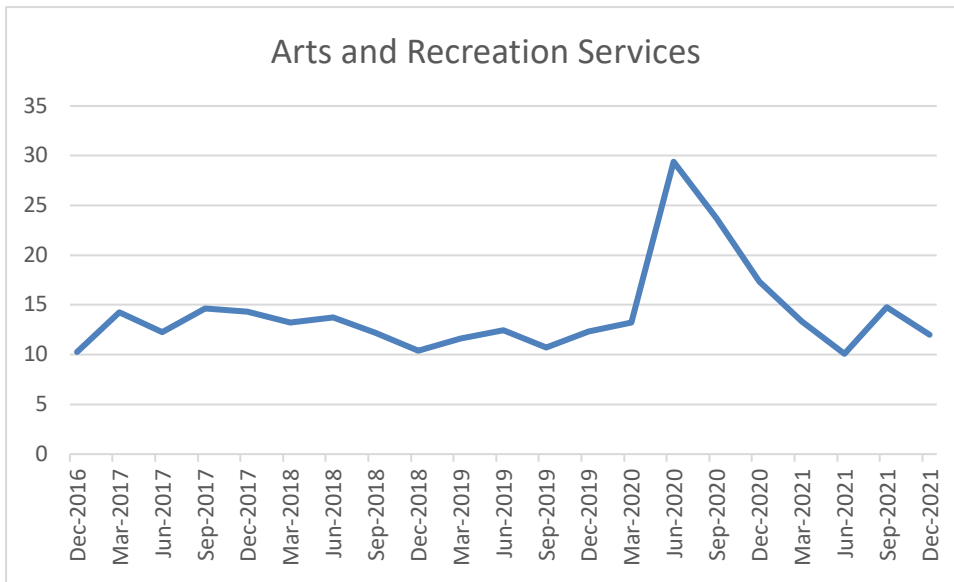
Figure 13: Full time underemployment

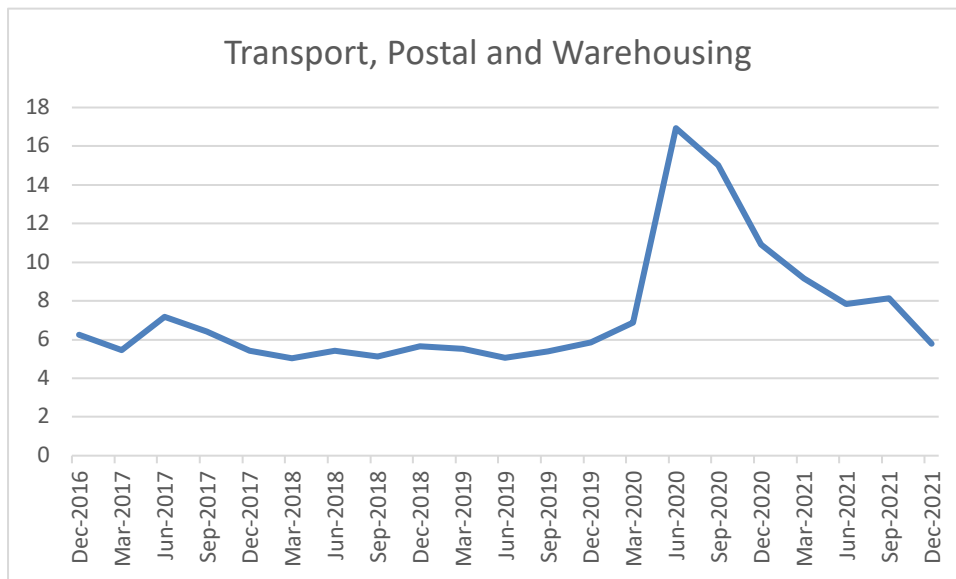


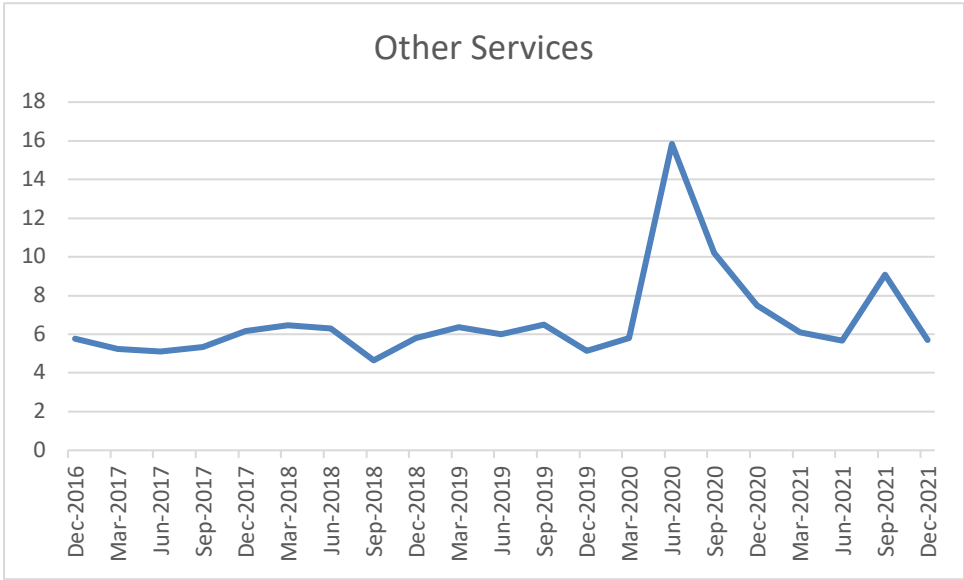
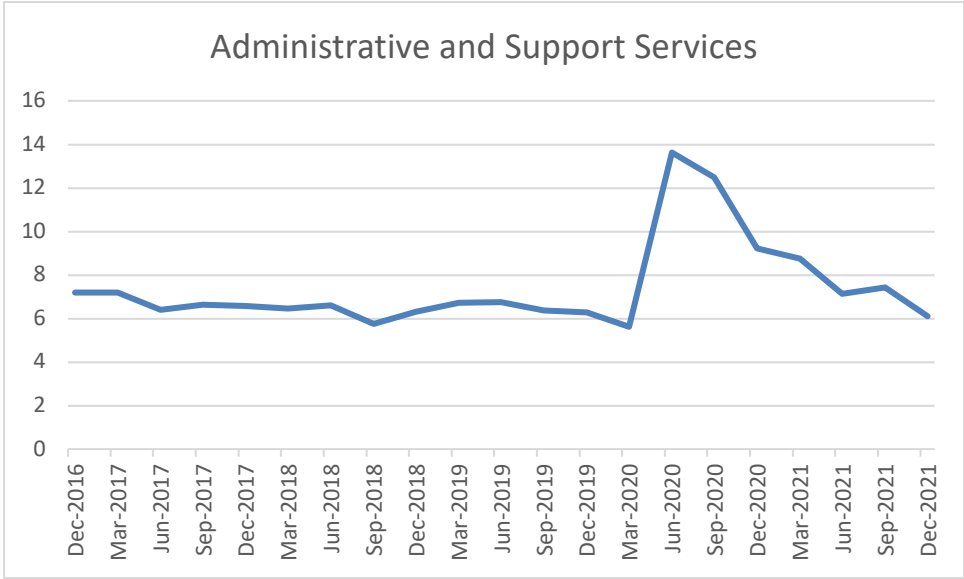
Source: ABS 6202 (Original), 6291.0.5.001 (Original), ACTU calculations

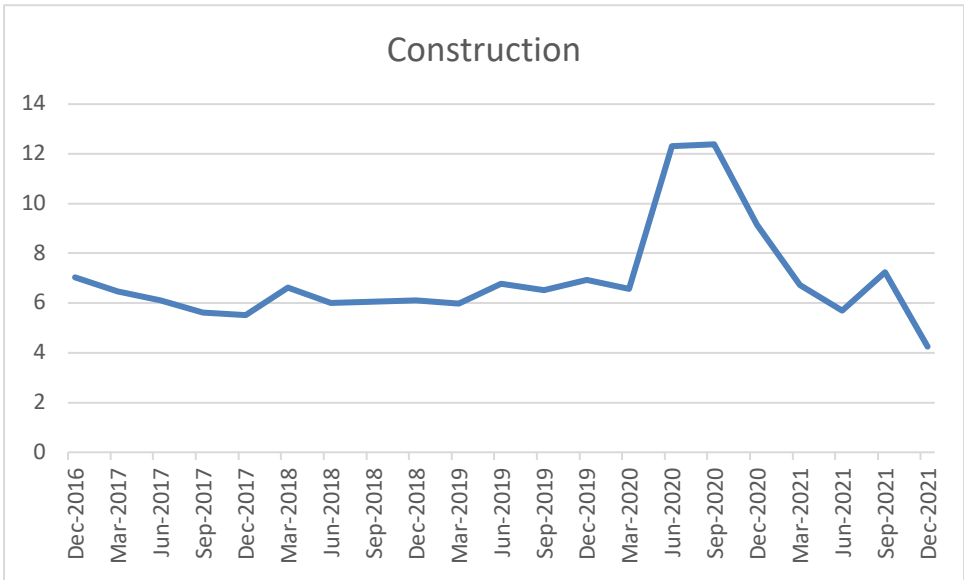
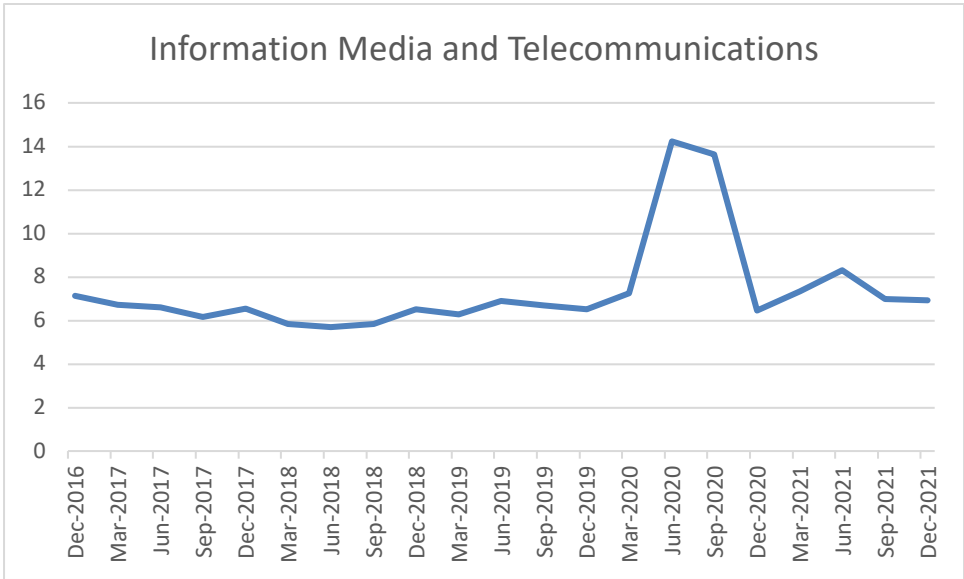
36. Chart 6.8 of the statistical report ranks industries on the basis of the extent of hours based underemployment, and appears to be based on industry level data as to the volume of hours sought by underemployed persons in the labour account. We have attempted to replicate this measure by assuming that each unemployed person assigned to each relevant industry seeks 38 hours of work per week, and using that to estimate the number of hours sought but not worked by underemployed people from the number of hours sought but not worked in aggregate as supplied in the publicly available information from the ABS. Rather than present this as a point in time analysis as Chart 6.8 of the statistical report, we present in Figure 14 below a time series, in order to ascertain whether what we see in in terms of hours based underemployment in the most current data is different from what is usually seen. The industries selected for Figure 14 are those which are shown in Chart 6.8 of the statistical report to have hours-based unemployment rates which higher than the “All industries” rate.

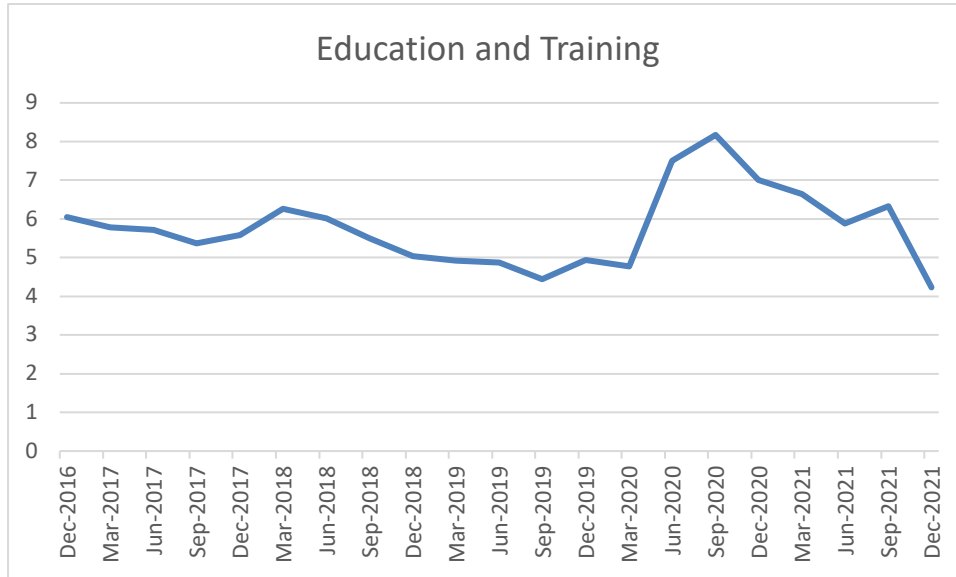
Figure 14: Hours based underemployment (%), 2016-2021







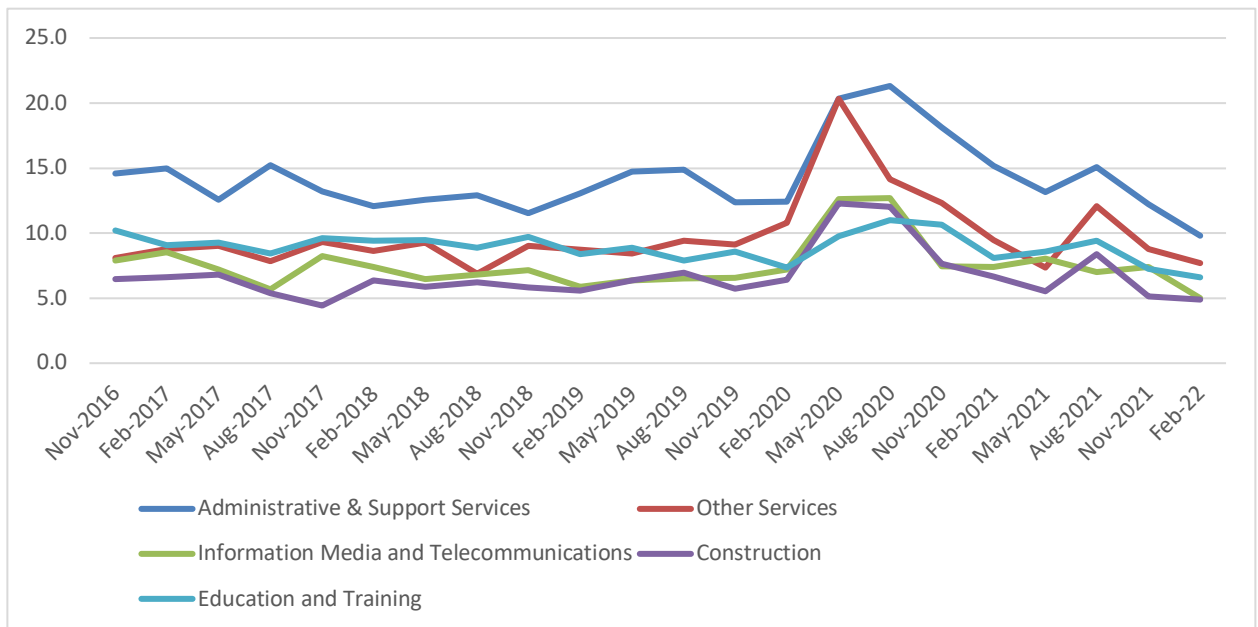
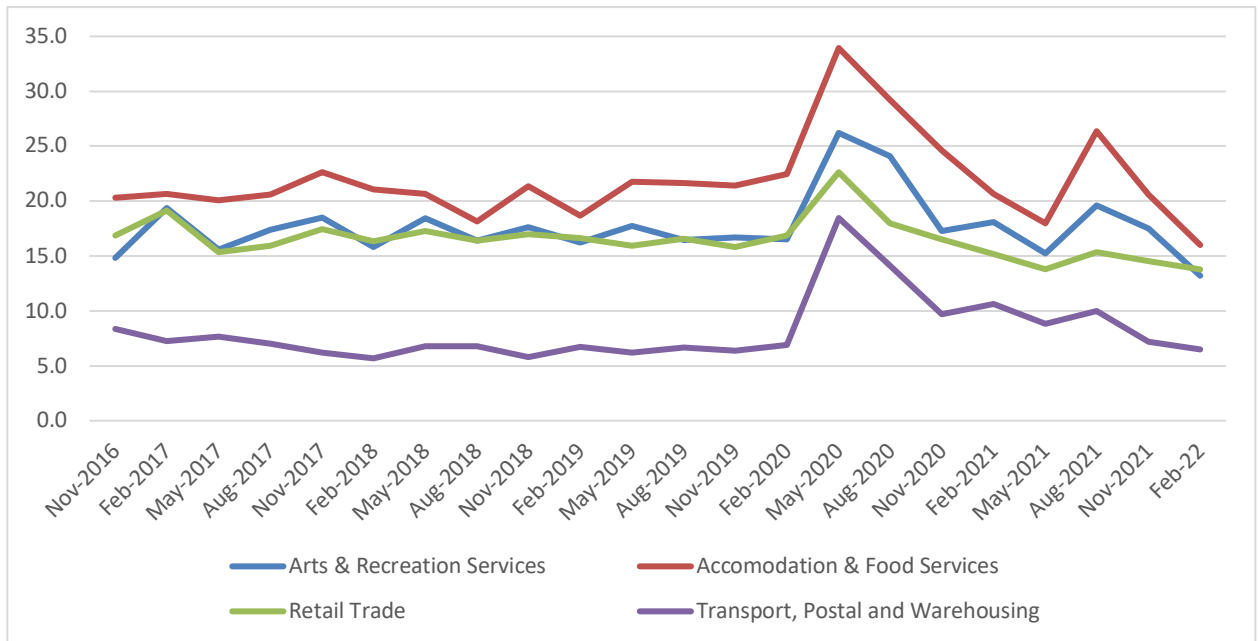




Source: ABS 6150.0.55.003, ACTU Calculations

37. Whilst the effects of the COVID restrictions are clear in each industry presented in Figure 14 (in each case with less of an impact in 2021 than in 2020), it is equally evident that in no case is the level of hours-based underemployment in the most recent data notably worse than it has been over the last 5 years. Rather, in some cases (education & training, construction, accommodation & food services, retail) the current levels are low by medium term standards. The most recent underemployment ratios for these industries are likewise range from unexceptional to favourable having regard to medium term levels, as seen in Figure 15 below.

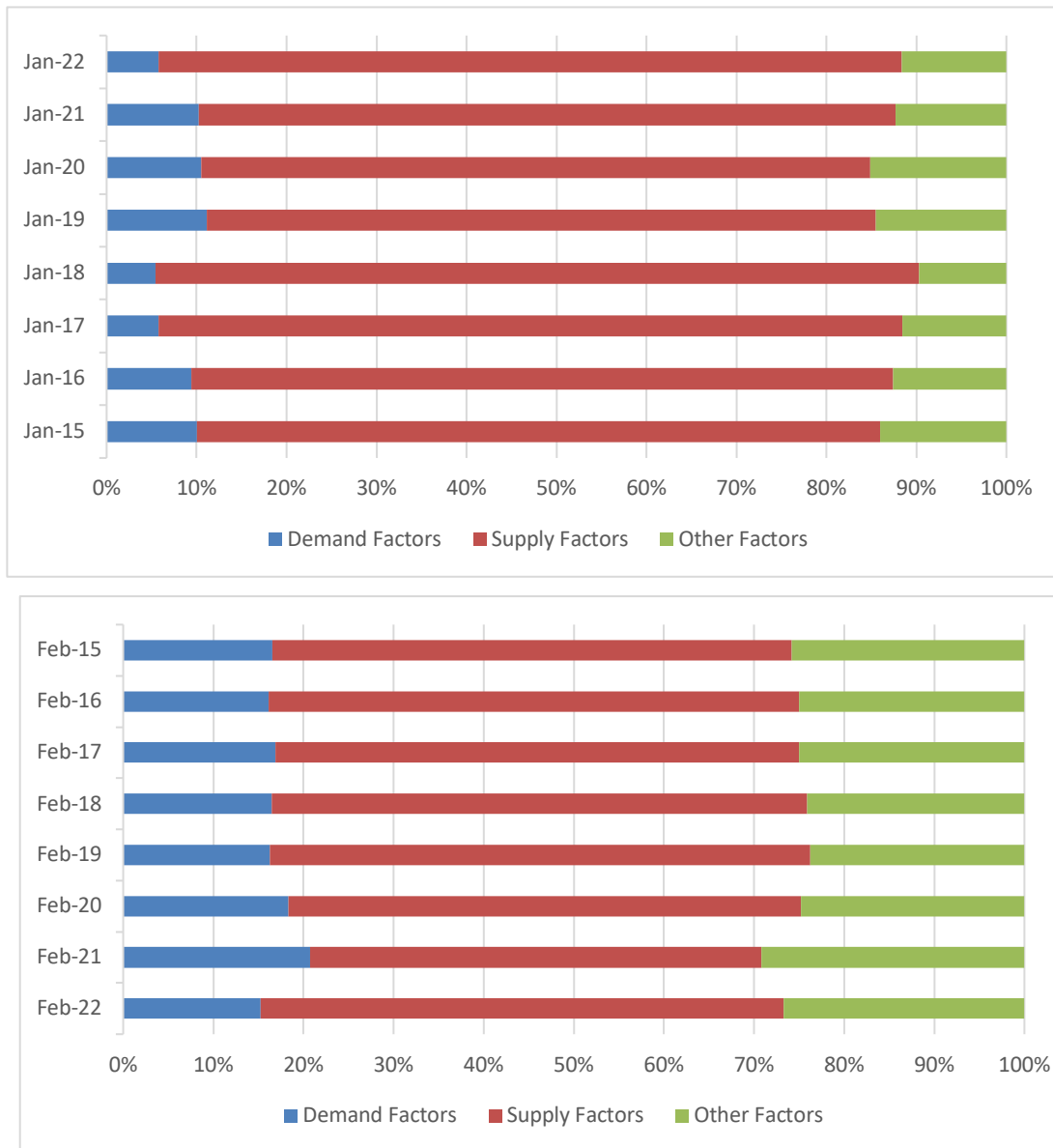
Figure 15: Underemployment ratios (%), selected industries.



Source: ABS 6291.0.55.001. Levels provided for Transport Postal and Warehousing, Other Services, Information Media and Telecommunications, Construction and Education and Training are marked by ABS as “subject to sampling variability too high for most practical purposes”.

38. Consistent with the underemployment data, the data concerning hours worked in Charts 6.3 and 6.4 and Table 6.2 of the statistical report are not cause for concern. This particularly so once it is appreciated that an unusually high share of the declines in hours worked in the more recent data are not attributable to labour demand factors. Demand factors had a greater influence in February data, but remained below those taken over the medium for that month. This can be seen in Figure 16 below.

Figure 16: Share (%) of factors contributing to less hours being worked, Jan 2015-2022



Source: ABS 6291.0.55.001: Employed persons who worked fewer hours than usual by hours actually worked in all jobs. Category definitions: Demand Factors= “No work, not enough work available or stood down” + “Bad weather or plant breakdown”; Supply factors= “Annual leave, holidays, flextime or long service leave” + “Own injury or illness or sick leave” + “Personal reasons, study, caring for sick or injured family” + “Maternity, paternity or parental leave”; Other factors = “Began, left or lost a job during the week” + “Worked fewer hours than usual for other reasons” + “Standard work arrangements or shift work”.

2.4. Findings from Recent Minimum Wage Research

39. Jurisdictions around the world have applied minimum wage policy more actively and more ambitiously in recent years. This policy activism has sparked a broad and voluminous literature on the effects of minimum wages on employment and other economic and social variables. In this section, we review the findings of selected recent contributions to that literature.
40. There is abundant evidence that minimum wage increases have important impacts in lifting wages and reducing inequality in lower-wage segments of the labour market, and improve a range of other social outcomes. In most of the research, the impact of higher minimum wages on employment levels is found to be small – in many studies, statistically indistinguishable from zero. In light of the general insignificance of proven disemployment effects, there is growing recognition that future minimum wage research should be redirected from its current pre-occupation with disemployment to consider other relevant questions, including:
 - a. better understanding the other ways that employers respond to higher minimum wages (since predicted disemployment does not seem to be a significant outcome); and,
 - b. considering other impacts of higher minimum wages (including on job search, retention, and earnings inequality).

2.4.1 Recent Research on Employment Effects of Higher Minimum Wages

41. Campos-Vazquez and Esquivel (2021)⁷ review the employment effects of dramatic but regionally divergent minimum wage increases implemented in Mexico between 2019 and 2021. In 43 municipalities the minimum wage was increased by over 50% over those three years. Other parts of the country saw lesser increases, providing an opportunity to comparatively study impacts on wages and employment. Campos-Vazquez and Esquivel's modelling suggests significant effects on wages (especially among lower-wage workers) and no significant disemployment effects.

⁷ Campos-Vazquez RM & Esquivel G (2021), 'The effect of doubling the minimum wage on employment and earnings in Mexico', *Economics Letters*, Vol. 209, Issue C, December, 110124.

42. The role of reallocation of labour between jobs, occupations, industries, and regions in adjusting to minimum wage changes is further explored by Dustmann et al. (2022).⁸ Their study examines the impacts of Germany's significant 2015 national minimum wage increase, which saw some 15% of workers (and for up to one-third of workers in some regions) receive immediate increases, without the occurrence of predicted job losses. Using administrative data on employment by wage level, the authors confirmed the absence of disemployment effects (across individuals, and across 401 local regions). Their empirical evidence suggests that the reallocation of labour toward higher-productivity, more successful establishments after the minimum wage increase explains the resilience of employment levels. This then constitutes a second source of benefit from the higher minimum wage: boosting productivity and innovation, not just wages.
43. Some disaggregated studies seek whether disemployment effects of minimum wage increases are visible at the level of particular industries or occupations. For example, Georgiadis and Franco Gavonel (2021)⁹ consider the impacts of increases in the U.K. minimum wage on employment patterns in British care homes (including aged and social care facilities) – an industry which is particularly dependent on low-wage labour and hence is presumed to be vulnerable to disemployment impacts. The researchers used a unique industry-specific database of employment and wages, and found no evidence of disemployment as a result of minimum wage increases. They theorise that care homes may have implemented measures to reduce absenteeism and/or reduce training time away from work, to offset the cost of higher wages (which we note in the Australian context might also be achievable, particularly through enterprise bargaining). The twin shocks of the COVID pandemic and the UK's exit from the European Union (which affected care homes' access to immigrant labour from other parts of Europe) also created conditions of intense labour shortage, which mitigated any disemployment effect from minimum wage increases.

⁸ Dustmann C, Lindner A, Schonberg U, Umkehrer M & vom Berge P (2022), 'Reallocation effects of the minimum wage', *The Quarterly Journal of Economics*, Vol. 137, Issue 1, February, pp. 267–328.

⁹ Georgiadis A & Franco Gavonel M (2021), *The impact of the National Living Wage on the adult social care sector in England in the light of COVID-19 pandemic and Brexit*, report for the Low Pay Commission, Brunel University and University of Exeter, December.

44. Estimates of employment effects from minimum wage changes can be sensitive to the specification of empirical models used by the researchers, and may also be influenced by the search process through which economists seek an optimal explanatory framework. For this reason, some econometricians are experimenting with a pre-determined ‘plan’ for conducting the analysis (including applying different econometric formulations, dropping insignificant variables, etc.). Clemens and Strain (2021)¹⁰ follow a process of analytical planning and pre-commitment, to investigate the employment effects of both small and large minimum wage changes in the U.S. (at the state and municipal levels) from 2011 through 2015. Using this process they find no significant disemployment effects from small changes in minimum wages; modest disemployment effects of large minimum wage changes are concentrated among workers in less qualified occupations.
45. It is difficult to draw clear conclusions from the diverse and voluminous literature on the employment effects of minimum wage changes. Some writers have attempted to survey whether any broad consensus is visible in the overall body of research. These broader surveys confirm that the overall weight of evidence confirms that disemployment effects of higher minimum wages are very small, or even statistically non-existent. For example, the survey by Dube (2019)¹¹ stands as one of the most exhaustive recent surveys of international literature on the employment effects of minimum wage changes. He concludes:
- “Overall, existing research therefore points to a muted effect of minimum wages on employment, while suggesting that minimum wages significantly increase the earnings of low paid workers. Especially for the set of studies that consider broad groups of workers, the overall evidence base suggests an employment impact of close to zero. These ex post evaluations point to a much more modest impact on employment than often assumed in prospective simulation studies.”¹²
46. Eurofound (2021a) reviewed 11 recent studies on the employment effects of the significant minimum wage increases implemented in many EU countries over the last decade. This survey found mixed results (consistent with the diversity of results in the overall minimum wage

¹⁰ Clemens J & Strain MR (2021), The heterogeneous effects of large and small minimum wage changes: evidence over the short and medium run using a pre-analysis plan, IZA Discussion Paper Series No. 14747, September.

¹¹ Dube, A. (2019), Impacts of minimum wages: review of the international evidence, HM Treasury (UK) 2019.

¹² At Page 4.

literature), including 3 reports suggesting statistically significant disemployment effects, while others found no evidence of disemployment. These authors stress the importance of specific national circumstances in interpreting employment trends after a minimum wage increase: employment impacts are generally more positive (or less negative) in countries experiencing strong macroeconomic conditions, with fewer distressed companies, and/or where the minimum wage 'bite' was lower to start with.

2.4.2 Other Impacts of Higher Minimum Wages

47. The absence of strong disemployment effects of minimum wage increases in most studies has sparked active theoretical and empirical work among economists to explain the inconsistency between these findings and the expectations of standard labour market analysis – which predicts a reliable inverse relationship between wages and employment, mediated through a negatively-sloped labour demand function. This demand response in turn depends on assumed substitutability between labour and other factors (both directly in production, and indirectly through shifts in consumer demand toward less labour-intensive products), and other general equilibrium adjustments.

48. In the new literature on minimum wages which has become widely accepted around the world in recent years, the mechanisms which are thought to explain this absence of disemployment effects include:
 - a. Impacts of higher minimum earnings on recruitment and retention of employees, reducing turnover and equilibrium job vacancy rates.
 - b. Impacts of higher minimum wages on productivity.
 - c. Impacts of higher minimum wages on employee search patterns.
 - d. Impacts of higher minimum wages in the context of non-competitive wage setting power by large employers.
 - e. Impacts of higher minimum wages on macroeconomic conditions, experienced via stronger consumer spending.

49. Some recent international research has added to understanding the working of these effects, thus helping to explain the general absence of strong disemployment effects from minimum wage increases. Examples of relevant findings include:
- a. Manning (2021a)¹³ reviews evidence that the retention and productivity benefits of higher minimum wages effectively compensate firms for the incremental compensation costs associated with higher minimum wages. This contributes to stability in unit costs, profitability, and overall economic activity of those firms – thus explaining the stability of employment after wages were increased. Another factor explaining the absence of employment effects from higher minimum wages is the inelasticity of labour demand in the sorts of jobs in which minimum wages are usually paid: namely, in non-traded domestic service industries, in which increases in minimum wages (that must legally be paid by all competitors in that sector, hence eliminating potential market share losses) have little or no impact on overall demand for the service and hence on employment.
 - b. Adams, Meer and Sloane (2022)¹⁴ consider the impact of minimum wages in models of job search behaviour by U.S. workers, using contrasting data from 3 different surveys of labour search effort, and exploiting intra-state variation in the implementation of minimum wages by some U.S. states. They find that minimum wage increases elicit stronger (but temporary) labour search effort from workers who were already seeking work, rather than increasing the number of workers seeking work. But this has a similar impact to other increases in labour supply, helping workers achieve better matches in prospective jobs and hence better retention and higher employment in equilibrium.
 - c. Clemens (2021)¹⁵ reviews emerging literature on several channels through which employers may adjust to higher minimum wage costs; these responses may also help explain the stability of employment after minimum wage changes. One possibility is that employers alter the structure of non-wage compensation and benefits to offset the higher cost of direct wages. Another is the relationship between scheduling decisions and wage

¹³ Manning A (2021), 'The Elusive Employment Effect of the Minimum Wage', *Journal of Economic Perspectives*, Vol. 35, No. 1, pp. 3-26.

¹⁴ Adams C, Meer J & Sloan CW (2022), 'The minimum wage and search effort', *Economic Letters*, January.

¹⁵ Clemens J (2021), 'How Do Firms Respond to Minimum Wage Increases? Understanding the Relevance of Non-Employment Margins', *Journal of Economic Perspectives*, Vol. 35, No. 1, pp. 51-72.

levels: firms might respond to higher minimum wages by adjusting schedules to more rigorously minimise staffing levels at various times in the work day. Substitution of more skilled labour (whose compensation is less affected by minimum wage rules) might also reduce the observed impact of wage changes on employment levels.

- d. Engelhardt and Purcell (2021)¹⁶ confirmed that higher minimum wages have reduced income inequality among lower-wage segments of the labour market. While the U.S. federal minimum wage has been stagnant for over a decade, this has not always been the case. These authors review the impact of previous minimum wage increases (going back to 1981) on income inequality, especially among lower-wage male workers. Minimum wage increases both lifted incomes for lower-wage male workers, and reduced income inequality within those labour market segments (especially strongly in the lowest decile). The authors theorise this outcome resulted from positive ‘trickle-up’ spillovers to workers who had been employed near (but not at) the previous minimum wage, and possibly to increases in hours worked among minimum wage workers (due to enhanced labour supply responses).
50. Economists are also becoming increasingly aware of how wage inequalities overlap with race, gender, age, and other demographic factors. Caliendo and Wittbrodt (2021)¹⁷ use regional variations in German minimum wages to map the inequality-reducing effects of German minimum wage increases against workforce gender composition of employment. Their study found that regions in which the minimum wage bite is higher experienced a significant reduction in gender wage inequality: increases in the national minimum wage between 2014 and 2018 were seen to reduce gender wage gaps in the lowest decile of the wage distribution by one-third. Eurofound (2021b)¹⁸ also find that women workers benefited disproportionately from the increases in real minimum wages that have been implemented in most EU member countries over the past decade. The share of women workers in low pay (below 60% of median wages) has

¹⁶ Engelhardt, G. V., & Purcell, P. J. (2021). The minimum wage and annual earnings inequality. *Economics Letters*, 207, 110001.

¹⁷ Caliendo M & Wittbrodt L (2021), ‘Did the minimum wage reduce the gender wage gap in Germany?’, IZA Discussion Paper No. 14926, December.

¹⁸ Eurofound (2021), ‘Minimum wage developments in the last decade, low-paid employees and minimum wage earners’, Industrial relations and social dialogue Working paper, Minimum wages in 2021: Annual review

declined from 22% to 20% between 2009 and 2018. Given the importance of addressing persistent gender wage inequality in Australia, this evidence provides additional motivation to pursue more ambitious minimum wage improvements here.

51. The macroeconomic implications of higher minimum wages hold particular significance at present, as economies around the world strive to recover from the unprecedented impacts of the COVID-19 pandemic. While powerful government fiscal supports (through wage subsidies and income supplements) blunted the impact of the pandemic on household incomes in many countries, the challenge of maintaining strong consumer spending remains – especially after any initial burst of pent-up post-lockdown spending is dissipated. Several economists have highlighted the importance of higher minimum wages in supporting a wage-led recovery from the pandemic. For example, 17 prominent European economists called on the European Union to move quickly to implement an EU-wide Directive on adequate minimum wages precisely for this reason, stressing:

“In view of the economic and social challenges posed by the Covid-19 pandemic and the steep road to recovery that lies ahead, it is therefore crucial that adequate minimum wages and strong collective bargaining be recognised and promoted as key elements of any recovery strategy.”¹⁹

Other economists who have similarly stressed the stimulative benefits of higher minimum wages in the post-COVID macroeconomic context include Hein and Martschin (2020)²⁰ and Bhushan, Brown and Goldberg (2020)²¹.

2.4.3 Minimum Wages Under Monopsony

52. There is growing interest among labour market researchers in measuring and understanding the wage-setting power of very large employers, which have demonstrated capacity to distort wage outcomes in regional and even national labour markets. When employers are not price-takers in labour markets, but instead possess market power to influence equilibrium wages through their

¹⁹ Mazzucato M, Piketty T, and 15 others (2021), ‘Higher statutory minimum wages and stronger collective bargaining are good for the economy’, European Trade Union Confederation, 7 May 2021, <https://www.etuc.org/sites/default/files/press-release/file/2021-05/Min%20wages%20op%20ed%20EN.pdf>.

²⁰ Hein E and Martschin J (2020), ‘The Eurozone in Crisis: A Kaleckian Macroeconomic Regime and Policy Perspective’, *Review of Political Economy*, Vol. 32, No. 4, pp. 563-588.

²¹ Bhushan S, Brown J, and Goldberg S (2020), ‘Delivering economic value and societal cohesion through “Good Jobs”’, G20 Insights, PwC, 24 November, <https://www.g20-insights.org/wp-content/uploads/2020/11/delivering-economic-value-and-societal-cohesion-through-good-jobs-2-1606243757.pdf>.

own employment decisions, then the standard negatively-sloped labour demand function expected in conventional neoclassical partial equilibrium models cannot be assumed. If wages depend on the hiring decisions of large firms (experienced along a positive labour supply function), then monopsonists (or near-monopsonists) will optimally suppress their employment levels in order to support a lower wage. The company's private marginal cost function is positioned higher than the labour supply curve, by virtue of the impacts of the company's own hiring on prevailing wages; it operates where that function intersects its falling marginal revenue function. In this situation, unemployment exists in equilibrium: it is required to ratify the monopsonist's profit-maximising curtailment of employment. A binding minimum wage (located above the monopsonist's preferred wage) will cause both an increase in wages *and* an increase employment: since the monopsonist is forced by law to lift its offered wage, it is no longer profitable for it to restrict employment, and it can expand its output without requiring any additional ongoing increase in wages.

53. Once considered a theoretical oddity, the exercise of monopsony power in labour markets has become a priority topic in recent labour economics research. Research using new data sources, and new empirical methodologies, is finding increasing evidence of uncompetitive wage-setting power in numerous industries, occupations, and regions. Manning (2021b)²² provides a summary of recent empirical research documenting the existence of employers' monopsony power in labour markets in several countries, and considering its implications for labour market policy and regulation (including supporting a higher minimum wage). Kolling (2021)²³ finds that strong monopsony power in Germany helps to explain the absence of disemployment effects after the introduction of that country's minimum wage, even among low-wage workers. Gibbons et al. (2019)²⁴ find that the exercise of monopsony power is especially potent under guest-worker programs in which workers are tied to specific employers (as is the case under several of Australia's migrant worker programs).

²² Manning A (2021b), 'Monopsony in Labor Markets: A Review', *International Labor Relations Review*, Vol. 74, No. 1, pp. 3-26.

²³ Kolling A (2021), 'Monopsony power and the demand for low-skilled workers', *Economic and Labour Relations Review*, published online 9 December.

²⁴ Gibbons E, Greenman A, Norlander P and Sorensen T (2019), 'Monopsony Power and Guest Worker Programs', *The Antitrust Bulletin*, Vol. 64, No. 4, pp. 540-565.

54. Some researchers are now considering the implications of this emerging body of knowledge about employer monopsony power for the Australian context. Peetz (2021)²⁵ suggests that recent legislative reforms (including the liberalisation of casual work) may have enhanced the monopsony power of employers in Australia, thus making wage-boosting measures (such as higher minimum wages) all the more important to offset the resulting downward pressure on both wages and employment. Quiggin (2019)²⁶ similarly suggests that Australia's severe restrictions on collective bargaining (such as an effective ban on multi-employer bargaining) also strengthen the monopsony power of employers, thus suppressing wages; counteracting that power requires the implementation of stronger minimum wages, set at a level well in excess of income levels from universal income supports. King (2019)²⁷ also highlights the monopsonistic power of employers as a structural factor inhibiting the effectiveness of wage-led macroeconomic dynamics in Australia.
55. The upshot of this, however is that if the monopsony power of Australian employers has grown as assumed, this in itself a factor justifying a higher increase to minimum wages, on the basis that the setting of minimum wages above the monopsonists arbitrarily determined preferred wage will reduce incentives to contribute to excess labour supply.

2.4.4 Conclusions on recent minimum wage research

56. The foregoing review of current literature on the impacts of minimum wages suggests that the Panel cannot be satisfied that a minimum wage increase of the order sought in this review will have any measurable disemployment effect. The Panel can however be satisfied that lifting minimum wages may encourage adaptive strategies at the firm or industry level that increase productivity and efficiency (such as may be achieved through bargaining), may remove distortions in labour demand attributable to monopsony power and will reduce the gender pay gap²⁸ and contribute to aggregate demand.

²⁵ Peetz D (2021), 'Is industrial relations reform the road to recovery in monopsonistic labour markets?', *Economic and Labour Relations Review*, Vol. 32, No. 3, pp. 417-436.

²⁶ Quiggin J (2019), 'Labour Market Policy and the Future of Work', in Saunders P, ed., *Revisiting Henderson: Poverty, Social Security and Basic Income* (Melbourne: Melbourne University Press), pp. 228-241.

²⁷ King J (2019), 'Some obstacles to wage-led growth', *Review of Keynesian Economics*, Vol. 7, No. 3, pp. 308-320.

²⁸ Discussed further in Chapter 6.

3. THE NATIONAL ECONOMY

57. The Panel is directed by sections 134(1)(h) and 284(1)(a) of the *Fair Work Act* to take into account the performance and competitiveness of the national economy, including by reference to specific measures, in conducting this review and considering the impacts of adjustments to minimum wages. In this section, we offer our observations and commentary on the state of the economy by reference to the specified measures, forecasts and other relevant indicators. As the Panel has observed, there is some overlap between these matters and the separate requirement to consider promoting social inclusion through increased workforce participation. Much of our commentary on labour market specific indicators and the impacts of minimum wages on employment is contained in Chapter 2.
58. The performance and outlook for the national economy are consistent with the claim we advance in this review. A real wage increase for the lowest paid will not detract from the strong recovery underway and is consistent with it continuing. The easing of social distance restrictions in the 2021 December quarter led to a surge in consumer spending, powering an unexpectedly strong result in quarterly GDP. Strong growth is set to continue. The budget projects strong GDP growth for the balance of this financial year and next financial year, even accounting for the impact of the arrival of the Omicron variant and extensive flooding in Eastern Australia.
59. The economy does face two other risks: firstly, rising and high inflation and secondly, continued weak wages growth. Rising in the second half of 2021, inflation is being driven by non-labour costs stemming from external factors and exogenous supply-side shocks, namely disruptions to global goods and services supply chains caused by the lingering COVID-19 pandemic (evident in the December quarter), and now a global oil and gas shortage exacerbated by events in Ukraine in addition to major flooding in NSW and Queensland. To respond to anticipated arguments put forward in this review, holding back wage growth will not address these underlying causes of rising inflation. Instead it will cause significant harm to low-income households already facing real terms cuts to their pay.

60. Nor will the modest increase in minimum wages sought by the ACTU add to inflation. Wage increases that match inflation and then productivity growth allow workers to both meet the rising cost of living and gain their fair share of rising national prosperity without placing pressure on prices. This is textbook economics, and a position advanced by Steven Kennedy, Treasury Secretary, who said recently to the Senate Economics Legislation Committee:

“if we can achieve productivity growth of 1.5 per cent [and assuming inflation growth of 2.5%], then nominal wages can grow at four per cent and put no pressure on inflation. However, on the other hand, if productivity is only 0.5 per cent, then wages can only grow at three per cent before they begin to put pressure on inflation”.²⁹

Those comments were only six weeks ago and already his own department has revised that inflation estimate to 4.5% for the year to June 2022, or 4.25% after taking into account the anticipated impact of the reduction in fuel excise discussed later in this chapter.³⁰ As Treasury acknowledges, inflation projections for the upcoming financial year have significant uncertainties. Productivity on the other hand was 2% in 2021 according to the Statistical report, but with a medium-term average of closer to 1%. Balancing these considerations, the ACTU claim sits well within these parameters.

61. Secondly, continued weak wage growth does present a risk to recovery. Household consumption, underpinned by savings throughout lockdowns, is the dominant driver of economic growth. But as cost of living pressures eat into those household savings, strong minimum wage growth for 2022-23 will provide a critical safety net for the economy. While there will be claims from some quarters that employers cannot afford higher minimum wages when oil input prices are rising, it must be remembered that one person’s spending [on costs] is another person’s income. Wages are not merely a cost for business, they are the primary source of income for business’ customers.

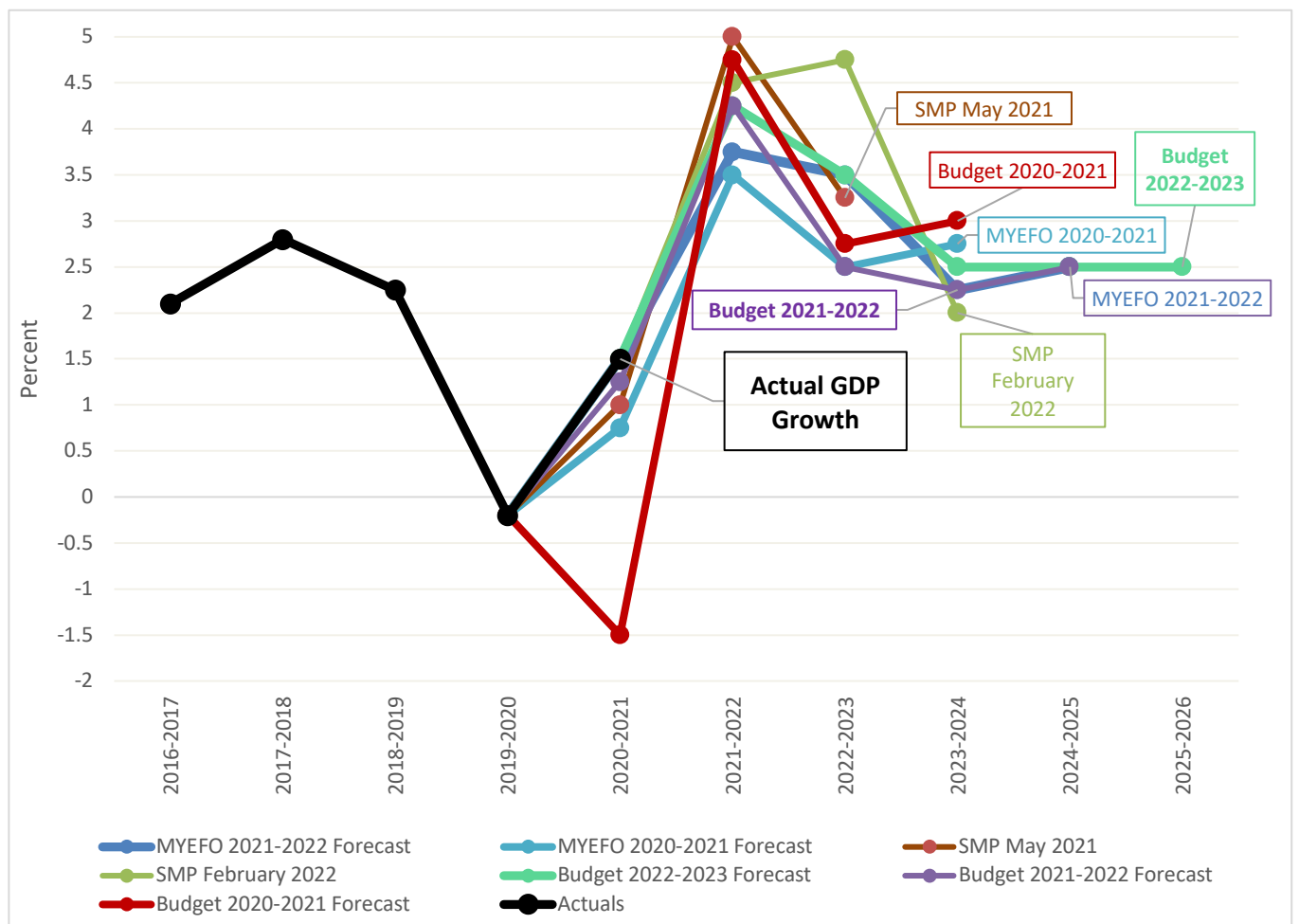
²⁹ Senate Economics Legislation Committee Transcript, 16 February 2022. Reserve Bank Governor Philip Lowe has made the same argument in 2018 stating that: “I think wages in Australia should be increasing at three point something. The reason I say that is that we are trying to deliver an average rate of inflation of 2½ per cent. I’m hoping labour productivity growth is at least one per cent—and I’m hoping we can do better than that—but 2½ plus one equals 3½.” Standing Committee on Economics Transcript, 9 August 2018.

³⁰ Commonwealth Treasury, “Budget 2022-23, Budget Paper No Paper 1” page 33-34.

3.1 Outlook and performance against forecasts

62. When the Panel made its decision last year, it relied on RBA forecasts predicting that GDP would grow, 9.25% to the year June 2021 and 4.75% over the year to December 2021. GDP performance in the year to June outstripped those forecasts (9.6%) but fell slightly below (4.2%) the December expectation, due to extended lockdowns in the September quarter. Against all forecasts, actual GDP growth for 2020-21 beat all expectations. While the 2020-21 forecast was for the economy to contract by 1.5%, it ended up growing by 1.5%. In Budget 2021/22, the growth forecast was revised up to 1.25% but even this was still below the actual GDP growth.

Figure 17: Economic performance against forecasts



Source: RBA, Treasury

63. Treasury forecasts from the 2022-23 Budget released on 29 March 2022 indicated real GDP growth of 4.25 in 2021-22, with “stronger-than-expected consumer spending and employment outcomes leading to an upgrade to growth since the 2021-22 MYEFO, laying the foundations for further strong growth over the forecast period”.³¹ Real GDP is forecast to grow by 3.5 per cent in 2022-23 and by 2.5 per cent in 2023-24, 2024-25, and 2025-26 respectively. Unemployment is forecast to fall to 3.75 per cent by the September 2022 quarter. This represents a noticeable improvement from the forecasts in the 2021-2022 Mid-Year Economic and Fiscal Outlook (MYEFO), released on 16 December 2021, which indicated real GDP growth of 3.75 per cent in fiscal year 2021-22 and 3.5 per cent in fiscal year 2022-23, moderating to 2.25 per cent in 2023-24 and 2.5 per cent in 2024-25, with unemployment tipped to fall to 4.25 per cent in the 2023 June quarter. As noted in section 2.1 in Chapter 2, there are upside and downside risk models relating to impacts of the COVID and associated restrictions which in the worst case scenario only see unemployment remaining at 4% and a .5% reduction in forecast GDP growth. Additionally, the negative impacts of the recent floods in NSW and QLD are expected to be confined to the March quarter with a reduction in expected growth of .5%, with positive offsets thereafter by rebuilding efforts, government support and spending on replacement goods.³²
64. The remarkably strong real GDP growth forecast in the 2022-23 Budget for the years 2021-22 onwards demonstrates the economy is entirely capable of producing strong growth, even after taking robust inflation into account. The argument that a strong minimum wages decision by the Panel that pushes nominal wage growth above inflation is unaffordable simply cannot hold when the Government’s own forecasts demonstrate strong real economic growth. The economy is generating significant prosperity despite inflation; workers simply are not receiving their fair share.
65. In the Reserve Bank of Australia’s Statement on Monetary Policy in February 2022, the Bank noted global economic growth recovered in the last six months of 2021 as various COVID-related mobility restrictions were lifted, forecasting growth to remain above-trend in 2022.³³ Consistent

³¹ Treasury 2022, ‘Budget 2022-23: Budget Paper No. 1’, p. 31

³² The impacts of the floods are discussed on page 47 of Budget Paper no.1.

³³ Reserve Bank of Australia, Statement of Monetary Policy, February 2022.

with the Treasury view in the budget, the RBA expects the Omicron variant of COVID-19, while disruptive, will not have a large or sustained impact on growth. The RBA expects GDP to grow 4.25% over 2022 in the event the strong household consumption observed in the December 2021 quarter remains robust, predicting unemployment will gradually soften to 3.75% by the end of 2023. Even taking a pessimistic view and assuming annual growth of little over 3% this year and the next would provide a solid foundation for rising national incomes which could, if distributed fairly, raise living standards of the lowest paid.

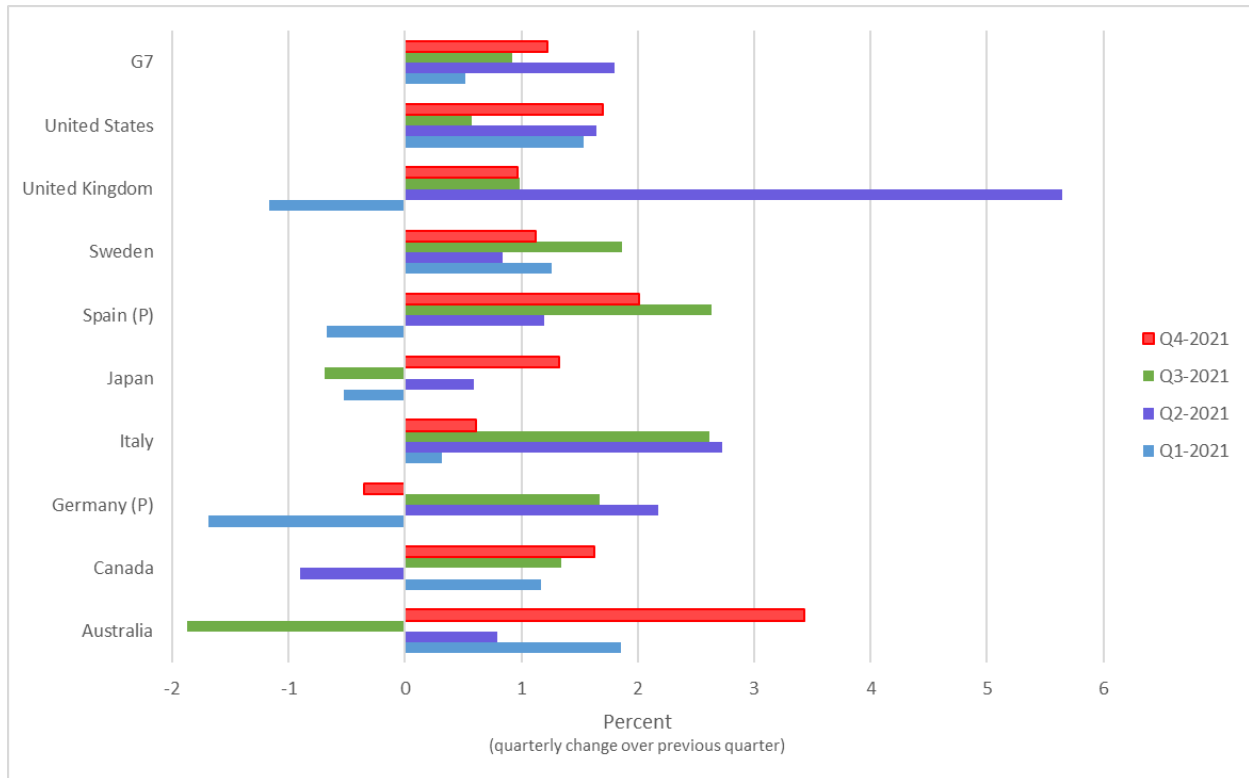
66. The RBA also then forecasted underlying inflation to reach 3.75% by mid-2022 in its February SMP, largely reflecting upstream cost pressures amid strong demand in housing construction and the durables goods sector. Since then, inflation forecasts have been upgraded significantly, but the RBA was predicting a shift in the drivers of inflation, with a steady pick-up in labour costs in response to strong labour market conditions forecast to sustain inflation in the top half of the 2% to 3% target range. Rather than a strong wage decision risking further growth in inflation the RBA was hoping that a pick-up in wage growth would help it hit its inflation target. This outlook for target inflation will be thrown into doubt by a weak minimum wage growth decision by the Panel, as further tightening in labour market conditions (unemployment at 4% in February 2022³⁴) continues to fail to produce higher nominal wages growth in an environment where workers have substantially fewer industrial protections and bargaining power than they did the last time unemployment was below current levels (prior to November 1974).

3.2 International Perspective

67. Australia's economic growth over 2021 compares favourably to its international peers, driven by strong results in the March and December quarters which led the G7. The June quarter result meanwhile was average for the group and many experienced one quarter of negative growth through the year.

³⁴ [ABS 2022, 'Media release: Unemployment rate falls to 4.0%'](#)

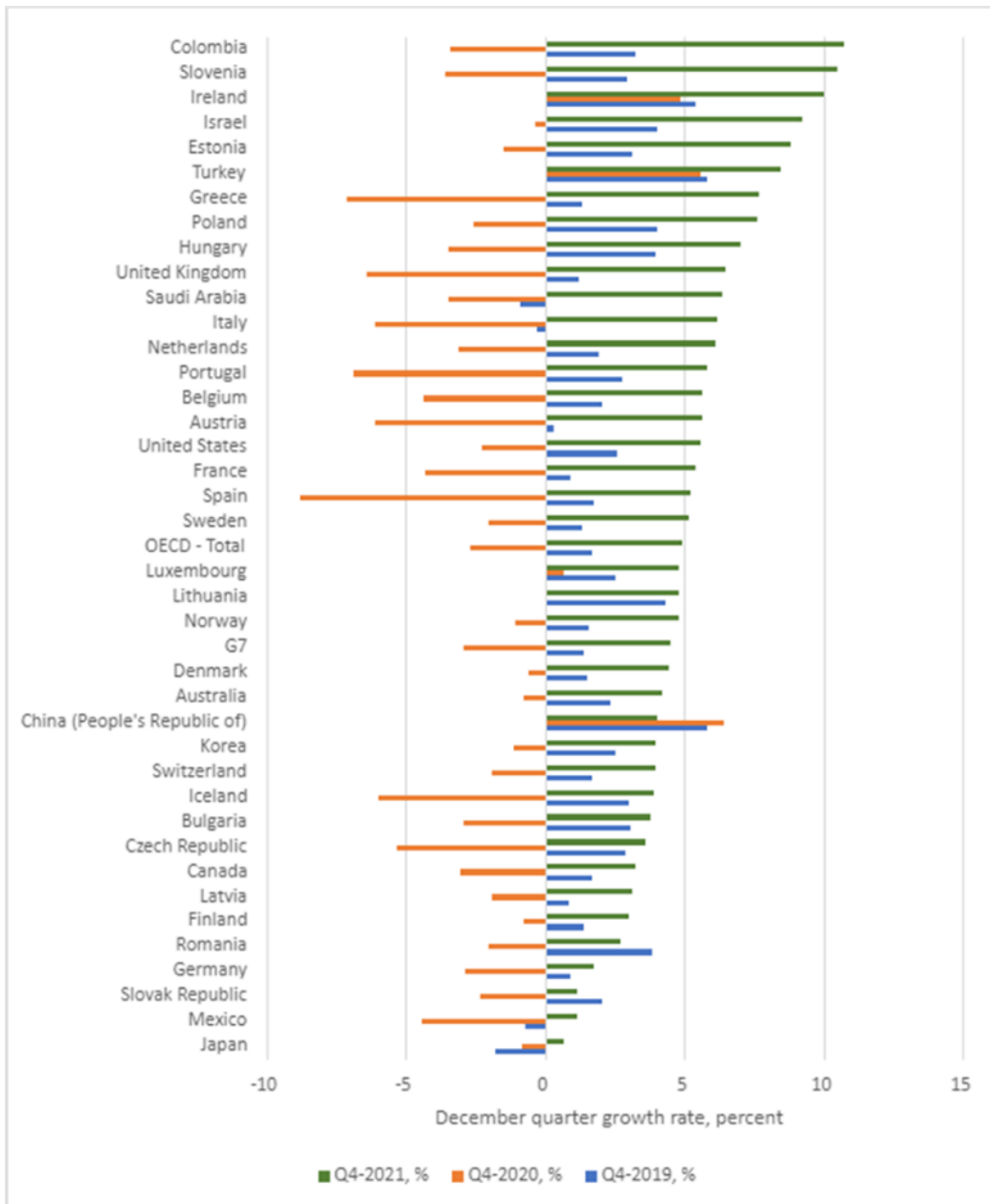
Figure 18: OECD Quarterly growth rates of GDP, G7 countries and Australia, 2021, real, percent



Source: OECD.Stat

68. By comparison to OECD economies, Australia’s Q4 2021 real economic growth was middling; however, this took place in the context of Australia’s much smaller decline in growth the year earlier, which compared favourably to the far sharper declines recorded by the majority of other OECD countries (including many of those who recorded higher Q4 2021 growth than Australia). Overall, Australia’s pattern of growth is similar to that of other world economies - having recorded growth in Q4 2019, followed by a negative growth rate in Q4 2020 and a return to significant growth in Q4 2021.

Figure 19: Real GDP for OECD countries, annual to December, 2019-21



Source: OCED.Stat

69. The International Monetary Fund’s (IMF) October 2021 World Economic Outlook projected Australia’s real GDP growth for 2022 to be 4.1%.³⁵ The IMF also predicts a decline in Australia’s current account balance and unemployment during 2022.³⁶ Globally, the IMF predicts a

³⁵ IMF, October 2021, *World Economic Outlook*, 38

³⁶ IMF, October 2021, *World Economic Outlook*, 38

continuing economic recovery from the global COVID-19 pandemic (albeit, amidst some risks), and continued GDP growth.³⁷ In its January 2022 outlook, the IMF indicates an expected moderation of global growth to 4.4% in 2022, having taken into account the effect of the Omicron variant of COVID-19.³⁸

70. The OECD similarly predicts Australia's growth to be 4% in 2022.³⁹ The OECD notes that in Australia: 'the downturn in 2020 was less significant than in the majority of other OECD countries. The OECD notes that Australia's real GDP bounced back over the year to June 2021, to be above pre-pandemic levels and that the unemployment rate fell to 4.6% in July 2021 after peaking at 7.4% in 2020.'⁴⁰
71. The OECD points to a range of fiscal and monetary supports as being critical to minimising the impact of the COVID-19 pandemic on Australia.⁴¹ Noting that many of these supports have now been lifted, the national and award minimum wages have an even stronger role to play as a safety net both for low paid workers and the economy as a role, given the continued uncertainties around Covid-19.
72. Overall, the OECD predicts a recovering economic environment in Australia, which is highly dependent on forward-thinking Government policies – such as addressing climate change, rethinking institutional frameworks, and distributing growth in living standards (all of which are within the Government's power to explore, should they wish to).⁴²

3.3 Economic Growth

73. The year to December 2021 has seen growth in GDP and RNNDI notwithstanding falls in the September quarter which were associated with COVID restrictions in some States. As seen in

³⁷ IMF, October 2021, *World Economic Outlook*, xv

³⁸ IMF, January 2022, *World Economic Outlook*, 3

³⁹ OECD, December 2021, *OECD Economic Surveys: Australia*, 12

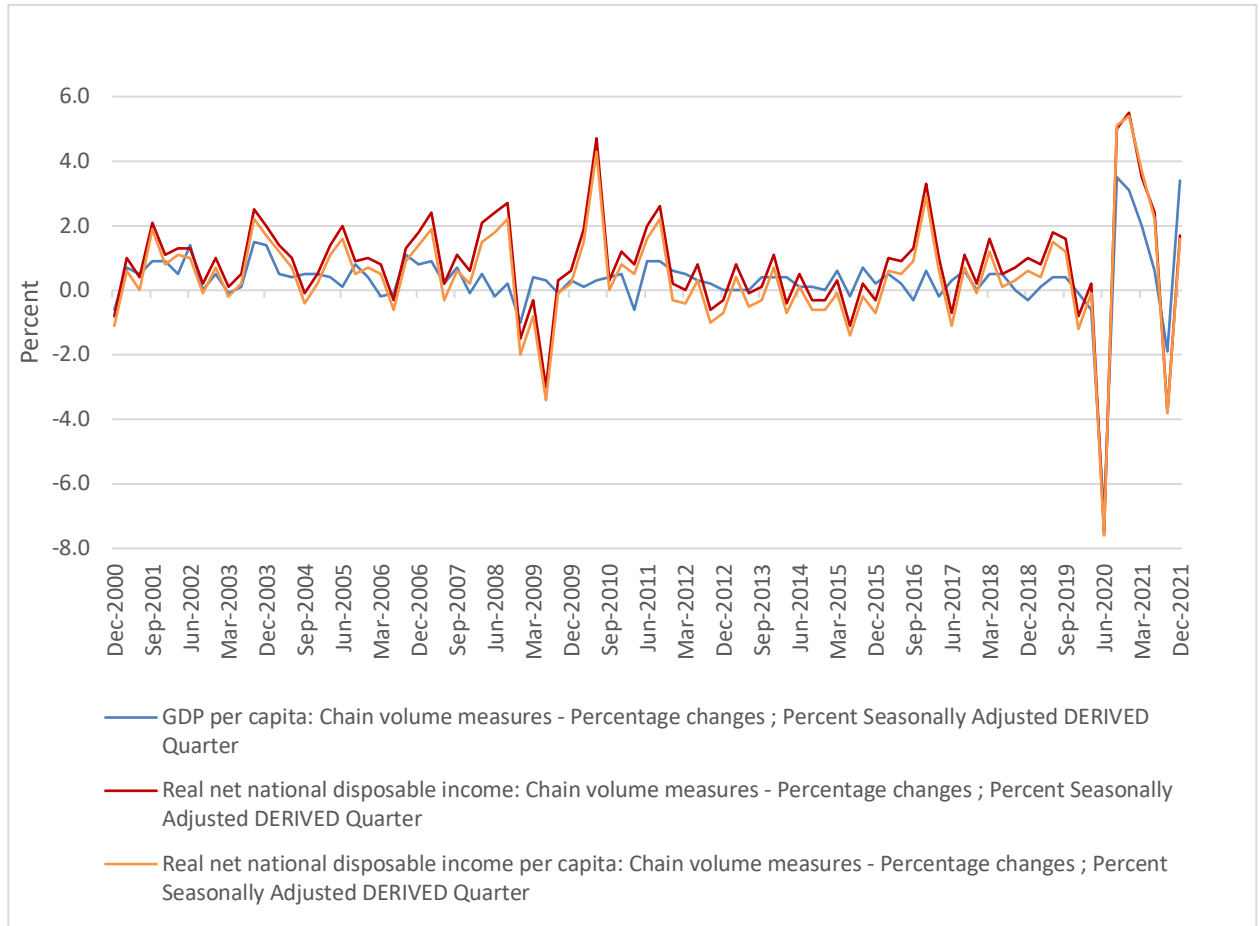
⁴⁰ OECD, December 2021, *OECD Economic Surveys: Australia*, 12

⁴¹ OECD, December 2021, *OECD Economic Surveys: Australia*, from 28

⁴² OECD, December 2021, *OECD Economic Surveys: Australia*, 15

Figure 20 below, those reductions in growth in September 2021 were dwarfed by the reductions seen in the June quarter of the previous year.

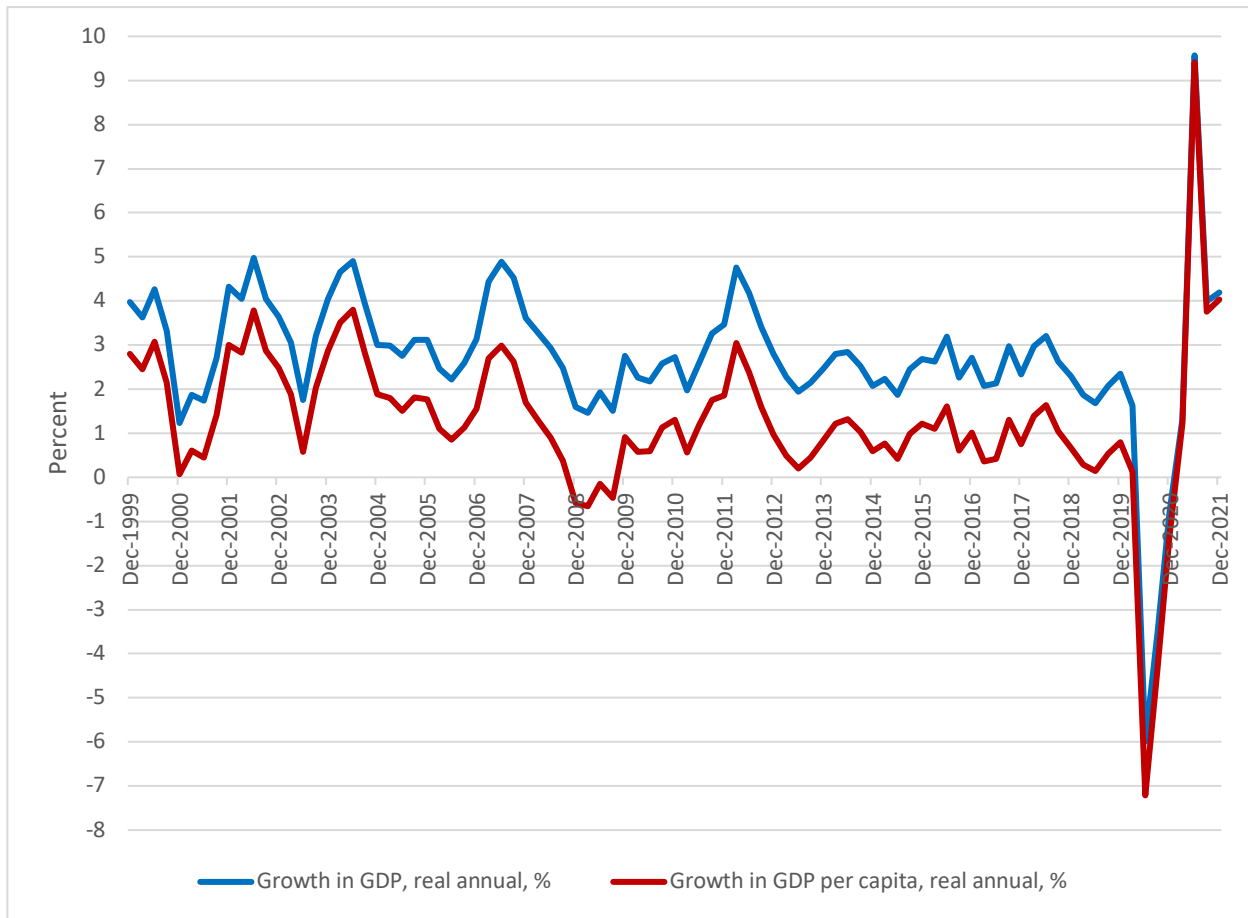
Figure 20: Quarterly growth in RNNDI, RNNDI per capita and GDP per capita, December 2000-21



Source: ABS 5206 (seasonally adjusted)

74. Over the year, the picture is both overwhelmingly positive and unprecedented, as seen in Figure 21. GDP finished the year to the December Quarter 2021 4.2% above December 2021, with growth in the December quarter alone of 3.4%. The RBA and Treasury both reported that the economic recovery has exceeded their upward revisions to forecasts and been faster than anticipated.

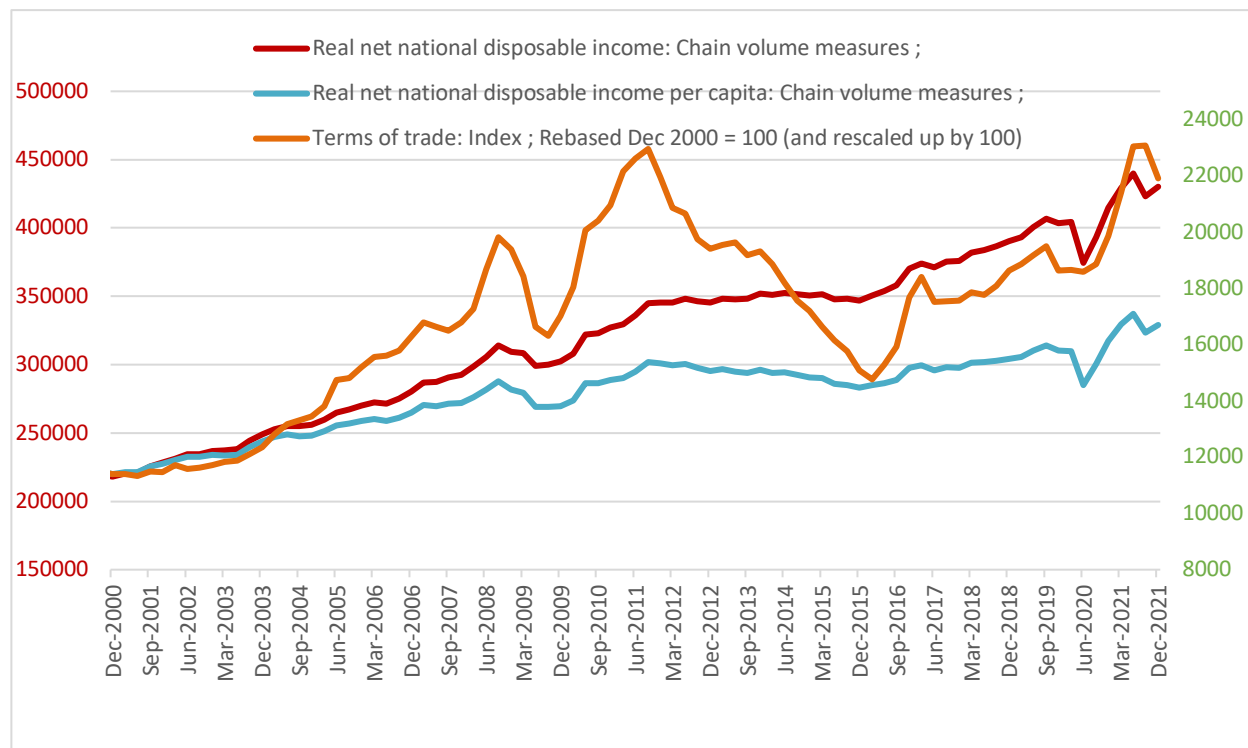
Figure 21: Growth (quarters year on year) in GDP and GDP per capita, 1999-2021



Source: ABS 5206 (seasonally adjusted)

75. Recent movements in real net national disposal income and real net national disposable income per capita suggest growth exceeding medium term trends, notwithstanding a recent fall in the terms of trade, as seen in Figure 22.

Figure 22: Quarterly RNNDI (LHS), chain volume \$ million, RNNDI per capita (RHS), chain volume \$ million, terms of trade (index 2000=100), December 2000-2021



Source: ABS 5206 (seasonally adjusted)

76. ABS reports economic growth in the December quarter was strongest in those states and territories which bore the brunt of Delta wave restrictions. As restrictions began to lift, the strongest growth in demand for the December 2021 quarter were in New South Wales (6.7 per cent), Victoria (3.7 per cent), and the Australian Capital Territory (1.9 per cent). The easing of COVID-related restrictions saw a surge in pent-up household consumption on retail, hospitality, and personal and other services (including hairdressing and beauty salons) in the 2021 December quarter alone. Household spending rose 6.3 per cent, with consumption of non-essential goods and services rising by 14.2 per cent (the largest on record, as the ABS notes) while consumption of essentials (such as food and housing) rose by only 1.9 per cent. Production rose in industries most affected by restrictions, with the air transport industry growing by 56.5 per cent, accommodation and food services growing by 26.1 per cent, and personal and other services (including hairdressing and beauty salons) growing by 15.4 per cent (the fastest-ever

quarterly growth for the sector). The size of the overall contribution of consumption to recent GDP growth is seen in Figure 23.

Figure 23: Contribution to GDP growth, chain volume measures



Source: ABS 5206

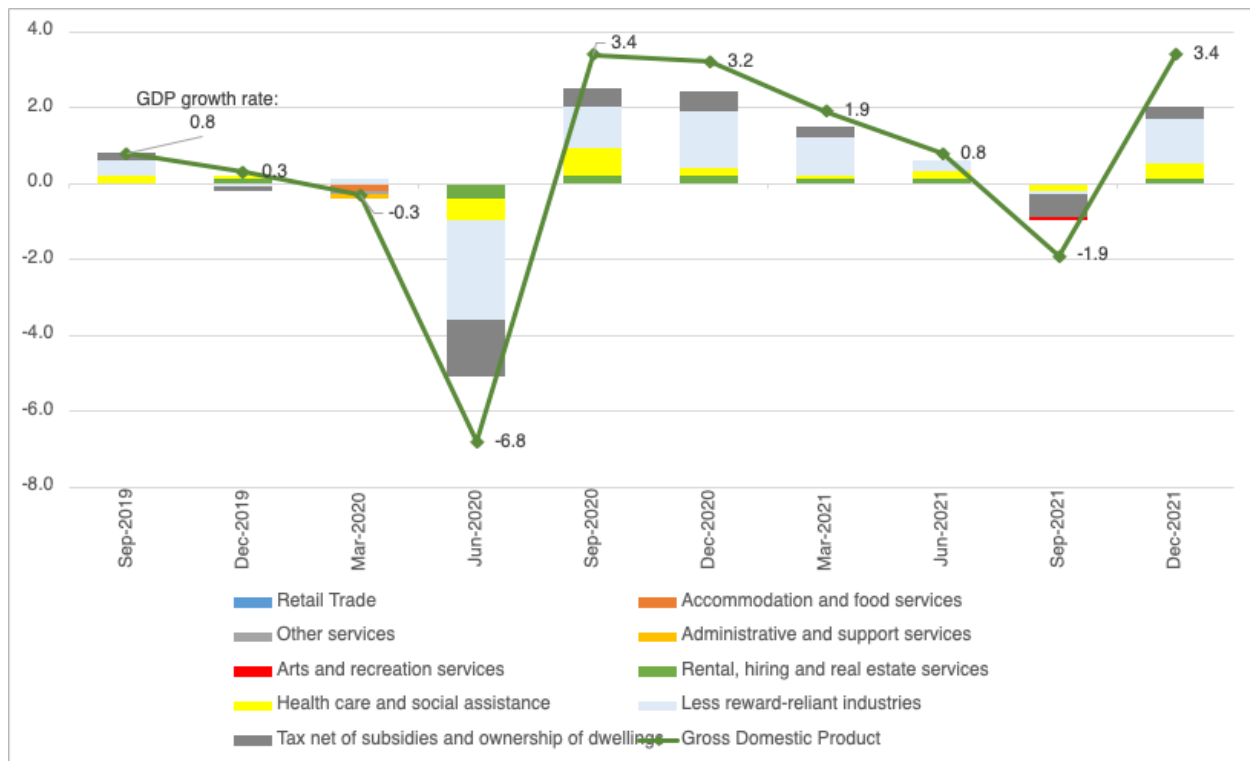
77. Household consumption is the dominant driver of healthy GDP growth. This underlines the importance of a fair increase in minimum wages to sustain recovery. Without it the acute problem of falling real wages would persist at best and deteriorate at worst, likely leading to

slower household consumption, lower business sales, and a slowdown in the recovery. It would also do nothing to address underlying causes of inflation.

3.4 Growth by industry

78. The more award reliant industries outside of health care and social assistance and rental, hiring and real estate services made only a small contribution in recent years to the overall growth of GDP, relative to other industries. This can be seen in Figure 24 below, with many industries too small to be discernible at this scale.

Figure 24: GDP growth and industry contributions to GDP growth (selected industries, 2019-2021)

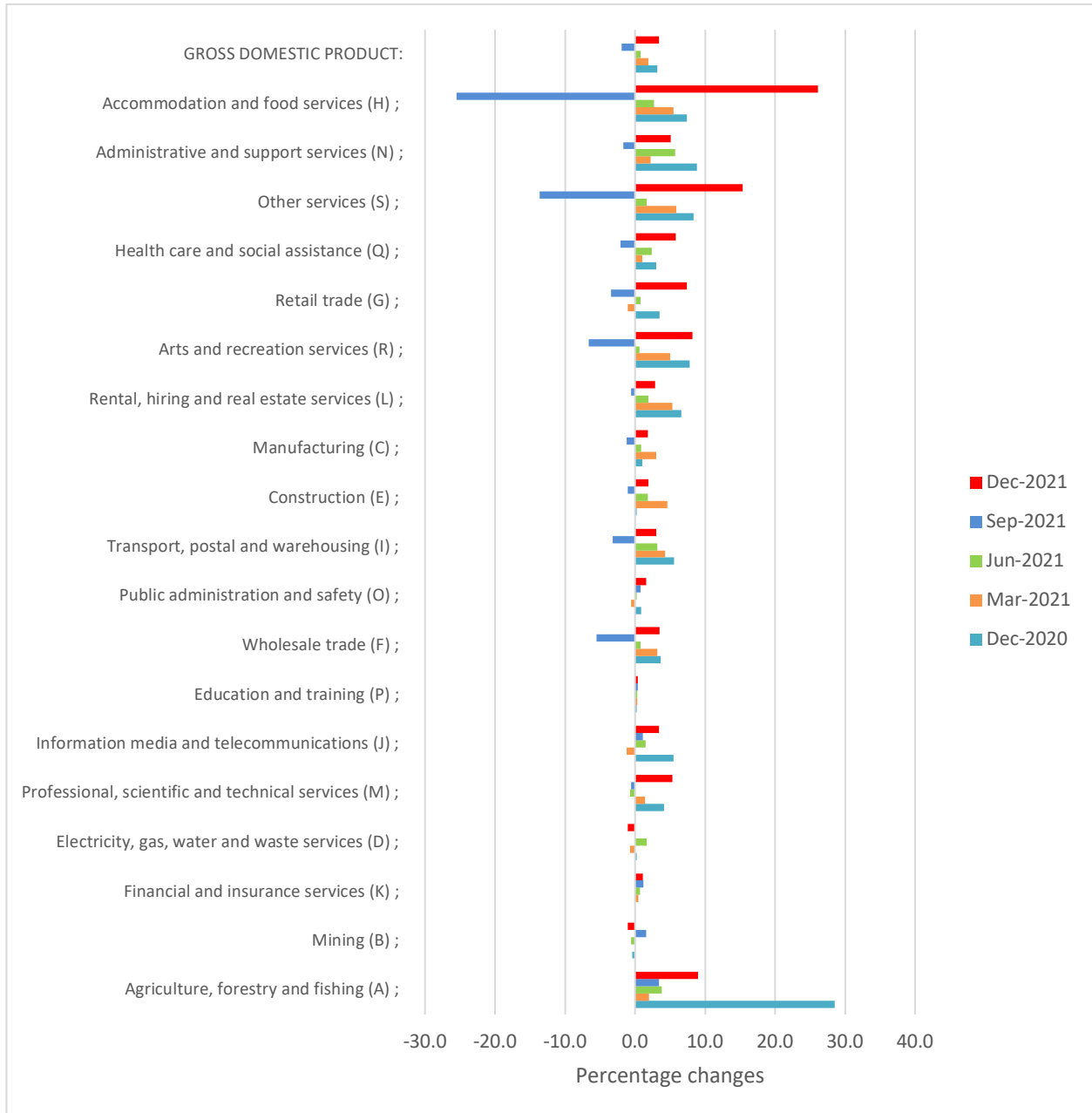


Source: ABS 5206

79. The more award reliant industries tended to follow their growth in the December 2020 quarter with further growth in three of the quarters to December 2021, with the September Quarter

results presumably reflecting temporary COVID trading restrictions in the more populous States. This is shown in Figure 25 below.

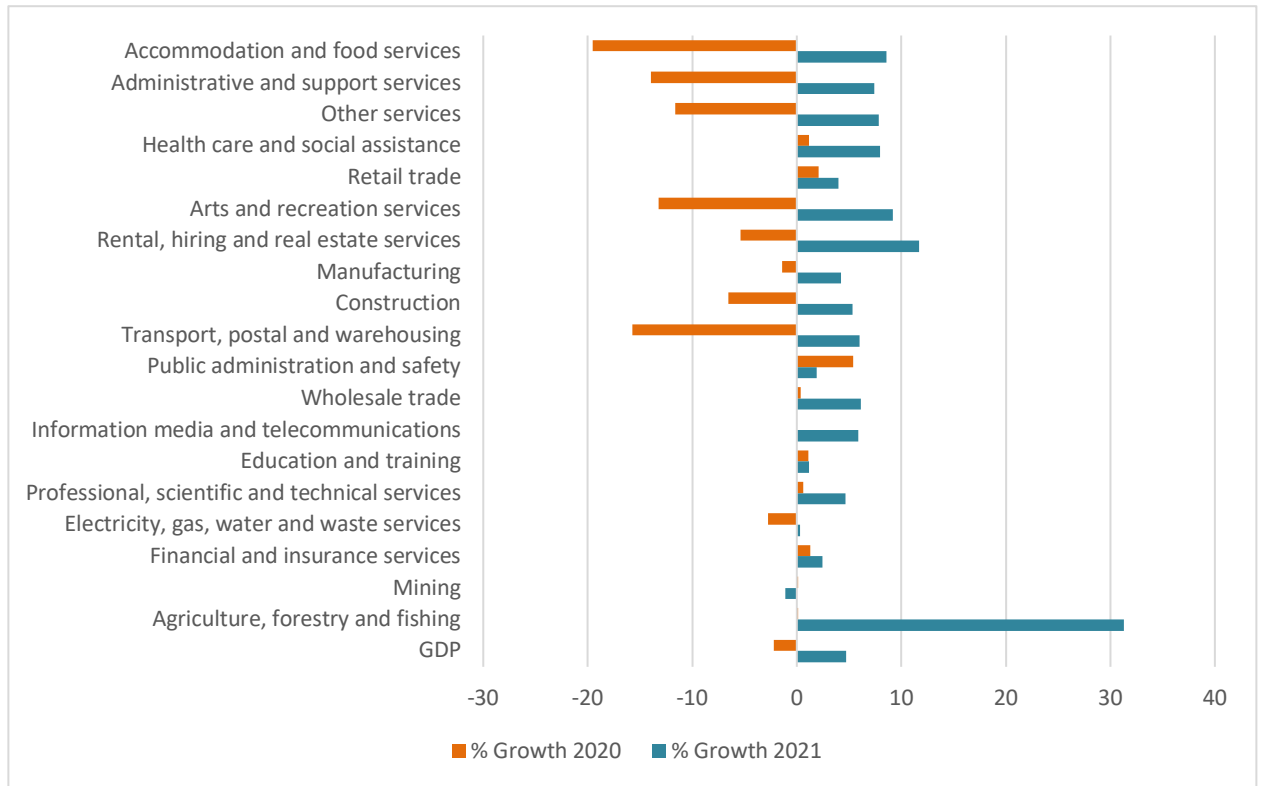
Figure 25: Quarterly GVA growth by industry (Dec 2019-21), ranked by density of award reliance



Source: ABS 5206 (chain volume, seasonally adjusted)

80. The net position over the year in the more award reliant industries was a return to growth or stronger growth in the year to December 2021 compared to the year to December 2020, as seen in Figure 26 below. Only the mining industry saw a reduction over 2021.

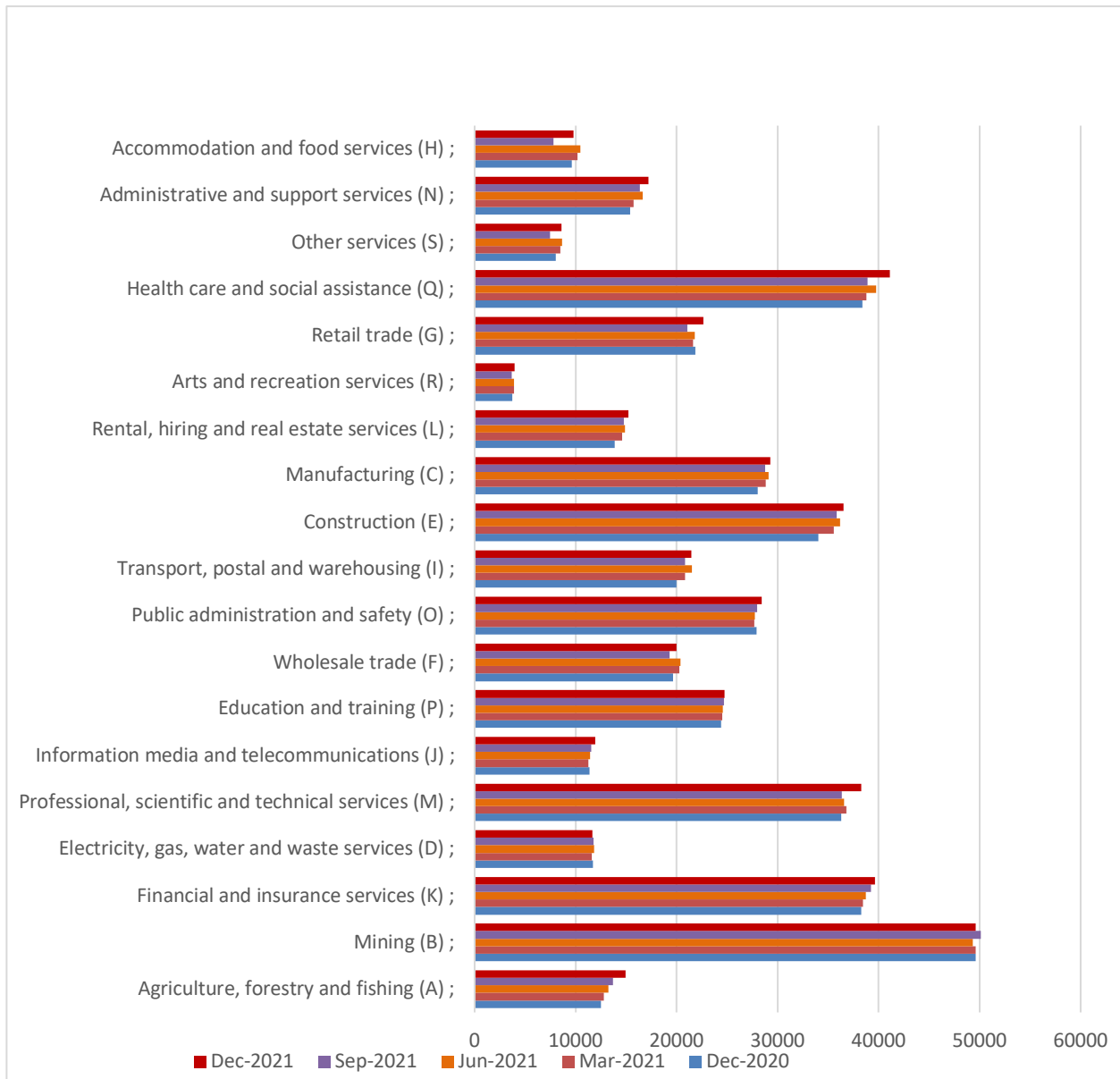
Figure 26: Growth in GVA by industry, 2020-21



Source: ABS 5206 (chain volume, seasonally adjusted)

81. The underlying levels of production value are shown on a quarterly basis in Figure 27, giving some perspective of the scale of negative movements in the September quarter and the subsequent rebound.

Figure 27: Quarterly GVA by industry (Dec 2020-21)



Source: ABS 5206 (chain volume, seasonally adjusted)

82. Comparison between the award reliant industries shown in Figure 27 and Figure 37 reveals that the sales to wage ratios remained stable or improved between the March quarter and September quarter, suggesting that the fluctuations in demand experienced over this period indicated by changes in GVA did not result in an incapacity to pay wages (even in the absence of the JobKeeper subsidy). Rather, as we have often observed, the flexible labour models used in these industries

allow such fluctuations to be managed by business, although they have detrimental impacts on the stability of employee household incomes.

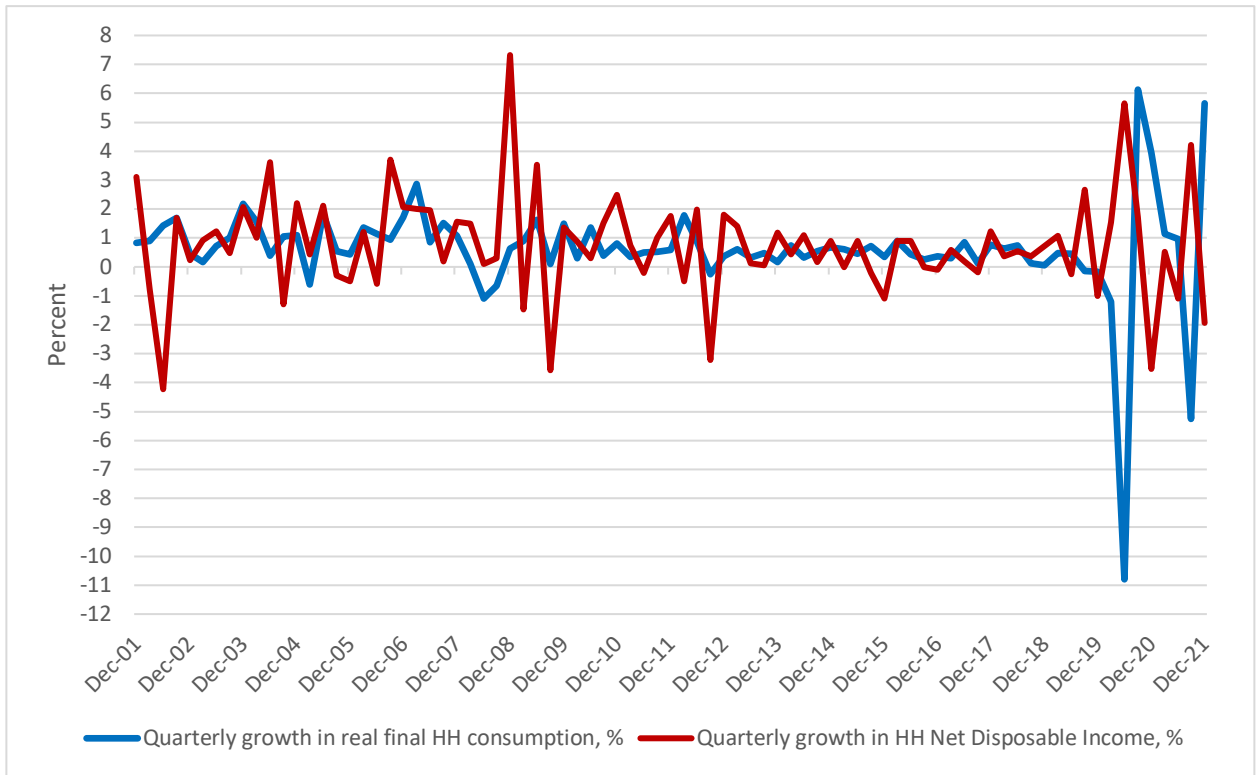
3.5 Consumption

83. As noted above, Government restrictions, including “lockdowns” in response to the COVID-19 pandemic have negatively affected household consumption in 2020 and 2021⁴³, with a resurgence in consumer spending after the easing of such restrictions. Outside of national accounts measures, the ABS has used aggregated bank data to show that while discretionary spending declined at the commencement of lockdowns in Victoria, it rebounded almost immediately upon their ends.⁴⁴ The exceptionally strong rebound growth in consumption in the December 2021 quarter national accounts is consistent with this pattern, coinciding with a period that many states emerged from restrictions. Vaccination rates (including third dosage) increased in early 2022 and with measures such as lockdowns no longer forming part of the national or state-based response, it can reasonably be expected that these effects will be less present during 2022. Household consumption figures bear out this proposition.
84. The real growth in household consumption shown in Figure 28 shows that after a period of relatively little variance, household consumption has been more volatile since the start of the COVID-19 pandemic, but that this has always involved strong rebounds following any negative impacts on growth.

⁴³ ABS, December 2021, *Impact of lockdowns on household consumption - insights from alternative data sources*, <https://www.abs.gov.au/articles/impact-lockdowns-household-consumption-insights-alternative-data-sources>

⁴⁴ ABS, December 2021, *Impact of lockdowns on household consumption - insights from alternative data sources*, <https://www.abs.gov.au/articles/impact-lockdowns-household-consumption-insights-alternative-data-sources>

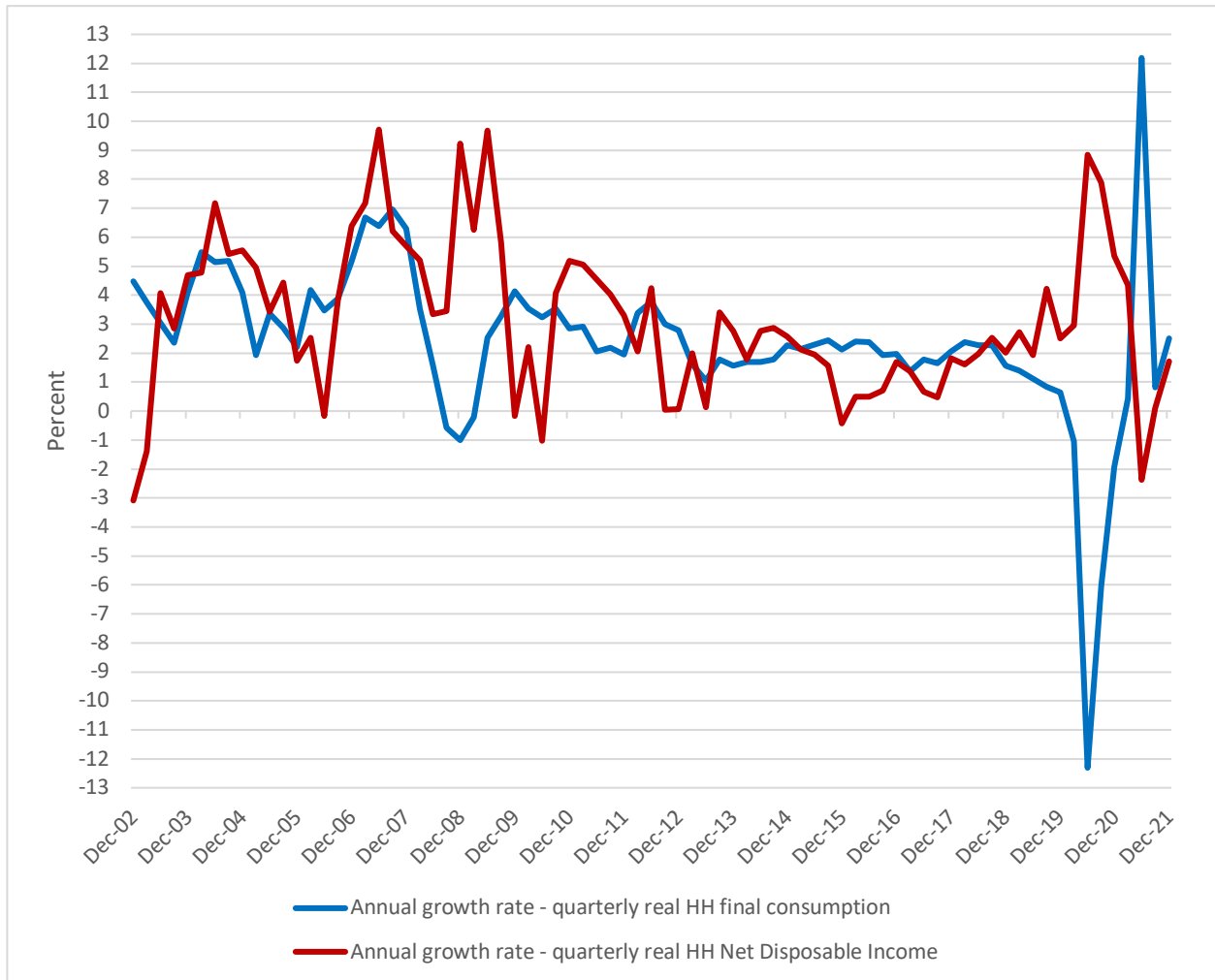
Figure 28: Quarterly growth in real household consumption and real household net disposable income, %



Source: ABS 5206, 6401

85. The gap between real consumption and real income is more discernible when viewed on an annualised basis, as shown in Figure 29 below.

Figure 29: Annualised growth in quarterly real household consumption and real household net disposable income, %



Source: ABS 5206, 6401

86. Together Figure 28 and Figure 29 show that during the pandemic and in the recovery phase, household spending has fluctuated, and grown, at a greater rate than household net disposable income and that in the 12 months to December 2021 the former thoroughly outpaced the later. The recent fall in the household savings ratio (from 19.8% to 13.6%) also provides support for this proposition, insofar as it demonstrates the reduction in the spending capacity of working people that accompanies growth in actual spending. A continuing trend of increasing household spending, unsupported by increasing household income and at the expense of household savings, would not be sustainable - but could be addressed by real wages growth.

87. In our view the Panel should view rising household consumption as supporting an increase to the minimum wage in the terms sought by the ACTU for at least two reasons:
- a. The growth in household spending has supported award-reliant industries in their recovery and rebound from the effects of the COVID-19 pandemic; and
 - b. An increase in real wages is necessary to ensure that continued growth in household spending is sustainable, especially as the impact of improved household savings during lockdowns fades over time.

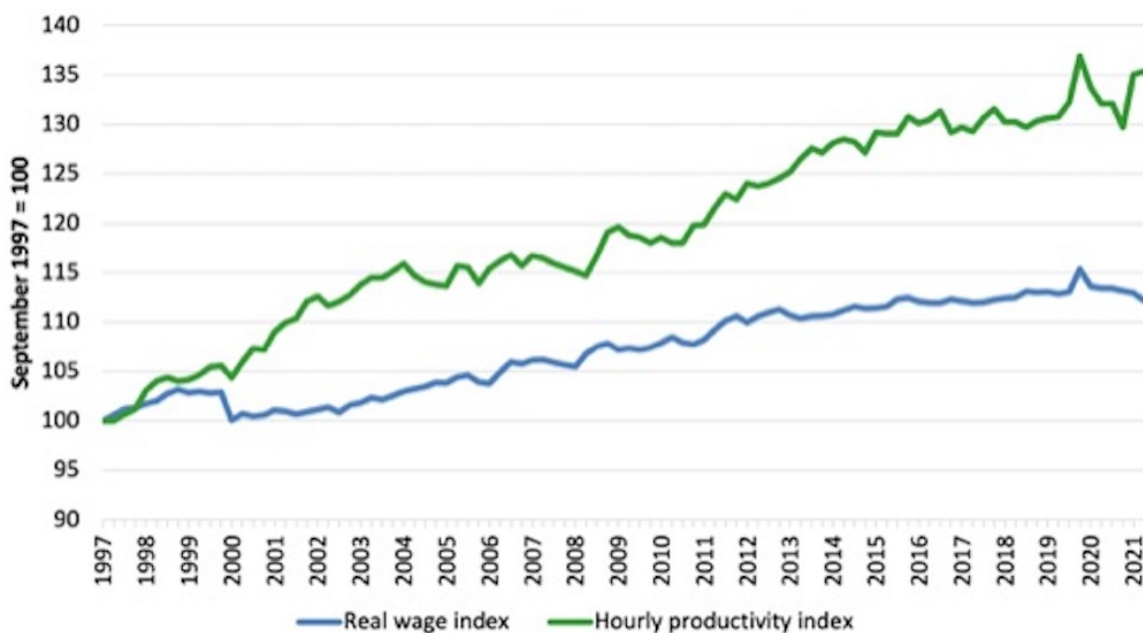
3.6 Productivity

88. Productivity estimates year to year are volatile, and the Panel has often recognised that labour productivity is best measured over the course of a productivity cycle.⁴⁵ There were sound reasons to be particularly cautious of short run productivity measurements in last year’s data, given the distorting effects of the 2020 lockdowns, including impact of a decline in hours worked on capital deepening. The most that can be said of the recent estimates for growth to December quarter 2021 of 2% in both GDP per hours worked and GVA per hours worked is that they are above the average annual growth typical of the current cycle (as set out in Chart 2.2 of the statistical report) and might suffer less from those distortive effects given the scale and duration of restrictions over 2021 was less than was the case in 2020. We are inclined to agree with the Productivity Commission’s assessment in its “Productivity performance dashboard” that both current labour productivity growth and the five-year average (0.91 per cent) are “typical”.⁴⁶ The 2022-23 Budget similarly states that underlying labour productivity is assumed to converge over a 10-year period to the average growth rate in labour productivity over the 30 years to 2018-19 of 1.5 per cent per annum.
89. While productivity growth has been modest, it continues to outpace almost glacial real wage growth. This worrying decoupling of wages growth from productivity growth over the long term sees workers receive a declining share of national income. This is shown in Figure 30 below, which plots real private sector wages as measured by the wage price index (deflated by CPI) against real GDP per hour worked.

⁴⁵ [2019] FWCFB 3500 at [100] ; [2021] FWCFB 3500 at [98].

⁴⁶ <https://www.pc.gov.au/research/ongoing/productivity-performance#dashboard>, accessed 24 March 2022.

Figure 30: Indexes of real private sector wages and real labour productivity, 1997-2021



Source: Reproduced from Mitchell, B., [“Australia – Workers endure on-going real wage cuts as corporate profits soar”](#), 24/2/2022.

90. The disparity between real wages and real productivity is indicated by the growth of around 12% of real private sector wages compared to the growth of around 35% in real GDP per hour worked over the period shown. Whilst the 2020 (and, to a lesser extent, 2021) measures of productivity may be unreliable, as discussed above, there is no doubt that the recent decline in real wages is also contributing to a growing gap.

91. Commencing on Budget night and continuing through the forward estimates period, there are greater incentives for employers to invest in technology and skills – real drivers of productivity improvements. These come in the form of additional tax deductions for employers with annual turnovers of less than \$50 million, announced in the 2022-23 Budget.⁴⁷ In relation to skills, employers will be able to claim an extra 20% of the cost of external training for their employees (delivered in person or online by a registered training organisation). In relation to technology,

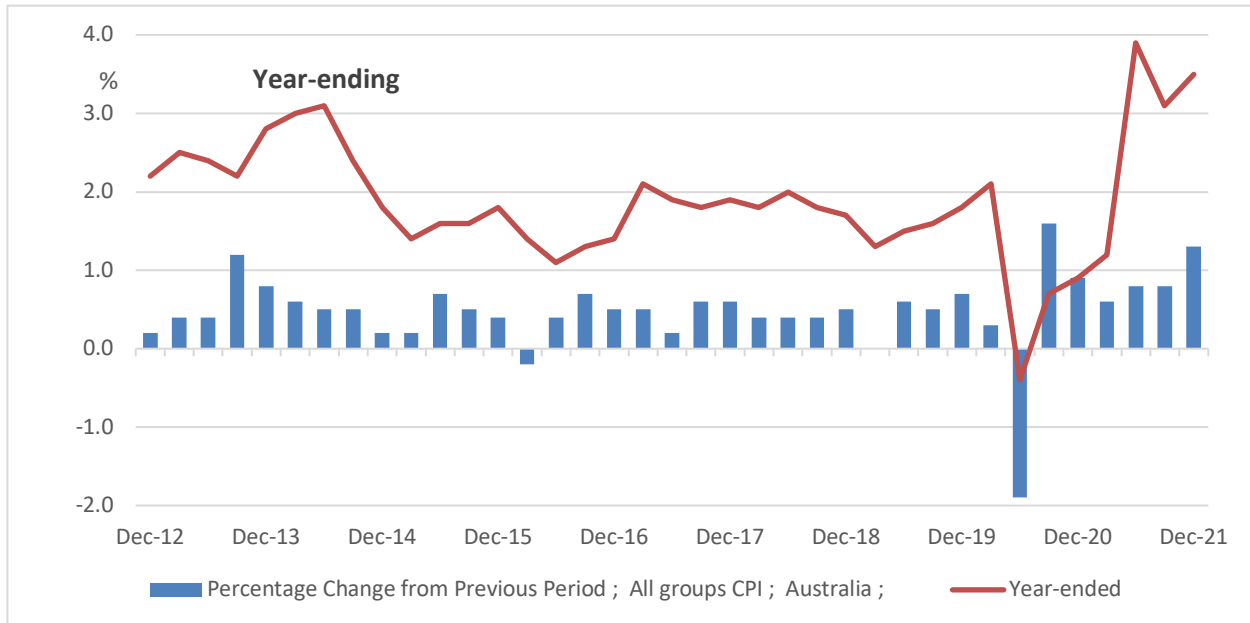
⁴⁷ Commonwealth Treasury, “Budget 2022-23, Budget Paper No.2”, at page 26-27.

employers will be able to claim an extra 20% deduction on assets and expenses (up to \$100,000 per income year) that support their adoption of digital technologies. The deductions for expenses incurred under either of these initiatives in the period 29 March -30 June 2022 will be claimed in returns for the 22-23 year. Following that, deductions may be claimed in the years in which they are incurred. Budget papers do not indicate whether legislation is required to implement these initiatives.

3.7 Inflation

92. At the time the Panel made its decision last year, it noted that CPI had been volatile but was predicted to increase and peak at between 3.25% and 3.5% over the year to June 2021, and to fall to around 1.75% in the year to December 2021 and the year to December 2022.⁴⁸ Much of the volatility was attributed to transient factors, particularly rises and falls in automotive fuel and childcare. However as can be seen from Figure 31 below, CPI inflation has risen faster than predicted and risen strongly over the last 6 quarters.

Figure 31: CPI All Groups (original series)



Source: ABS 6401

⁴⁸ [2021] FWCFB 3500 at [33]-[24], [42], [111]-[122]

93. In its media statement accompanying the release of the December quarter CPI, the ABS noted that annual CPI rose 3.5%, with the biggest drivers being automotive fuel (with both the September quarter and December quarter rises breaking records) and new dwellings. However, prices of goods rose generally by 4.3% over the year (the highest since 2008), contributed to by fuel and freight costs, high demand and supply disruptions and shortages.⁴⁹ The ABS also noted that annual inflation for non-discretionary goods and services (essentials that households are less likely to reduce their consumption of, such as food, petrol, housing and health expenses) at 4.5% is not only higher than annual CPI growth (3.5%), but twice the annual inflation rate for discretionary goods and services (1.9%). This not only means the cost of essentials is rising twice as fast as non-essentials, but that households' ability to realistically reduce inflation by cutting demand in the event of further real wage cuts and low nominal wages growth is limited. This issue is discussed further in Chapter 5.
94. In our view, inflation is becoming more widespread and is not transitory. This is seen in measures of underlying inflation, with the ABS reporting trimmed mean and weighted median inflation measures both above 2% in the year to September 2021 and in the year to December 2021 and commenting that "annual trimmed mean inflation is the highest since 2014, reflecting the broad based nature of price increases, particularly for goods".⁵⁰ In fact, all but one of the annual volatility correcting measures of the RBA's consumer price inflation series were above 2% for at least both those quarters, as seen in Table 5 below, suggesting inflation is within the RBA's target band.

⁴⁹ [ABS Media Statement](#), 25/1/2022

⁵⁰ [ABS Media Statement](#), 25/1/2022

Table 5: RBA measures of inflation, annual change (%)

	All CPI groups excluding interest and tax changes of 1999-2000	All CPI groups excluding volatile items	CPI Tradeables excluding volatile items and tobacco	CPI Weighted Median	CPI Trimmed mean
June 2021	3.8%	3.1%	1.2%	1.7%	1.6%
September 2021	3.0%	2.5%	0.8%	2.2%	2.1%
December 2021	3.5%	2.6%	2.2%	2.7%	2.6%

Source: RBA

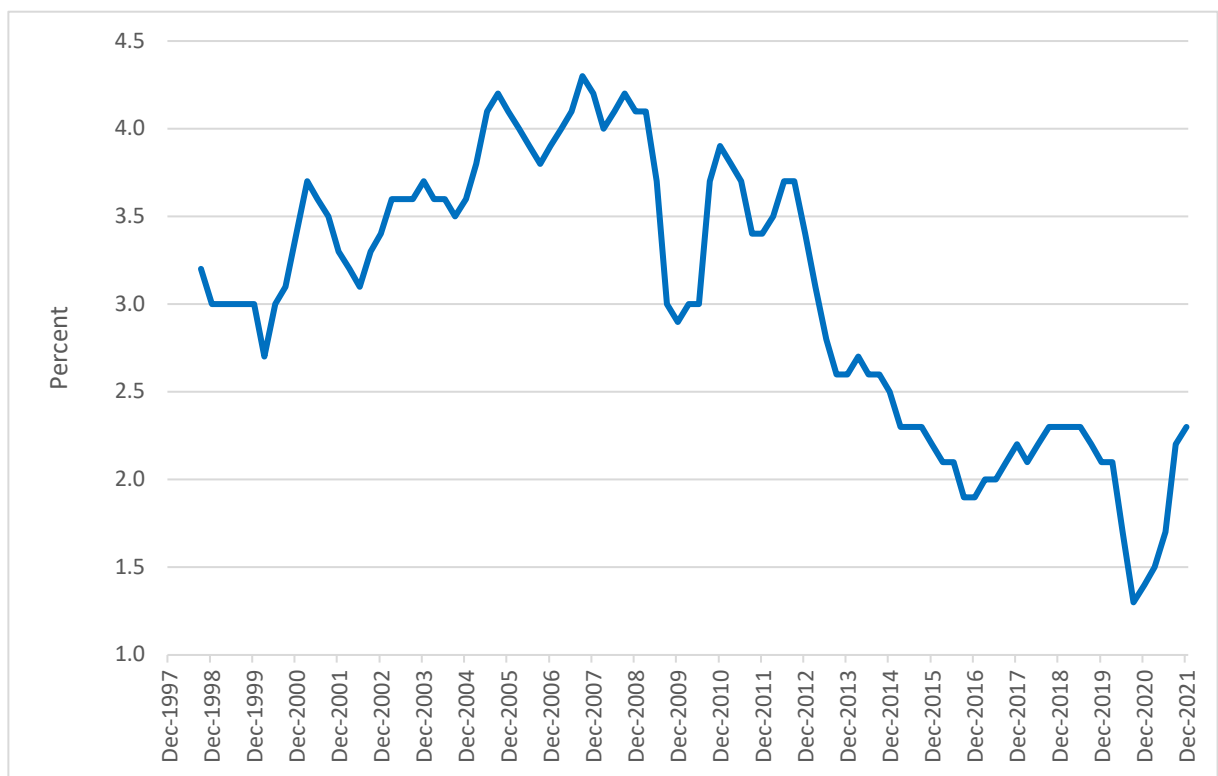
95. Fuel prices, which have risen for the 6th quarter in a row, are a continuing concern, particularly in the wake of the Russian invasion of Ukraine in late February. The consequential supply chain disruptions and sanctions are affecting petrol prices globally and domestically. As at 8 March, global oil prices had already risen considerably, with Brent crude oil prices spiking at \$139 USD per barrel and West Texas Intermediate breaching \$130 USD per barrel before easing off later in March. High and rising oil prices are a potentially significant inflation risk for Australian workers, driving not only higher retail petrol prices for motorists, but lifting prices for all goods and services where oil is a significant input, from transport and logistics (including food transportation) to plastics and other petroleum-embedded manufactured goods.
96. One factor that is not driving current inflation is labour costs, with real unit labour costs never fully rebounding from 2020 lows as seen in Chart 2.3 of the statistical report and resuming their decline in the year to December, falling by 0.3%.⁵¹

⁵¹ ABS National Accounts, December Quarter 2021.

3.8 Wages

97. Whilst the drop in the wage price index in 2020 associated with the onset of the pandemic and initial lockdowns has reversed, current levels of wage growth remain at historically low levels, as seen in Figure 32 below. With the wage price index growing 2.3% over the year to December 2021 relative to 3.5% for inflation, real wages have fallen by 1.2%. In the December quarter alone, real wages fell by 0.6% as the wage price index moved 0.7% against CPI growth of 1.3%.

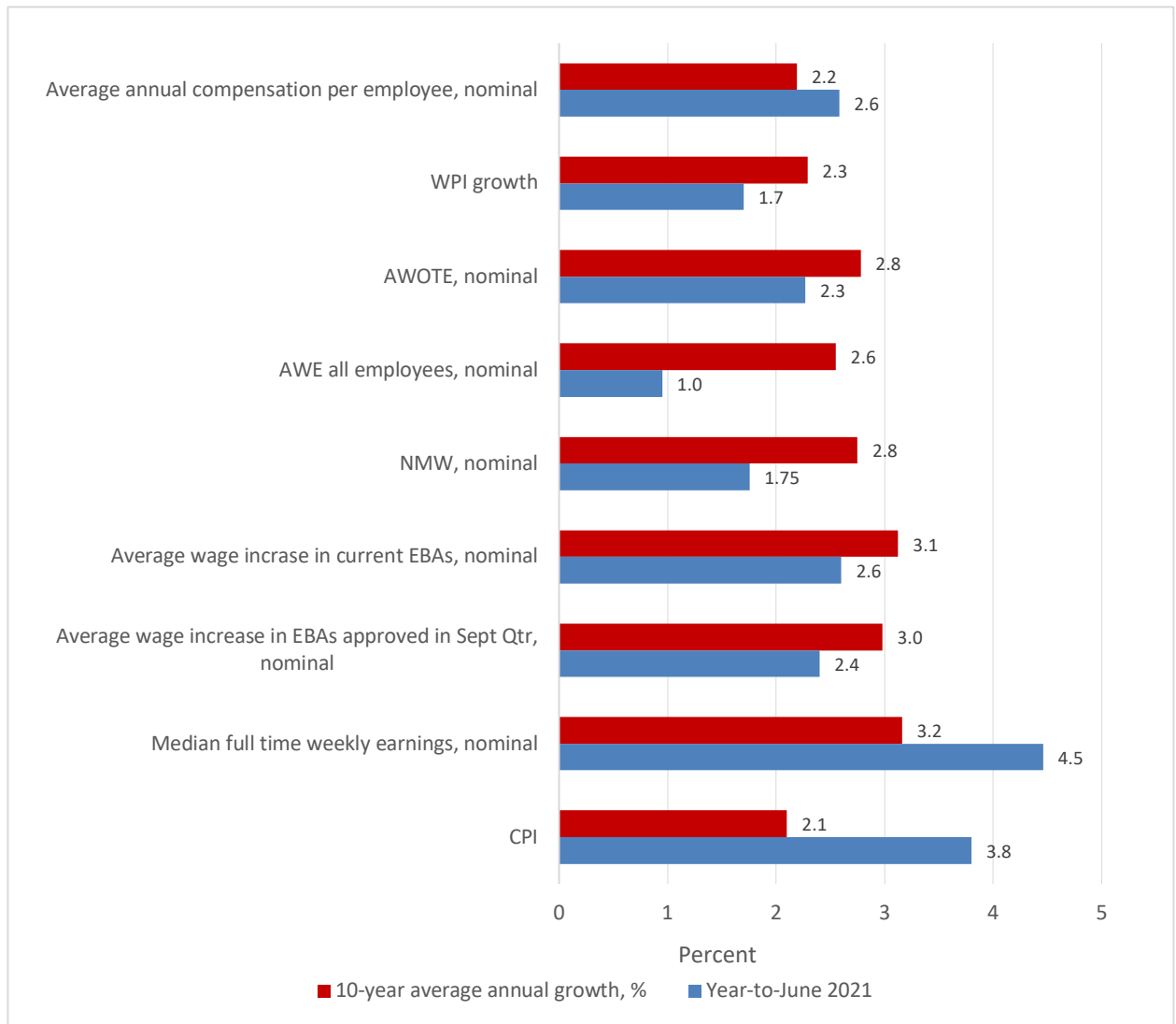
Figure 32: WPI - all sectors (excluding bonuses), annual growth (seasonally adjusted), 1997-2021



Source: ABS 6345

98. Figure 33 below compares various measures of wages to the June quarter 2021, to align more closely with the Panel's cycle. It is notable that outside of the full-time median earnings measure, there was no evidence of real wage growth through the year and that most measures remain below their ten-year averages. This gives a sense of just how much workers had lost coming into the 2021-22 year, and how little the 2021 decision did to make up for lost ground given the likely CPI outcome at the end of June 2022.

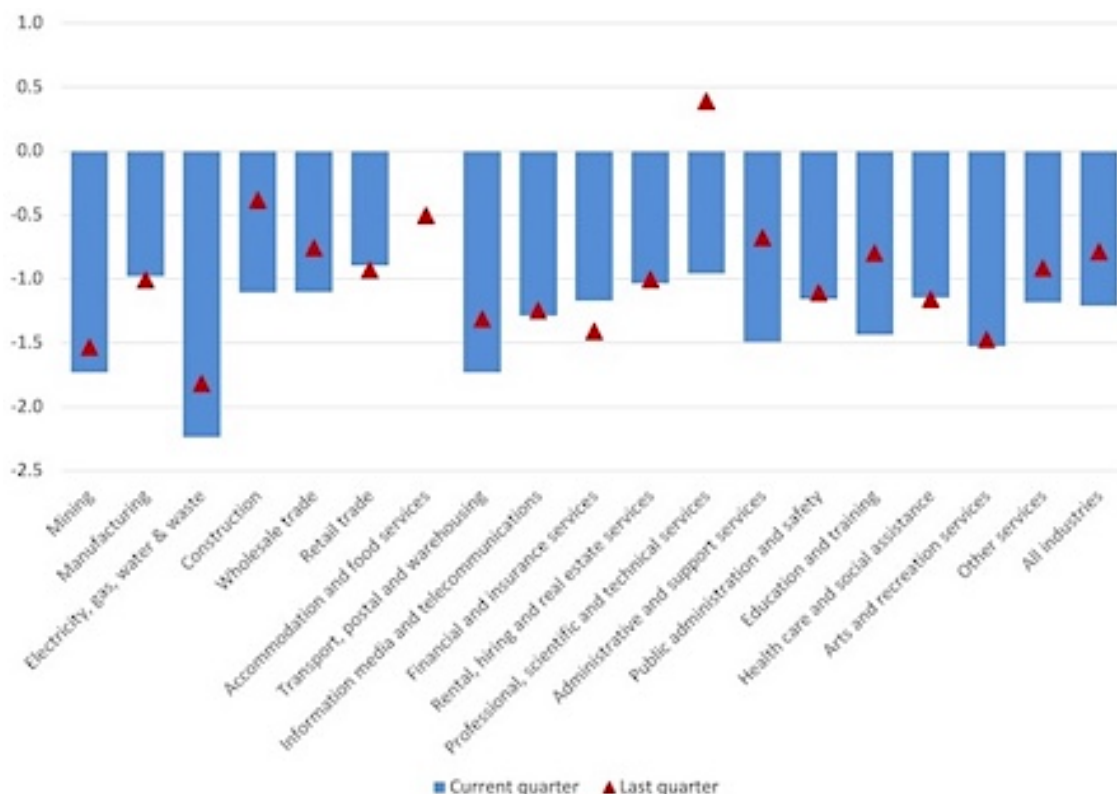
Figure 33: Various measures of wages growth, year to June 2021 (%)



Source: ABS 5206, 6345, 6302, 633, 6401; Attorney Generals Department

99. Around a decade ago popular discourse on wages in Australia was dominated by claims of a looming wages “breakout”, with evidence of this being almost entirely derived from the resources sector and associated construction activities relevant to the sector and viewed in isolation of other contextual measures. Looking at the latest wage movements 2021, the headline figure is not being pulled down by a handful of sectors. Rather, no sector is delivering real wage growth, as seen in Figure 34 below.

Figure 34: Real wage movements by industry (%), September and December Quarter 2021



Source: Reproduced from Mitchell, B., [“Australia – Workers endure on-going real wage cuts as corporate profits soar”](#), 24/2/2022. “Current quarter” refers to December quarter 2021, “Last quarter” refers to September quarter 2021. The lack of a current quarter bar for the Accommodation and food services industry is the result of it recording no change in real wages.

100. Ongoing real wage reductions could threaten the economic recovery, especially as fiscal support associated with the COVID response is withdrawn, in circumstances where the economy relies on continued robust household consumption to sustain economic growth. Professor William Mitchell, Emeritus Professor of Economics at Newcastle University, has suggested in response to the December Quarter Wage Price Index figures that “there can be no sustained recovery for the recovery post COVID without significant increases in the current rate of wages growth”.⁵²

⁵² Mitchell, B., [“Australia – Workers endure on-going real wage cuts as corporate profits soar”](#), 24/2/2022.

101. The 2022-23 Budget forecasts nominal wage growth (measured by growth in the Wage Price Index) will rise from the current 2.3 per cent for the year to the December 2021 to 2.75 per cent for the year to June 2022, followed by 3.25 per cent for the years to June 2023 and 2024 respectively and 3.5 per cent for the years to June 2025 and 2026 respectively. The Budget also forecasts headline inflation of 4.25 per cent through the year to June 2022 (up from 3.5 per cent for the year to December 2021), followed by 3 per cent for the year to the June quarter of 2023, 2.75 per cent for the year to the June quarter of 2024 and the year to the June quarter of 2025 respectively, and 2.5 per cent for the year to the June quarter of 2026.
102. This means workers will suffer an even larger real wage reduction of 1.5 per cent for the year to June 2022 than the 1.2 per cent real wage cut recorded for the year to December 2021 (the 1.5 per cent real wage cut for the year to June 2022 follows a 2.1 per cent real wage cut for the year to June 2021). It will take a full further 12 months for workers to receive a mere 0.25 per cent real wage increase by the June quarter of 2023, and another 12 months to receive a further real wage increase of 0.5 per cent by the June quarter of 2024. Real wage growth then rises to 0.75 per cent in the year to June 2025, before we finally see real wage growth of just 1 per cent in the year to June 2026. In other words, on Treasury's current projections, by the time the fall in real wages has bottomed out, workers will have suffered real wage cuts totalling 3.6 per cent in the two years to June 2022. It will then take another four years for workers to accrue real wage growth totalling less than that, at just 2.5 per cent. Cumulative growth in CPI from 2020-21 to 2025-26 is 19.05 per cent based on the forward estimates, while cumulative growth in the Wage Price Index is only 17.95 per cent for the same period, implying a -1.1 per cent growth rate in real wages in the period between 2020-21 and 2025-26. Real wages have fallen further and faster in the past two years, and the modest "recovery" projected in the next four years is both far slower and ultimately smaller.
103. As noted in our previous submissions, we remain of the view that wage increases play a role in stimulating aggregate demand and ultimately employment. Quite apart from the negative impacts of low pay and rising living costs as discussed in our consideration of the needs of the low paid in Chapter 5, the Panel is required to take into account the likely *impacts* of the exercise

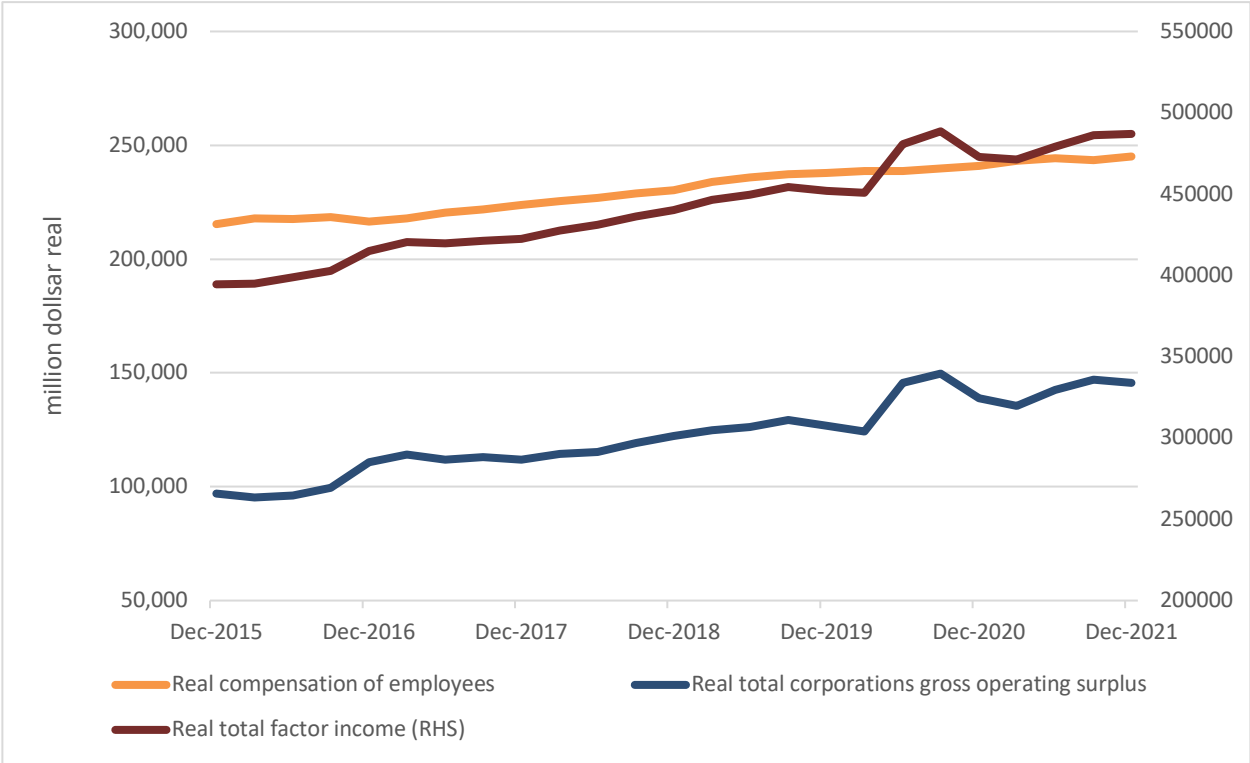
of its power to vary modern award minimum wages on business, employment growth and the sustainability, performance and competitiveness of the national economy.⁵³ Failing to deliver much needed real wage growth would in our view risk undesirable impacts in this regard.

3.9 Profits

104. Following the COVID related disruptions of 2020 and 2021 the wages vs. profits share of income appears to be settling at a level where the long-term trend decline in the wage share in favour of profits is continuing, if not accelerating. This can be seen in Chart 3.1 of the Statistical Report. In Figure 35 below we express the underlying volumes in real terms, revealing that the pattern of gains to profits mimics the gains to total factor income, while gains to employee wages have been relatively flat over the last 2 years. This is also related to the decoupling of productivity growth to wages growth discussion above.

⁵³ *Fair Work Act 2009*, s. 134(1)(f) and (h).

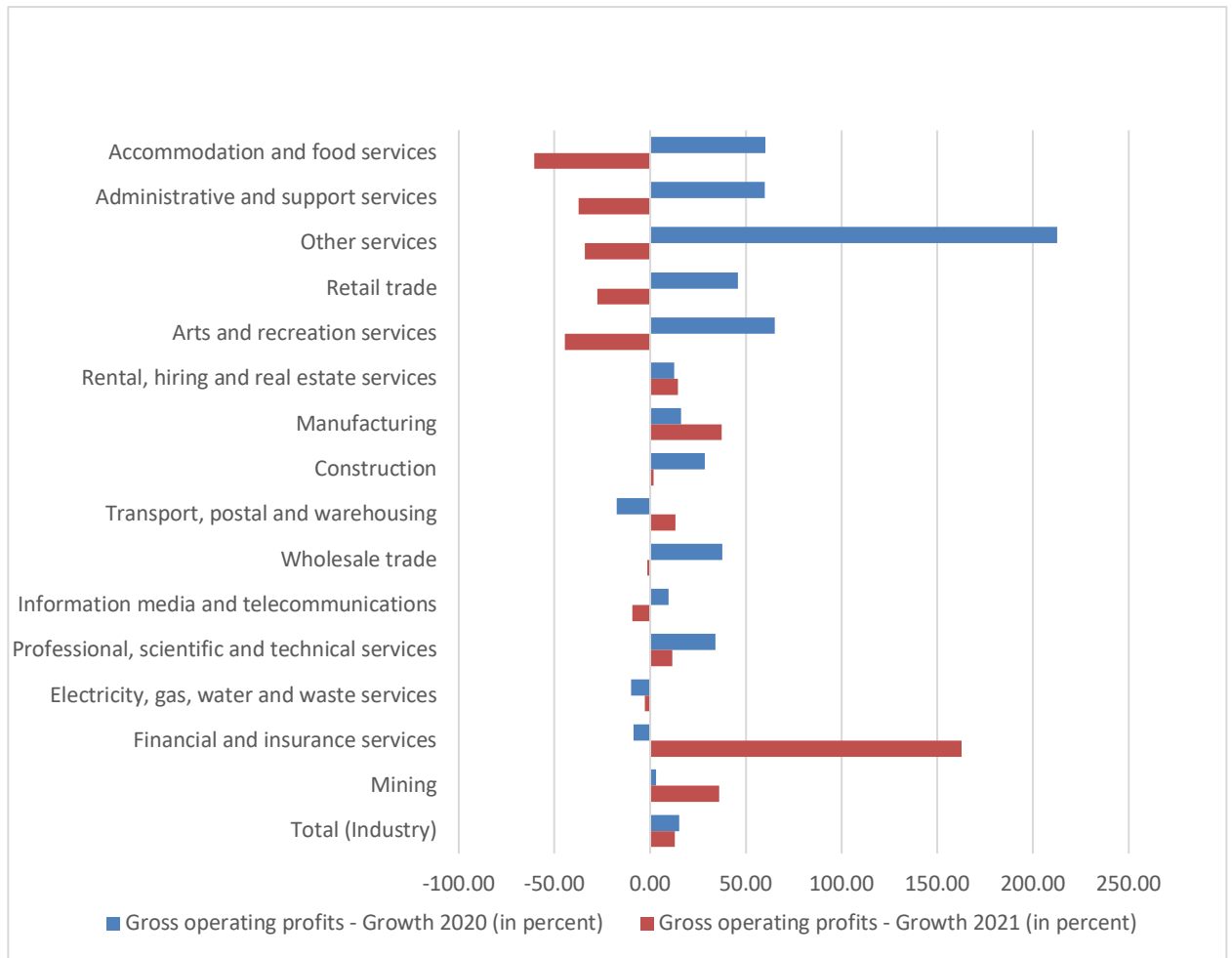
Figure 35: Real total factor income, total compensation of employees and total gross operating surplus, quarterly (seasonally adjusted) \$ million (December 2006 = 100)



Source: ABS 5206

105. Industry profiles of profit growth as shown in Chart 3.2 of the Statistical report and in Figure 36 below tend to reflect the unwinding of the impact of government supports in 2020 rather than presenting a clear picture of underlying business health.

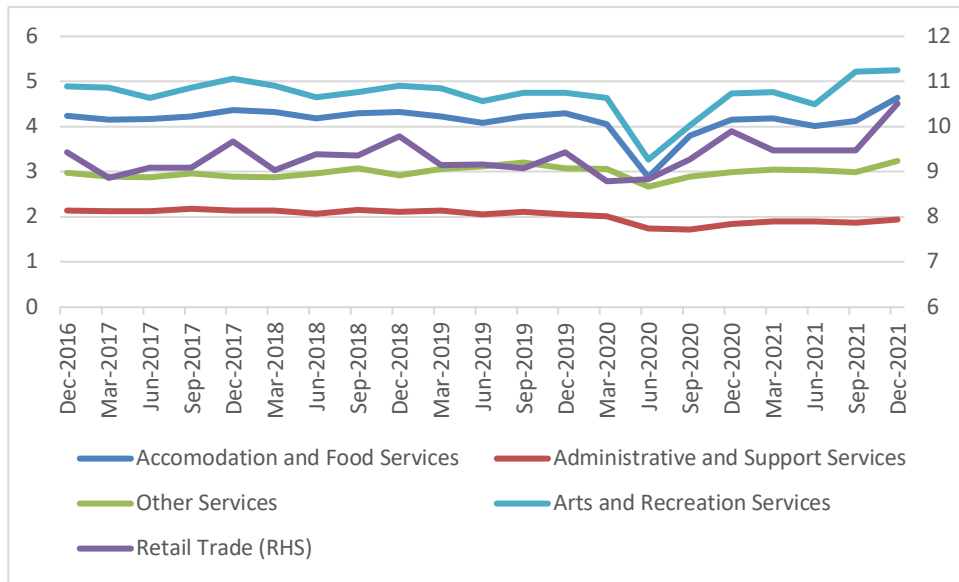
Figure 36: Growth in gross corporate operating profits, December quarter 2020-21, by industry



Source: ABS 5676, ACTU calculations

106. A different position is presented when sales to wages ratios are examined. Figure 37 below shows the sales to wages ratios of the most award reliant industries shown in Figure 36 to have experienced strong declines in profits in 2021.

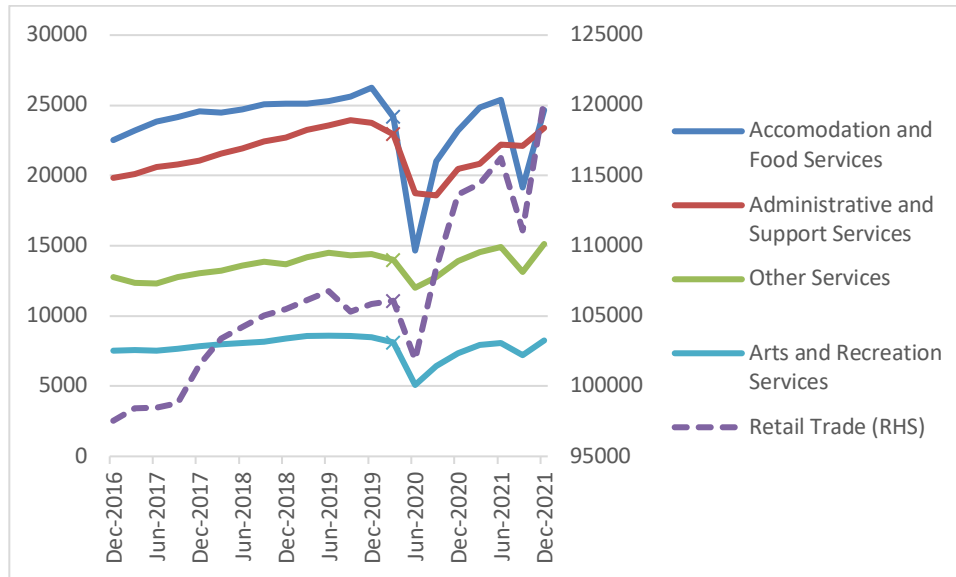
Figure 37: Sales to wages ratios, selected industries, quarterly December 2016-21



Source: ABS 5676. Data is expressed in original terms

107. Figure 37 shows the decline in sales to wages ratios in the June and September quarters 2020 associated with COVID lockdowns and their recovery thereafter. From around December quarter 2020 the retail trade sector saw elevated sales to wages ratios relative to the earlier period shown. All sectors bar Administrative and Support Services show increasing sales to wages ratios ending at quarter December 2021 at levels higher than at any other time in the last 5 years. The ratio for the Administrative and Support Services sectors is only .08 below its March quarter 2020 figure. These observations tend to confirm that wage costs are not an explanation for decline in reported profits in these sectors. Similar patterns of recovery are seen in Figure 38, which tracks seasonally adjusted income from sales of goods and services for these industries over the same period.

Figure 38: Income from sales of goods and services, current prices, quarterly December 2016-21, selected industries



Source: ABS 5676

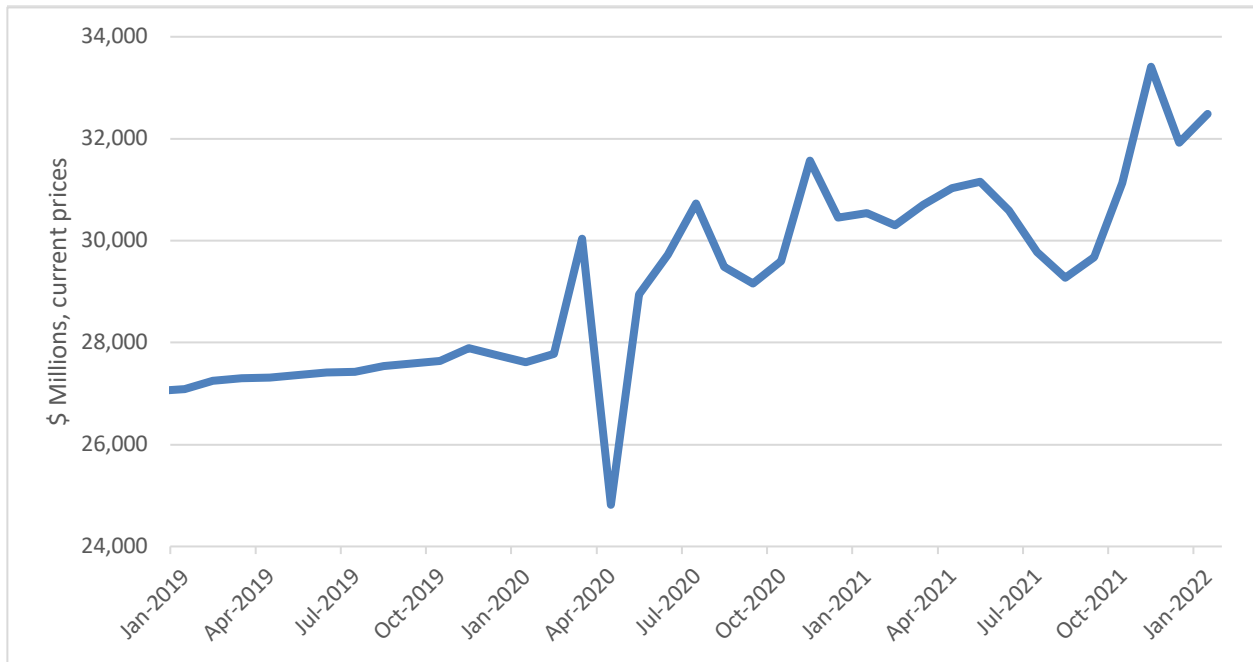
108. Measurements for the March 2020 quarter are marked in Figure 38 to assist in identifying that all industries shown have exceeded those sales incomes as at December quarter 2021. With these growing incomes, any decline in profitability is likely due rising business expenses, some of which may be investments (which have grown as shown in Figure 42 and Figure 43) or rises in input costs. As far as the latter is concerned, those rising costs may be expected to continue and lead to price increases, as noted in section 3.7 and in the minutes of the March meeting of the Reserve Bank Board.⁵⁴ The question for the Panel is the extent to which workers who have already seen declining real wages should bear the brunt of those further rising costs.

3.10 Retail performance

109. Retail performance is a relevant consideration for the Panel insofar as it serves as an indicator both of consumer spending as well as the revenue flowing to sectors that employ a relatively large share of award reliant workers. Overall retail turnover has surged since late 2021 and into 2022, with no visible “shadow lockdown” impacts evident from monthly figures to January, as seen in Figure 39 below.

⁵⁴ RBA Minutes 1 March 2022: [RBA.GOV.AU](https://www.rba.gov.au/minutes/2022/0301)

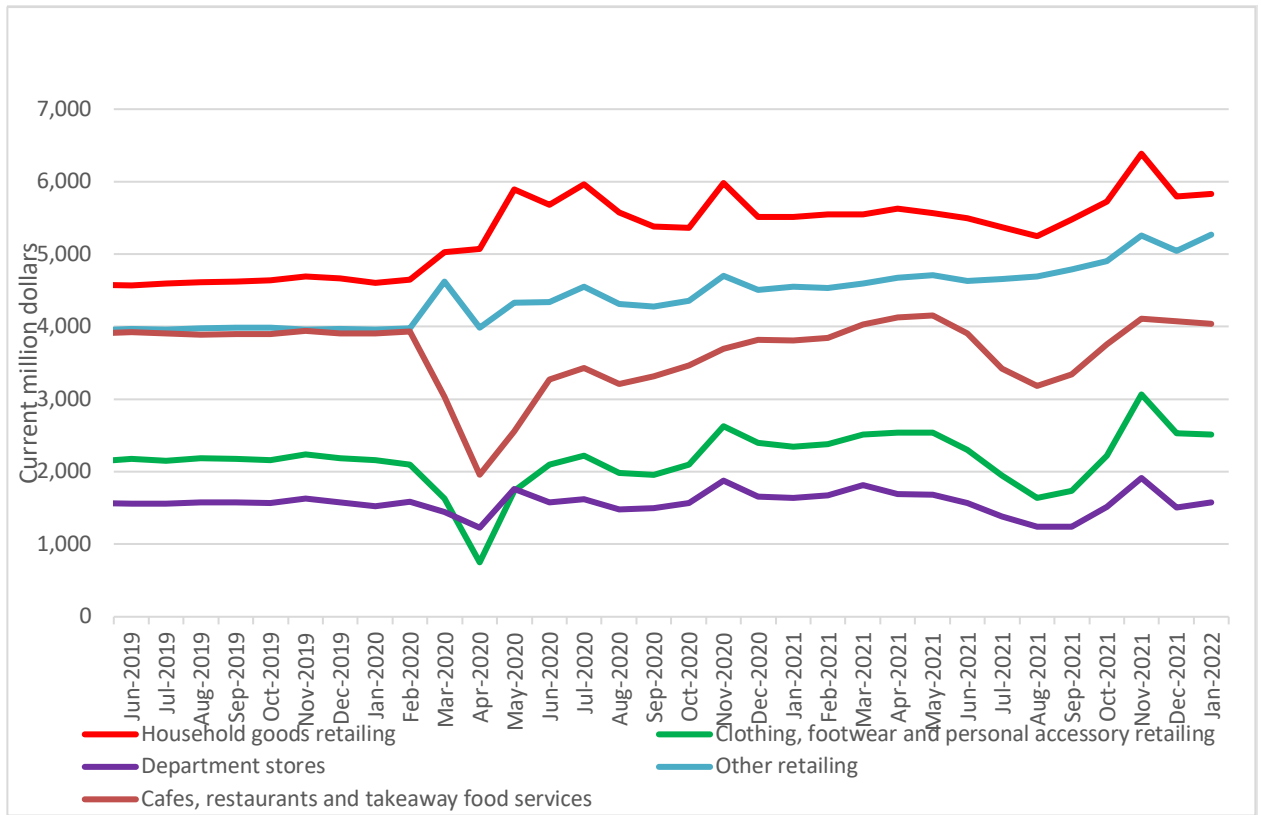
Figure 39: Total retail turnover levels, current prices, seasonally adjusted, \$ millions



Source: ABS 8501

110. Whilst there are industry differences particularly in the second half of 2021, it is clear that each of the major groups have returned to turnover levels which are ahead of, or – in the case of Café’s restaurants and takeaway food services and Department stores, on par with - their pre-pandemic levels.

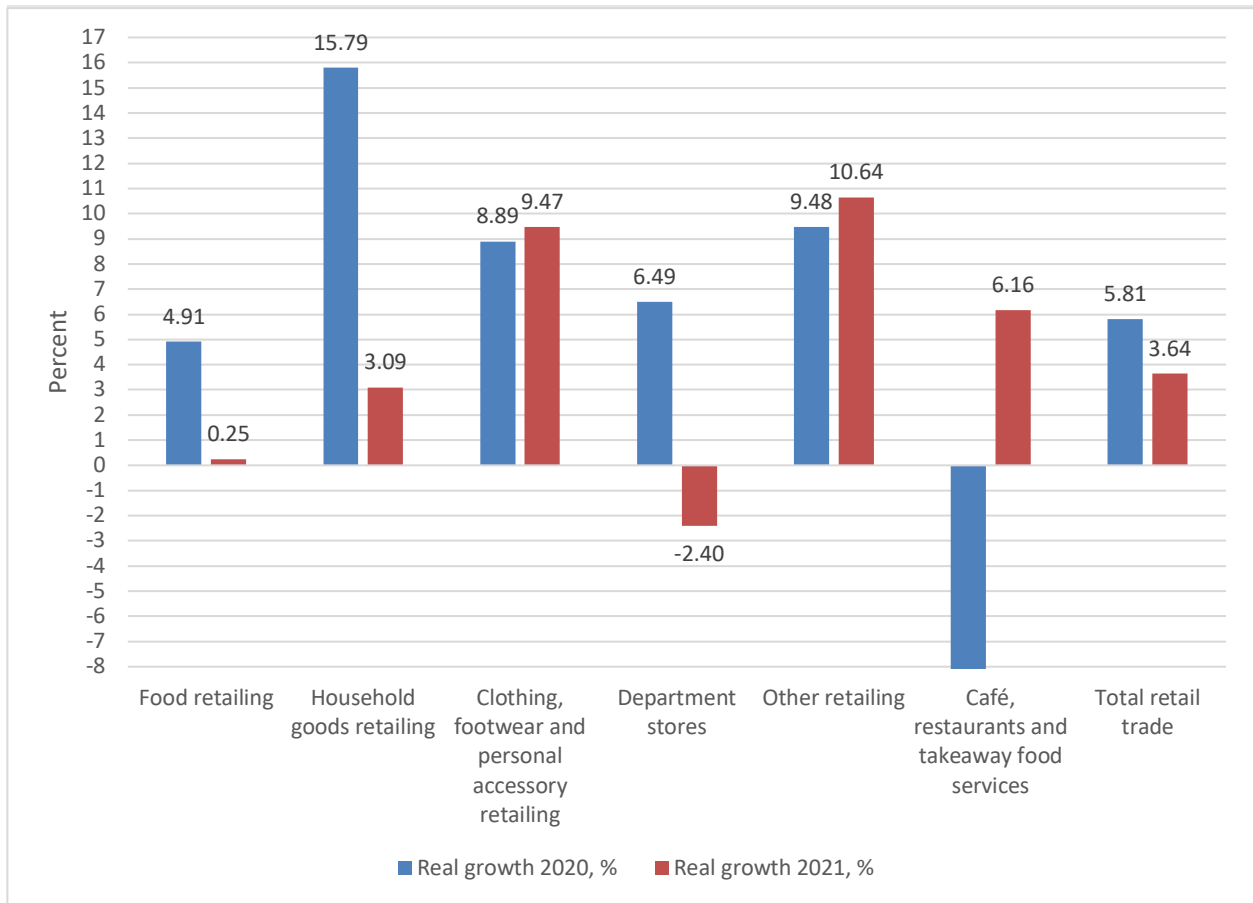
Figure 40: Retail sectors, monthly turnover 2019-2022, seasonally adjusted, current \$million



Source: ABS 8501

- Quarterly figures are used to present retail group turnover in Figure 41 below. This shows that only Department stores suffered a decline in real growth over 2021, and then only coming of a high base in 2020.

Figure 41: Annual growth in real turnover, seasonally adjusted, December quarter to December quarter, retail industries, chain volume 2020 and 2021



Source: ABS 8501

112. The decline in the department stores group appears to be the result of strong declines in nominal terms in NSW (-10.86%) and the ACT (-8.82%), possibly as a result of COVID-related restrictions in those places coinciding with what would otherwise be strong trading. Whilst data is not published for the Northern Territory or Tasmania, growth over 2021 was seen in Victoria (4.76%), Queensland (5.85%), South Australia (2.04%) and Western Australia (6.33%).

3.11 Business entry and exit

113. The number of businesses overall grew by 3.8% in 2020-21.⁵⁵ This is significantly above the 2.0% growth recorded in the previous year and above the 2.7% growth recorded in 2018-19. The growth rate in the overall number of businesses, having dipped in 2019-20, has now rebounded significantly, surpassing the rate of growth for 2019-20 to be higher than the rate seen in the 3 previous financial years.
114. The business entry rate for 2020-21 was 15.8%, up from 14.8% in the previous financial year and also above the 2018-19 figure of 15.7%.⁵⁶ The exit rate was down to 12% in 2020-21, from 12.8% in 2019-20 and 13% in 2018-19.⁵⁷ The rising business entry rate, coupled with the decreasing business exit rate is indicative of a strong business environment that is seeing growth as it emerges from the COVID-19 pandemic.
115. All 5 of the most award-reliant industries showed positive results in the number of overall businesses, and accounted for some of the highest rates of growth across all industries. The number of businesses in Retail trade grew by 6.3% in 2020-21, eclipsing previous years' growth – Previous, retail had grown by: 0.8% in 2019-20; 1.3% in 2018-19; and, 0.4% in 2017-18. This suggests that the Panel's previous decisions to increase wages in years following the 2015-16 financial year (in which the retail sector recorded negative growth in the number of businesses) has either contributed to the viability of businesses or alternatively has not detracted from it. The number of businesses in Administrative and Support Services grew by 5.2%, up from 4.5% in 2019-20, while the number of businesses in Accommodation and Food Services grew by 5.1%, well up from the 1.1% growth rate of the previous financial year. Similarly to the figures in the Retail sector, this suggests a rebound for one of the industries hit hardest by the COVID-19 pandemic.

⁵⁵ ABS Cat 8165.0 Counts of Australian Businesses, including Entries and Exits, June 2017 to June 2021, 24 August 2021

⁵⁶ Ibid.

⁵⁷ Ibid.

116. Table 6 below table shows the growth in number of businesses and employment share by sector. The 5 most award-reliant industries are marked in bold text. All of the award reliant industries recorded growth in the number of businesses.

Table 6: Growth in Number of Businesses by Industry and Share of Employment

Industry	Growth in number of businesses, % 2020-21	Share of employment, % (rounded) November 2021
Agriculture, Forestry and Fishing	0.8	2.44
Mining	0.5	2.05
Manufacturing	3.3	6.49
Electricity, Gas, Water and Waste Services	4.8	1.03
Construction	4.2	8.66
Wholesale Trade	2.9	2.69
Retail Trade	6.3	9.80
Accommodation and Food Services	5.1	6.44
Transport, Postal and Warehousing	-2.8	4.97
Information Media and Telecommunications	4.5	1.43
Financial and Insurance Services	4.8	3.98
Rental, Hiring and Real Estate Services	3.1	1.75
Professional, Scientific and Technical Services	4.8	9.23
Administrative and Support Services	5.2	3.35
Public Administration and Safety	-1.4	6.96
Education and Training	5.7	8.57
Health Care and Social Assistance	7.2	14.34
Arts and Recreation Services	5.4	1.74
Other Services	7.4	4.08
All Industries	3.8	100

Source: ABS cats 8165 for growth, Labour Force, Australia, Detailed (original) and ACTU calculations

117. The business survival rate for June 2017 to June 2021 was 64.9%.⁵⁸ This rate has consistently remained above 60% and trended upwards in the past 8 financial years. There is little evidence

⁵⁸ FWC Statistical Report – AWR 2021-22 V1 p.37 Chart 3.6

to suggest that previous AWR panel decisions have hampered the business environment. As we observe elsewhere, it is indeed possible to infer that previous decisions of the Panel have enhanced the business environment in industries reliant on discretionary spending.

118. The available entry and exit data overall shows an economy that is rebounding strongly from the COVID-19 pandemic. Businesses have continued to enter into the market and survive. These observations are consistent with the state of the labour market, discussed in Chapter 2, which has shown strong rebounds from the intermittent impacts of the COVID-19 pandemic.

3.12 Business bankruptcy

119. The Statistical Report (V1) Chart 3.4 shows that the business bankruptcy rate - the number of business related bankruptcies as a share of the number of owner manager of unincorporated enterprises – has fallen steadily since 2010-11 and sharply since 2018-19.
120. Notwithstanding what might be made of the impact of the COVID-19 pandemic on business, it does not appear to have contributed to a greater rate of business bankruptcy – indeed the opposite has transpired. Table 7 below table shows the number of Business-Related bankruptcies, the count of Australian Businesses and a comparison of the two.

Table 7: Businesses and Bankruptcies, 2017 - 2021

	Number of Business-Related Bankruptcies, annual to June	Count of Australian Businesses, annual to June	Number of Business-Related Bankruptcies as percentage of Count of Australian Businesses, annual to June
June 18	6446	2,208,447	0.29
June 19	5987	2,268,998	0.26
June 20	4920	2,314,448	0.21
June 21	2421	2,402,254	0.10

Source: ABS 8165, AFSA Quarterly personal insolvency statistics, ACTU calculations for %

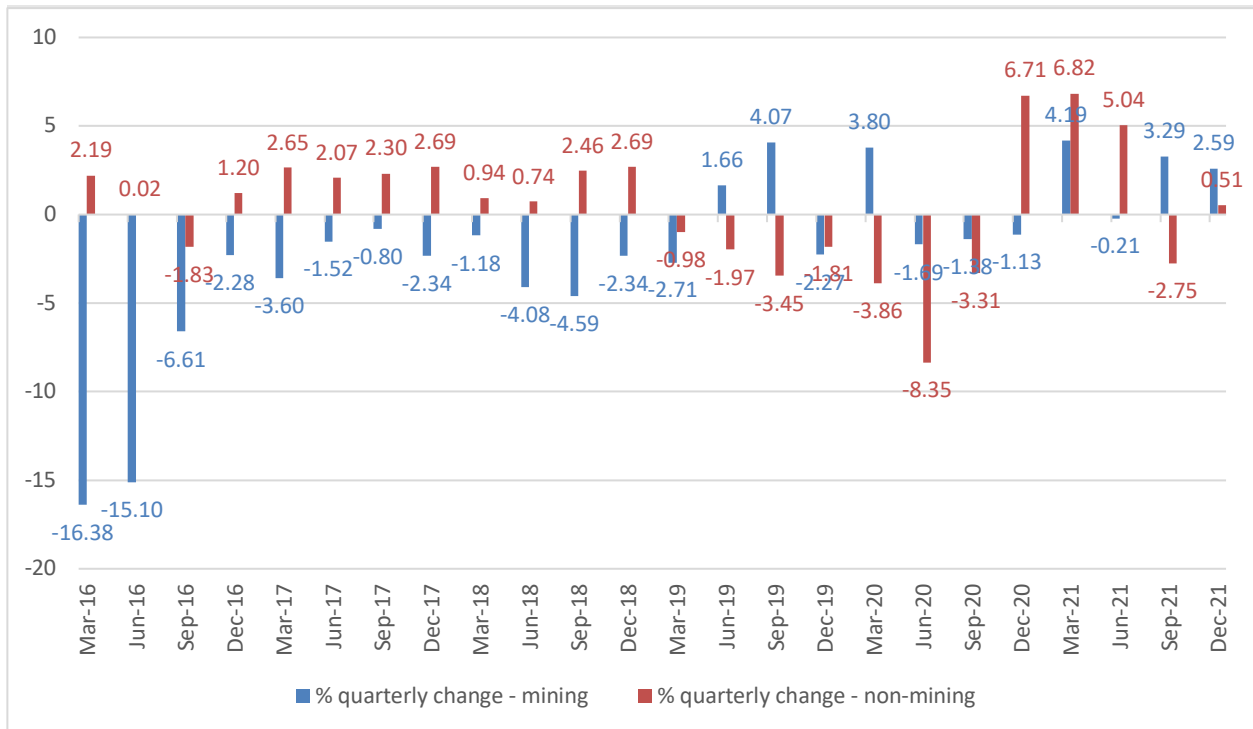
121. Table 7 shows that the number of business-related bankruptcies has fallen, while the number of Australian businesses has risen. The third column shows the number of bankruptcies as a percentage of the count of businesses (note that this is not a calculation of the bankruptcy rate). Business bankruptcies clearly fell significantly in 2021, and have fallen by about 2/3 since 2018.
122. If falling bankruptcy is an indicator of the viability of firms, then we would expect that an increase in the minimum wage would not be an impost for them. As indicated in the ACTU's submission to the 2018-19 Review, wage pressures have not been linked to bankruptcy.⁵⁹
123. The pandemic has not increased the rate of bankruptcy on presently available data. Moreover, bankruptcies appear to have fallen significantly.

3.13 Investment

124. Whilst non-mining investment appears stable as a share of GDP in Chart 1.6 of the statistical report, measures of capital *expenditure* (rather than lagging measures of fixed capital *formation*) suggest a welcome resurgence in non-mining private investment since the onset of the pandemic, as seen in Figure 42 below.

⁵⁹ ACTU 2019 initial Submission to Annual Wage Review 2018-2019, par 177

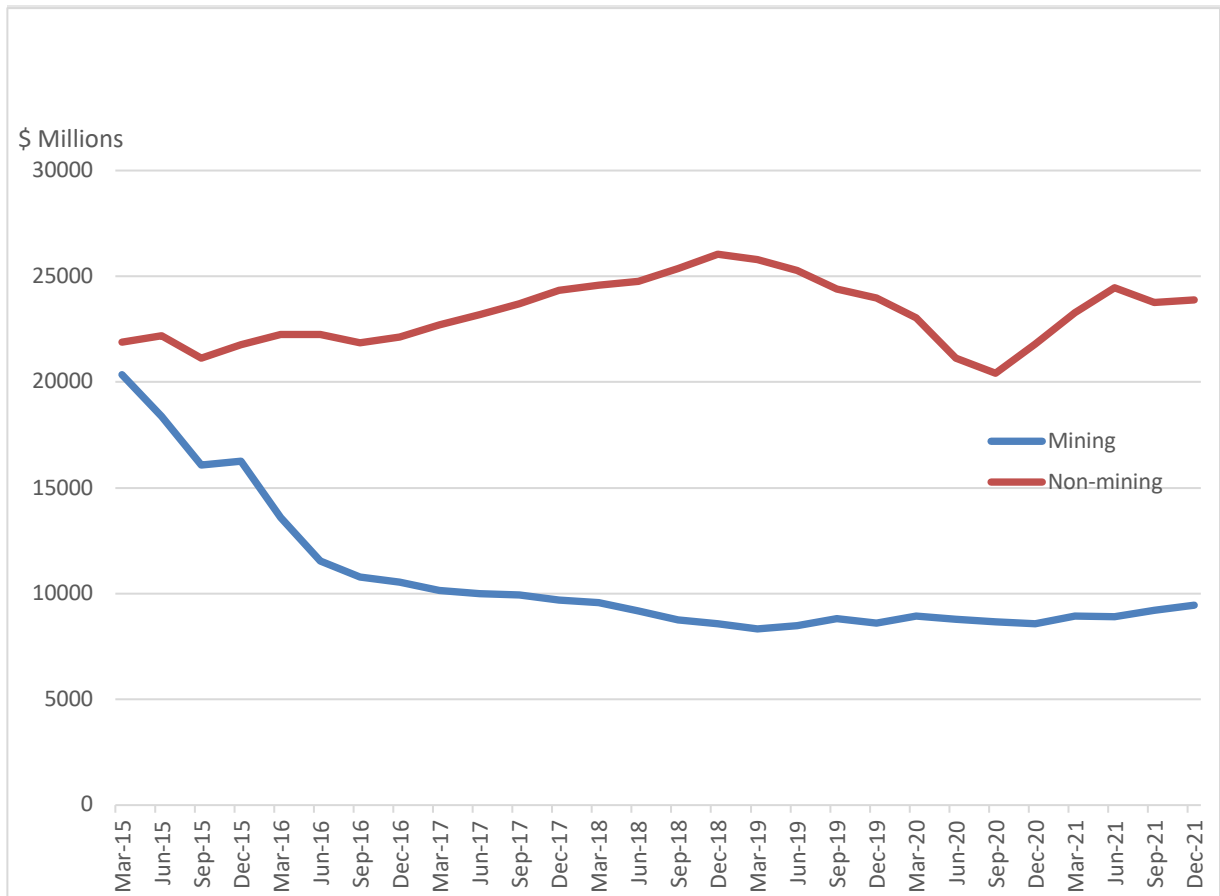
Figure 42: Actual capital expenditures - mining vs non-mining chain volume measures, seasonally adjusted (2016-2021)



Source: ABS 5625.0

125. The overall level of non-mining private capital expenditure, seen in Figure 43 below, has returned to levels seen around December Quarter 2019 following a decline from its peak around a year earlier, and appears to be holding.

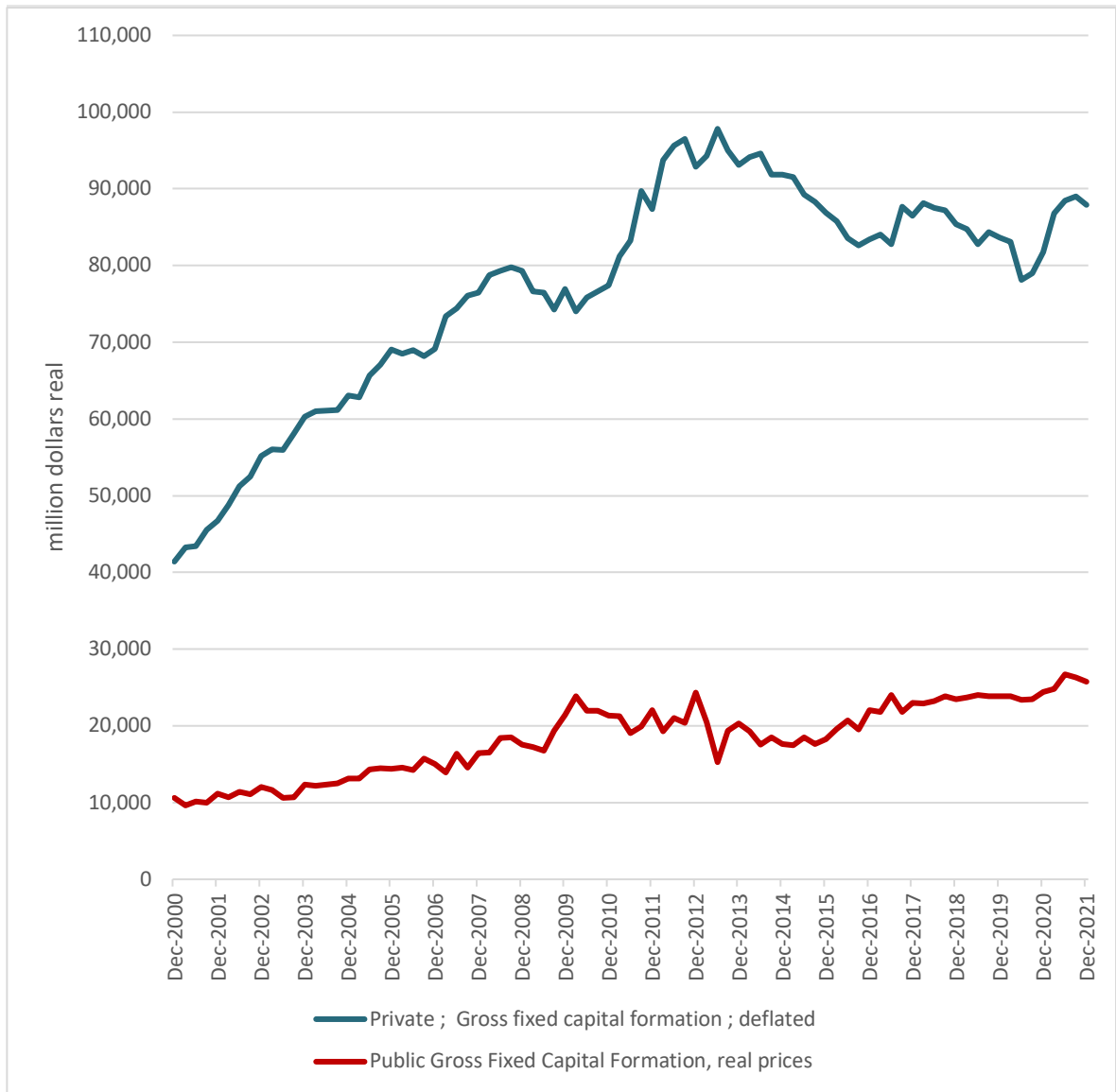
Figure 43: Mining and non-mining private investment, quarterly, chain volume measures, seasonally adjusted (\$ millions), 2015-2021



Source: ABS 5625

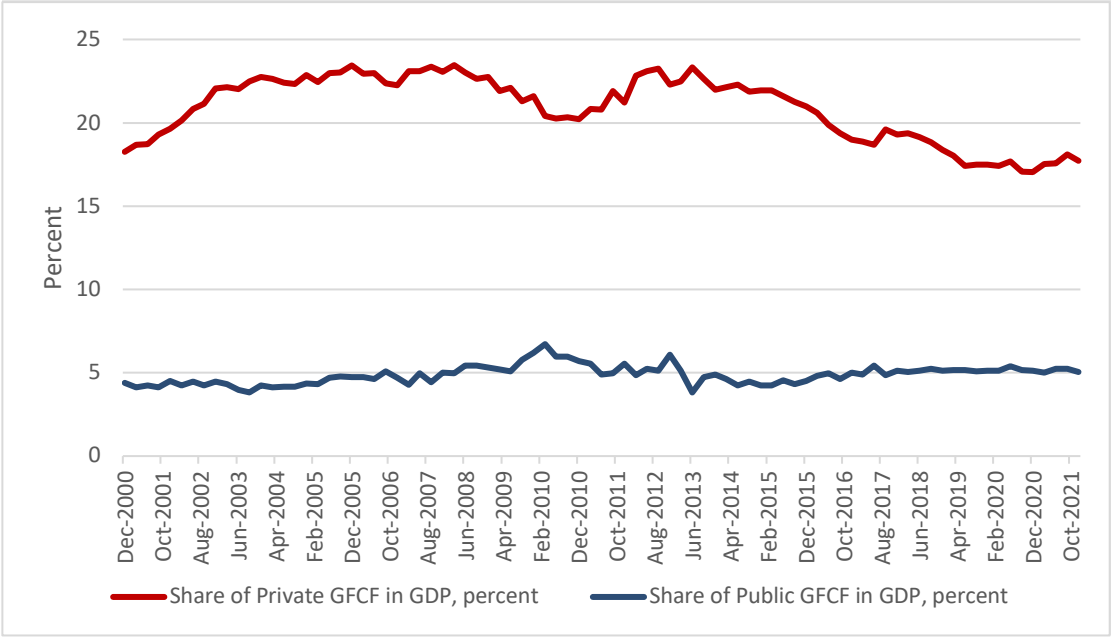
126. Whilst the initial growth in non-mining investment in the September Quarter 2020 may well be associated with transfers to business as part of the pandemic policy response, this may no longer be the predominant driver. The increased investment signifies confidence and is valuable for its potential to contribute to future productivity (and hopefully a fair distribution of the gains thereof). It is stark from Figure 44 and Figure 45 below that the recent rises in investment are private sector driven, with the rises in public fixed capital formation in real terms having the appearance of a minor correction and remaining a relatively stable share of GDP over time.

Figure 44: Public and private gross fixed capital formation, quarterly, seasonally adjusted, real \$millions



Source: 5206001, 5206012, 5206005 and ACTU calculations, December 2016=100, private GFCF is nominal private GFCF deflated by private GFCF deflator, public GFCF is nominal total public GFCF deflated by public GFCF deflator

Figure 45: Shares of public and private capital formation in GDP, quarterly, seasonally adjusted, current prices, percent



Source: ABS 5620, ACTU calculations

4. RELATIVE LIVING STANDARDS.

127. The minimum wage and modern award objectives require the Panel to consider the distinct but related concepts of “relative living standards” and “the needs of the low paid” when setting minimum rates of pay.⁶⁰ This Chapter examines relative living standards of workers who most directly benefit from the Panel’s decision compared to other groups.
128. The long-term decline in the minimum wage bite shows no signs of abating and there are sizeable earnings gaps at multiple skills levels in all industries between award rates and paid rates. Because award reliant workers earn less than those whose pay was negotiated, many of them are likely to experience greater impacts in their living standards from declining real wages over the year merely because their financial reserves are lesser to begin with, as discussed further in Chapter 5. For some workers, the effect is greater given the delays to implementation of wage increases in their modern awards over the last two years.
129. In our analysis, many award-reliant workers received an insufficient level of support from government when COVID impacts prevented them from working. Whilst those states of dependency on social supports were temporary, they nonetheless contributed to those workers’ overall decline in living standards over the year.

4.1 The employees most effected by the decision

130. This section refers widely to the ABS Survey of Employee Earnings and Hours (EEH). EEH has generally been conducted every two years, although it was suspended in 2020 due to the impacts of COVID-19 restrictions. The most recent survey was conducted in May 2021 and results released in January 2022.
131. In the EEH survey, employed persons are classified according to the ‘main method’ of setting their pay: ‘award only’, ‘collective agreement’, and ‘individual arrangement’. Employed persons

⁶⁰ [2020] FWCFB 3500 at [338].

are classified as employees even if they are engaged as owner-managers, however where we are able to dis-aggregate owner-managers from estimates of employee numbers in EEH, we indicate this. Employees are classified as ‘award only’ if they are “paid exactly at the rate specified in the award, and are not paid more than that rate of pay.”⁶¹ We understand that workers who are paid the National Minimum Wage (NMW) are classified as ‘award only’ in the EEH survey. ‘Awards’ are defined for the purposes of ABS surveys as “legally enforceable determinations made by Federal or State industrial tribunals or authorities that set the terms of employment (pay and/or conditions) usually in a particular industry or occupation.”⁶² In the federal system, this includes Modern Awards and the National Minimum Wage Order. A majority of award only employees would have their wages determined in the federal system, through the decisions of the Panel. Employees paid above an award are classified to either the ‘collective agreement’ or ‘individual arrangement’ categories.

132. For simplicity, we use the phrase ‘award-reliant workers’ to refer to employees who are classified as ‘award only’ in the EEH survey. ‘Award-reliant’, ‘award only’, ‘minimum wage workers’, and ‘workers reliant on minimum wages’ are used interchangeably in this submission to mean workers paid exactly at an award rate or the NMW. ‘Low-paid workers’ is also intended to have the same meaning, except where it is clear that ‘low-paid’ refers to workers with earnings below a particular threshold, regardless of their pay-setting method.

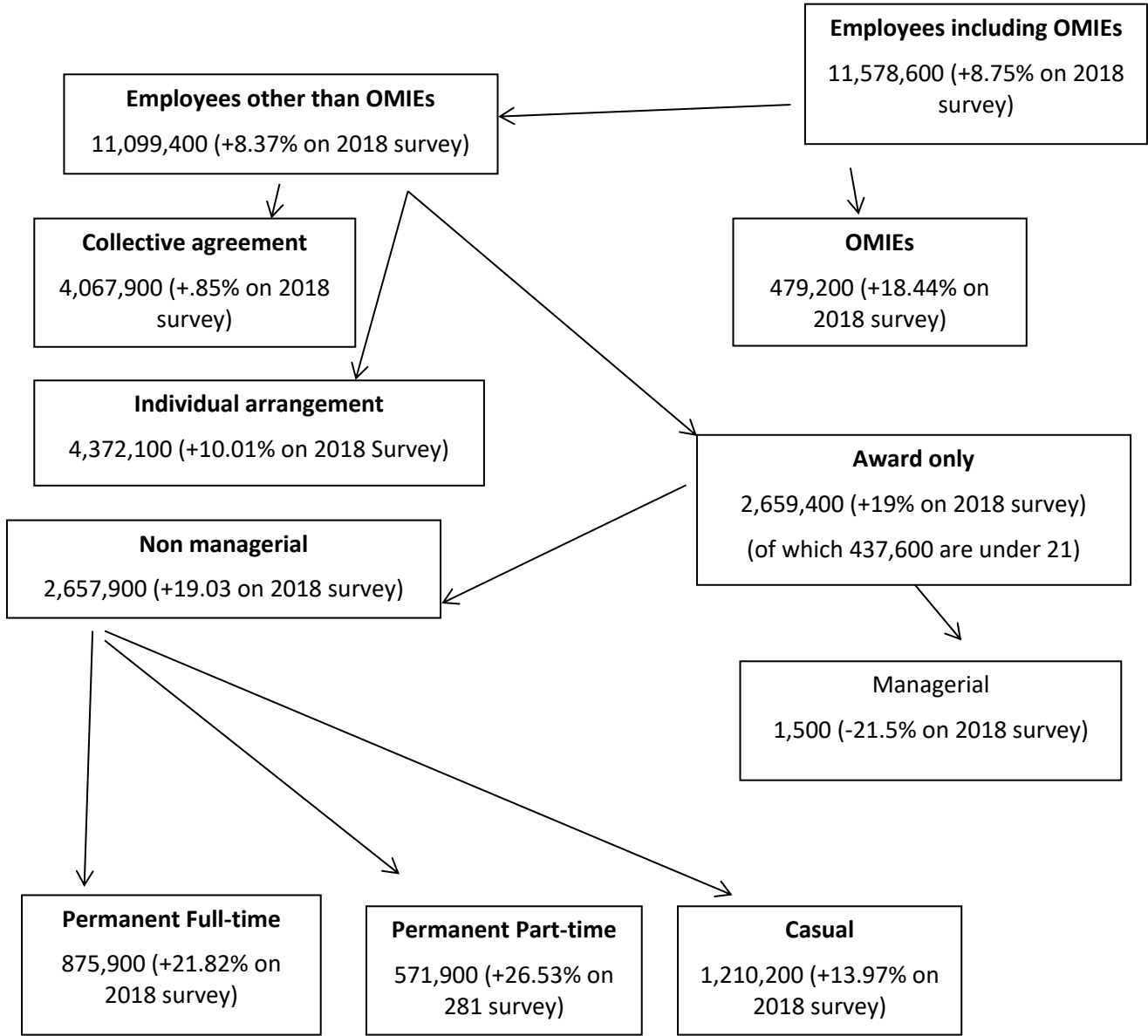
4.1.1 How many people rely on minimum wages in Australia?

133. There were 2,659,400 employed persons (including OMIEs, “Owner Managers of Incorporated Enterprises”) paid exactly at a minimum wage order rate or modern award rate in May 2021, representing 23 per cent of all employed people. If one excludes OMIE’s, 24% of employees are award reliant. The breakdown of this workforce by method of setting pay and type of employment is shown in Figure 46 below, along with the growth seen in each category since the 2018 EEH survey.

⁶¹ ABS 2022, [Employee Earnings and Hours, Australia Methodology, May 2021](#).

⁶² Ibid. Note however that there have been some changes in the classification process over the years the EEH has been conducted.

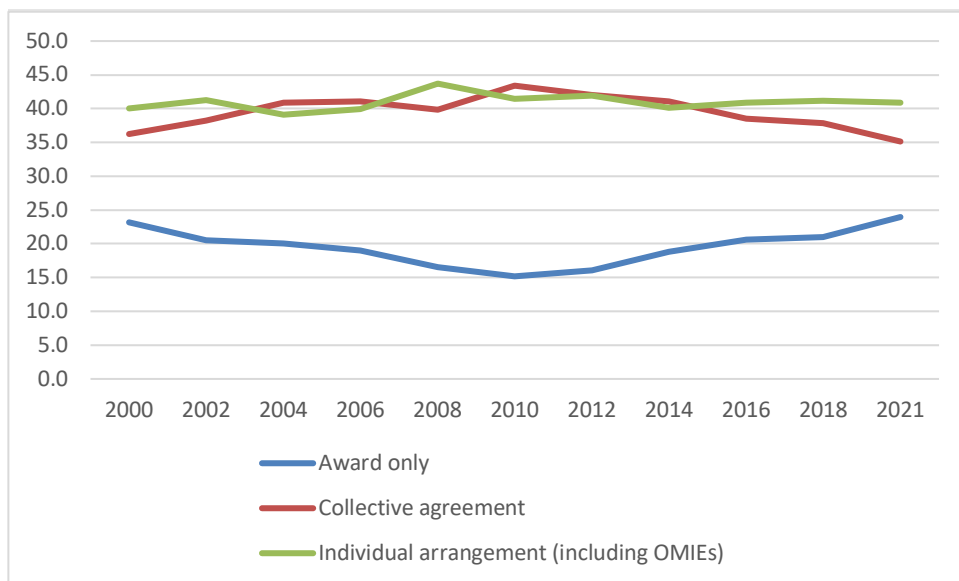
Figure 46: Employees by method of setting pay



Source: ABS 6306, ACTU calculations.

134. The strongest growth since 2018 has been in the size of the award reliant non-managerial employee workforce, which grew by 425,000 persons, ahead of employees on individual arrangements which also grew by 397,000 persons. Together, these categories account for just over 88% of the growth in the population estimated and represented by the EEH survey. Within the non-managerial award reliant category, stronger growth rates were seen in permanent rather than casual work; however, nominally the rise in casual employees of 148,300 was greater than that for part time employees (119,900). Full time employment for non-managerial award reliant employees rose by 156,900.
135. With respect to composition between pay setting methods, there has been a small shift in the share of employees who are award reliant since the last EEH survey in 2018, consistent with the direction of long-term movements in this series, as shown in Figure 47 below. This highlights the growing significance of the Panel’s decision to workers in Australia.

Figure 47: Proportion of employees by method of setting pay (%), 2020-2021



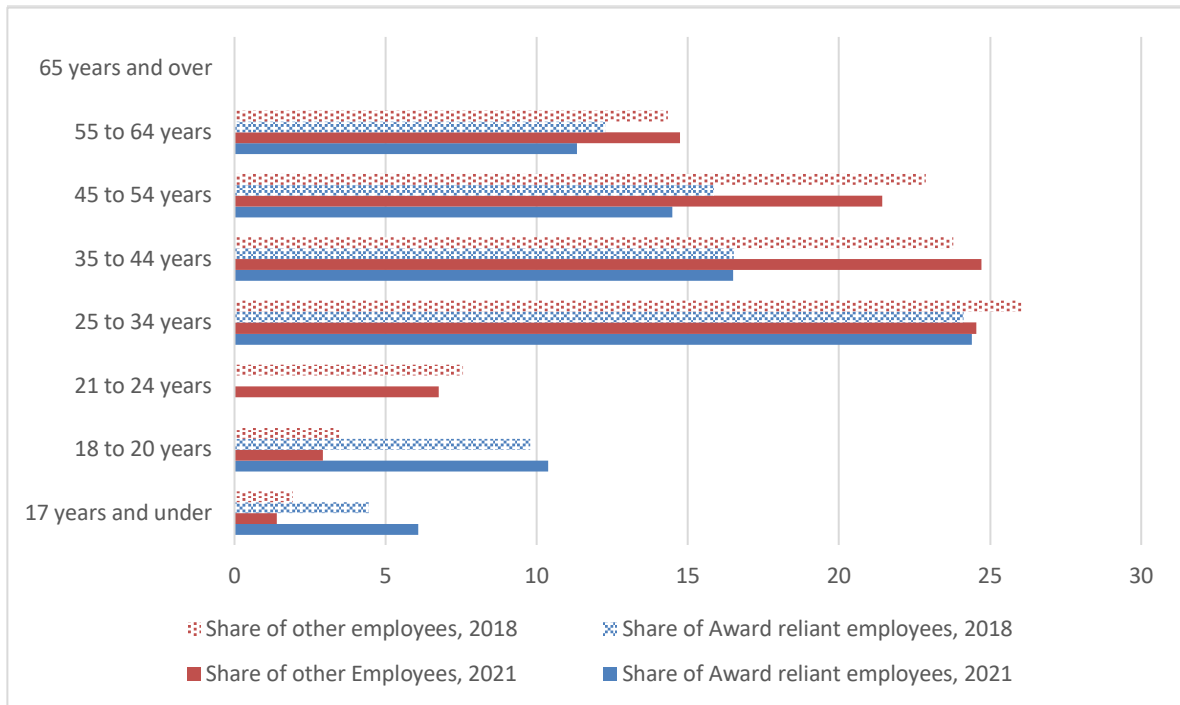
Source: ABS 6302. Figures for 2016 rely on indicate estimates provided by the ABS in conjunction with its 2018 release, which reverted categorisation changes introduced in the 2016 survey.

136. It can be seen that the gains in Award reliance have come at the expense of coverage by a collective agreement, as the share of employed persons subject to an individual arrangement has remained reasonably steady over the medium term.

4.1.2 Individual characteristics

137. The age profile of award reliant employees has barely shifted between the surveys, as seen in Figure 48 below. Data is not presented for the 21-24 year old category, as it is not published by the ABS. Nonetheless, the overall picture is consistent with our previous observation that whilst the Award reliant workforce is distributed through all wage levels, Award-reliant employees are overrepresented in the lower age groups, with the position reversing at age 25 and over.

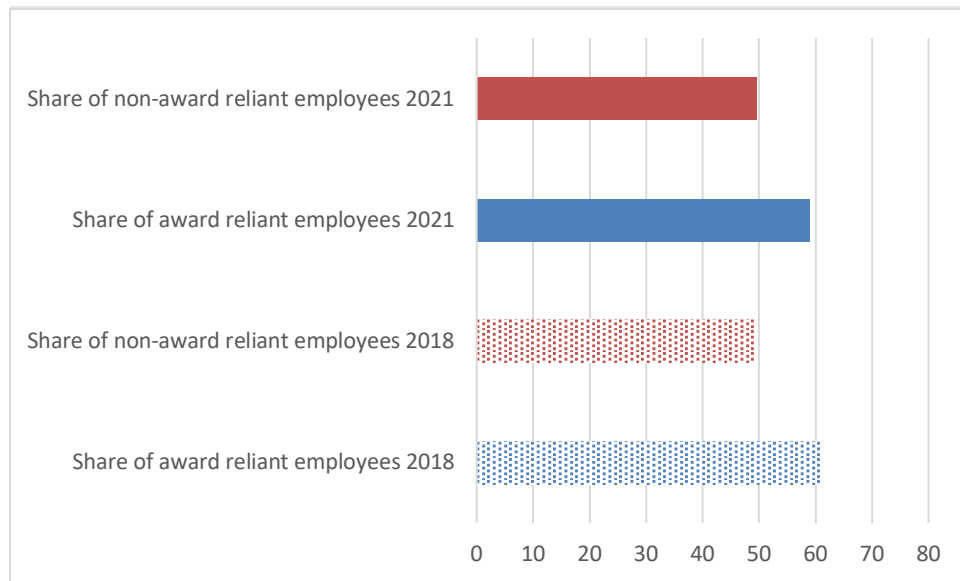
Figure 48: Award only employees by age (2018, 2021), comparison to other employees



Source: ABS 6306, ACTU calculations. This analysis excludes OMIEs.

138. The ‘under representation’ of award only employees in the 35 to 54 year-old range, in particular, may not only be due to people rising into over award positions but also due to women with children being removed from employment, where women are disproportionately reliant on awards only. Figure 49 below shows that women make up the clear majority of the award reliant non-managerial employee workforce, with little change seen since the 2018 survey.

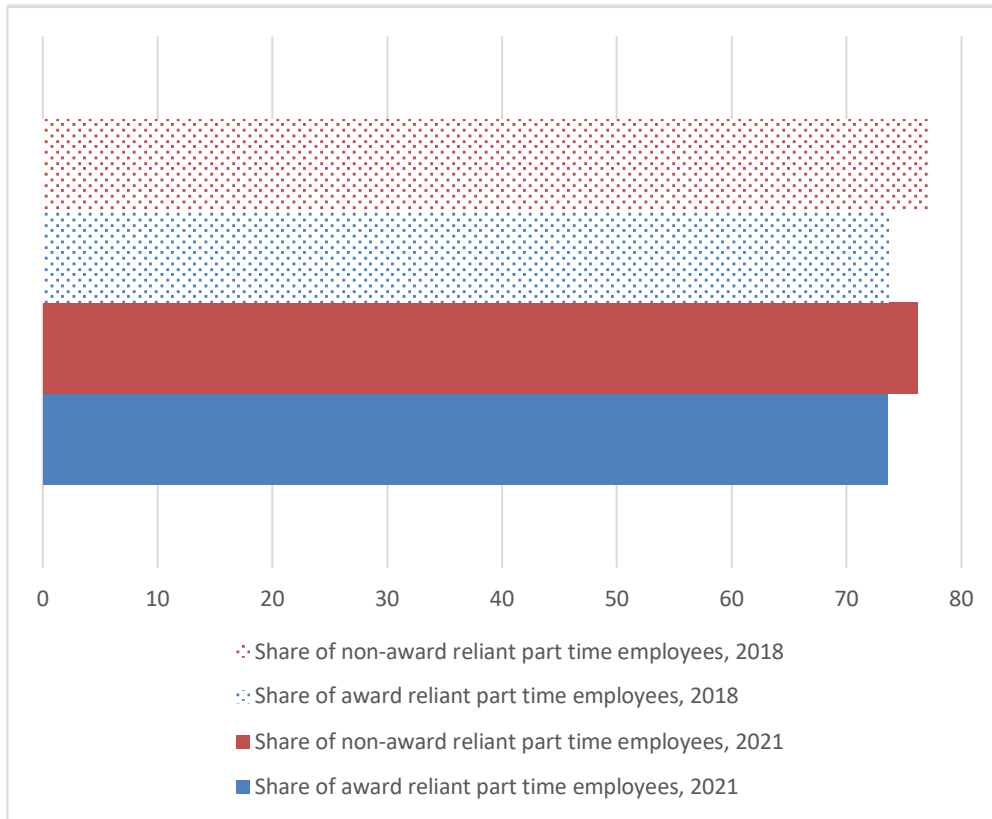
Figure 49: Share (%) of females in award reliant v. non award reliant work (2018, 2021)



Source: ABS 6306, ACTU calculations. OMIEs and other managerial employees are excluded.

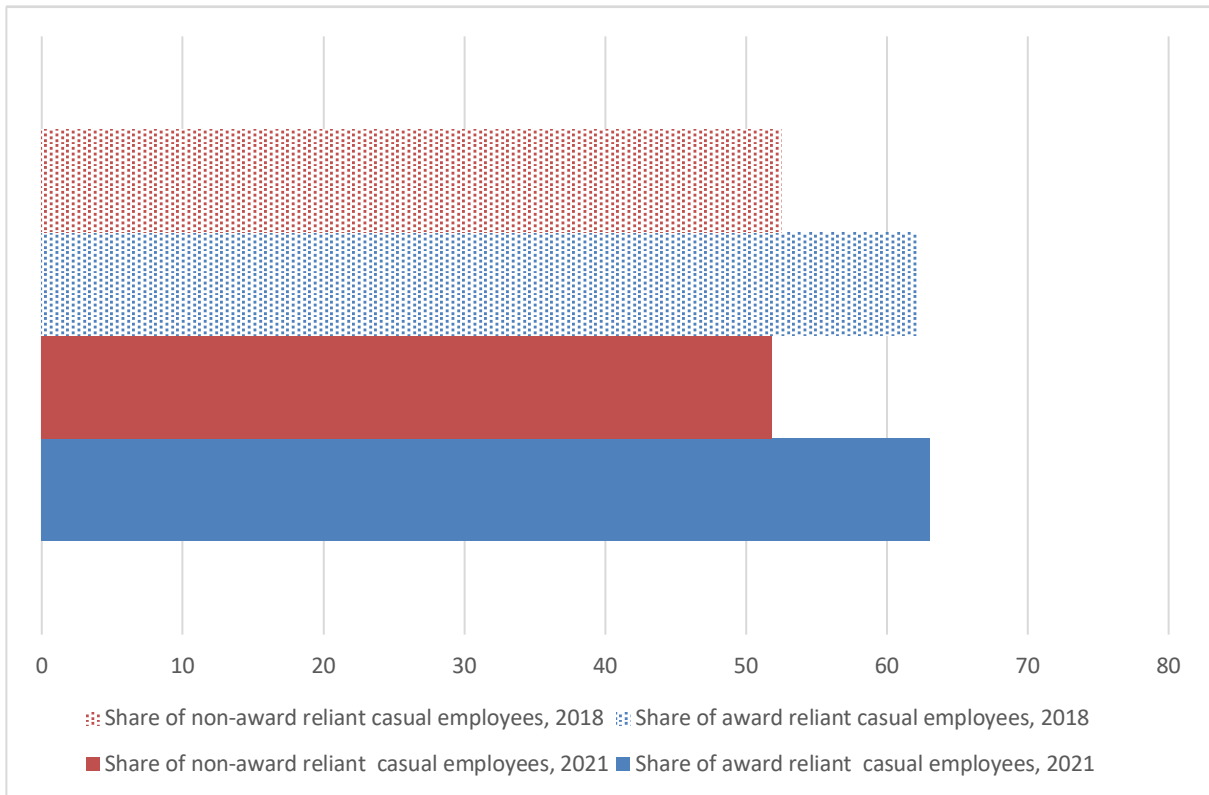
139. Women are also over-represented in part time and casual work, both in the award reliant and the non-award reliant workforce, as seen in Figure 50 and Figure 51. Whilst there is little to differentiate the shares of women in part time award reliant work from those in non-award reliant work, the density of women in award reliant casual work is far greater than it is for non-award reliant casual work. These observations are barely different between the 2018 and the 2021 surveys.

Figure 50: Share (%) of females in award reliant v. non award reliant part time work (2018, 2021)



Source: ABS 6306, ACTU calculations. OMIEs and other managerial employees are excluded.

Figure 51: Share (%) of females in award reliant v. non award reliant casual work (2018, 2021)

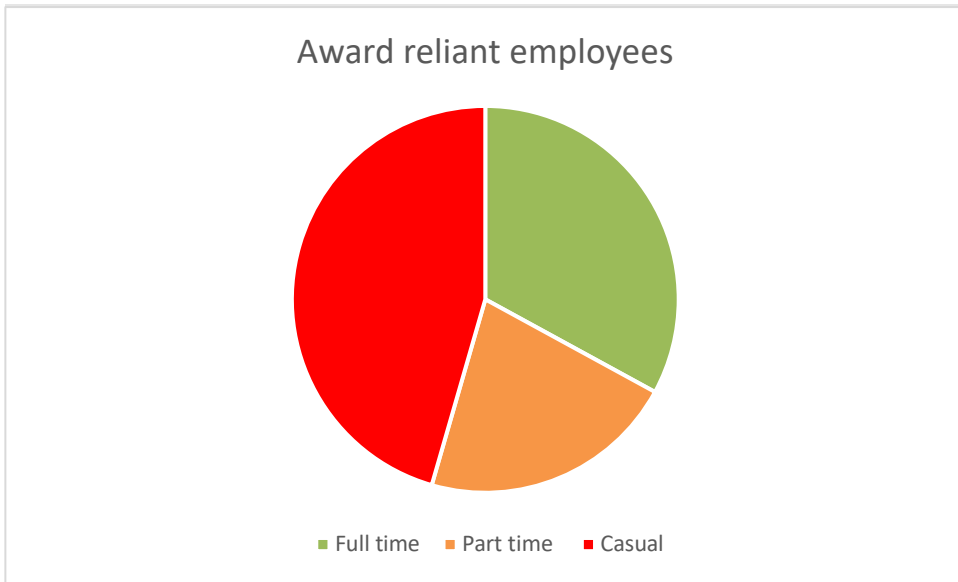


Source: ABS 6306, ACTU calculations. OMIEs and other managerial employees are excluded.

140. Award reliant work on the whole remains characterised by a greater degree of working arrangements that offer insecure incomes and less than full time hours. Around 63% of award reliant non-managerial employees work part time hours, compared to around 45% on non-managerial above award employees.⁶³ As seen in Figure 52 and Figure 53 below, almost half the award reliant non managerial employees work casually rather than in permanent part time or full time work.

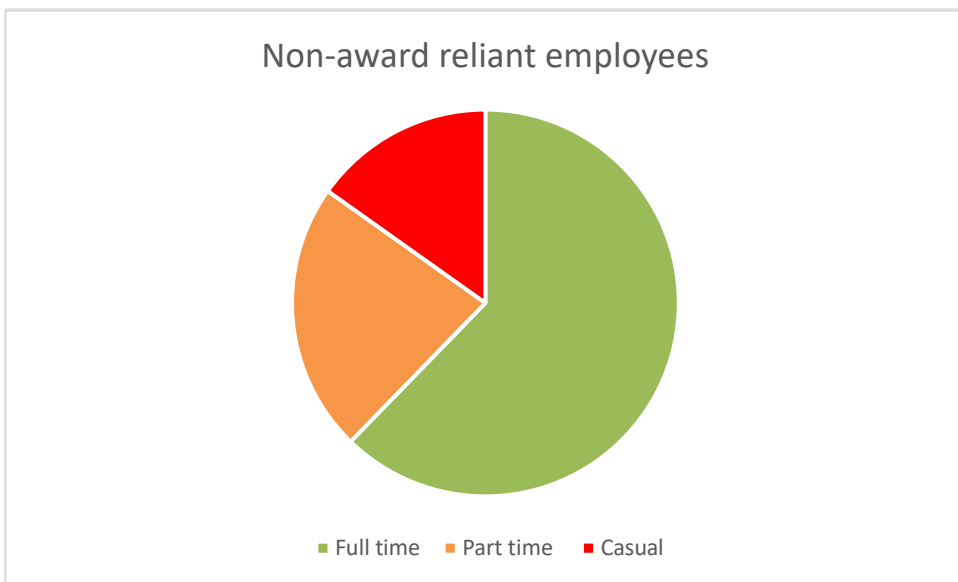
⁶³ ACTU calculations based on ABS 6302 (DC5, table 1)

Figure 52: Award reliant employees, form of employment (2021)



Source: ABS 6306, ACTU calculations. OMIEs and other managerial employees are excluded.

Figure 53: Non-award reliant employees, form of employment (2021)



Source: ABS 6306, ACTU calculations. OMIEs and other managerial employees are excluded.

141. Average weekly incomes are accordingly lower for award reliant employees, and for casual and part time workers fall below the low paid threshold of 66% the median weekly earnings of full time workers, which was \$999.23 as at August 2021.⁶⁴ In addition, around 22.5% of award reliant full time non-managerial employees paid at the adult rate (n=193,200) had weekly total cash earnings below that threshold.⁶⁵

Figure 54: Average weekly total cash earnings, by type of employment (2021)



Source: ABS 6306, ACTU calculations. OMIEs and other managerial employees are excluded.

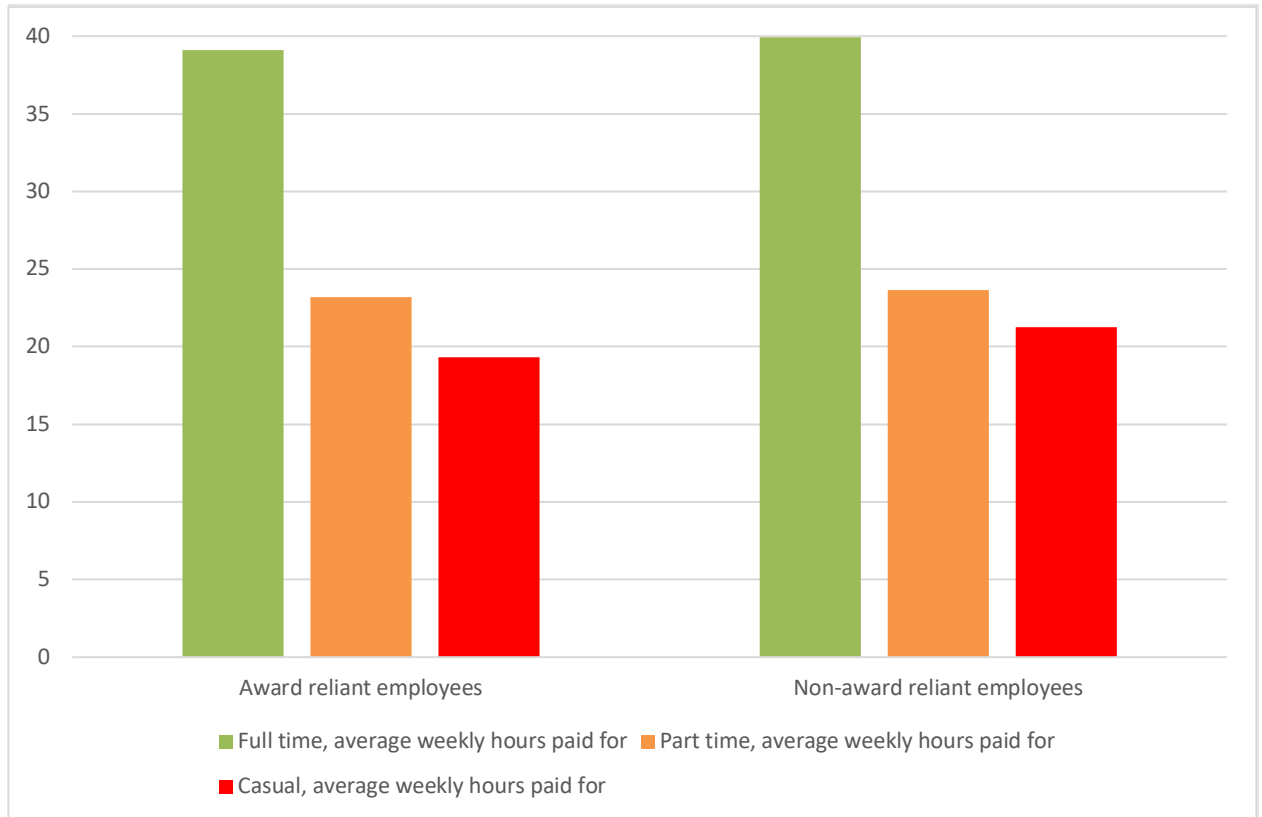
142. The disparity in earnings is clearly a function of rates of pay rather than hours worked alone, as the disparity between hours worked between award reliant and non-award reliant workers, while observable, is not as pronounced. This suggests that the penalty and loading type

⁶⁴ ABS 6333.

⁶⁵ Derived from ABS 6306 DC 8, Table 3.

arrangements that are typical of award reliant work is insufficient to make up the pay premiums associated with being above award via a collective agreement or individual arrangement.

Figure 55: Average weekly hours paid for, by type of employment (2021)



Source: ABS 6306, ACTU calculations. OMIEs and other managerial employees are excluded.

4.1.3 Employment characteristics

143. The industry, occupational, sectoral and business size data also paints a similar picture to that seen in recent surveys. Around 90% of award reliant non-managerial employees worked in the private sector in 2021, as compared to around 88% in 2018. Over 65% of all award reliant non-managerial employees worked in four industry groups in 2021:

- a. Health care and social assistance (22%)
- b. Accommodation and food services (19.5%)
- c. Retail trade (12.5%)
- d. Administrative and support services (11.8%)

144. In both 2018 and 2021, there were 8 industry divisions in which more than 20 per cent of non-managerial employees were award reliant. Table 8 below shows the density of award reliance within each industry, as well as each industry's share of total award reliant non-managerial employees. It is ranked according to density as at May 2021.

Table 8: Density of Award Reliance by Industry (Non managerial employees, 2018,2021)

Industry	Density of award only employees in industry (2018) (Per cent)	Industry's share of all award only employees (2018) (Per cent)	Industry's share of total NM employment (2018) (Per cent)	Density of award only employees in industry (2021) (Per cent)	Industry's share of all award only employees (2021) (Per cent)	Industry's share of total NM employment (2021) (Per cent)
Accommodation and food services	44.9	15.5	7.8	63.0	19.5	7.6
Administrative and support services	41.3	11.6	6.3	44.9	11.8	6.5
Other services	38.1	5.8	3.4	42.1	6.5	3.8
Health care and social assistance	31.7	20.3	14.4	34.3	22.0	15.9
Retail trade	30.1	14.3	10.7	30.8	12.5	10.0
Arts and recreation services	22.5	1.6	1.6	28.3	1.9	1.7
Rental, hiring and real estate services	29.4	2.4	1.9	25.3	1.8	1.8
All Industries	22.5	100	100	24.7	100.0	100.0
Manufacturing	20.8	6.1	6.7	21.1	5.2	6.1
Construction	16.6	4.9	6.7	15.8	4.1	6.5
Transport, postal and warehousing	12.7	2.2	4	14.0	2.3	4.1
Public administration and safety	10.9	3.5	7.3	13.5	3.7	6.7
Wholesale trade	16.1	3	4.3	11.1	1.7	3.7

Industry	Density of award only employees in industry (2018) (Per cent)	Industry's share of all award only employees (2018) (Per cent)	Industry's share of total NM employment (2018) (Per cent)	Density of award only employees in industry (2021) (Per cent)	Industry's share of all award only employees (2021) (Per cent)	Industry's share of total NM employment (2021) (Per cent)
Education and training	10	4.5	10.1	8.0	3.2	10.0
Information media and telecommunications	7.1	0.4	1.4	8.0	0.4	1.2
Professional, scientific and technical services	8	2.6	7.2	6.6	2.1	7.9
Electricity, gas, water and waste services	4.1	0.2	1	6.1	0.3	1.1
Finance and insurance services	5.2	0.9	3.7	5.5	0.9	0.4
Mining	0.9	0.1	1.6	1.1	0.1	1.5

Source: ABS 6306, ACTU calculations. OMIEs and other managerial employees are excluded.

145. It is evident from Table 8 that the Accommodation and Food Services industry and the Arts and Recreation industry increased their density of Award reliance between 2018 and 2021. It is reasonable to postulate that this shift may be related to the impacts of lockdowns and restrictions during the pandemic. As was noted in the Panel's decisions last year⁶⁶ and the year before⁶⁷, both sectors were deeply impacted by the pandemic relative to others. They are also characterised by a relatively high degree of casual employment, based on labour force statistics from comparable periods: As at May 2021 64.3% of employees in Accommodation and Food Services and 43.3% of employees in Arts and Recreation Services had no paid leave entitlements, similar to the 2018 figures of 60.6% and 44.9% respectively. As many casual employees were excluded from the *JobKeeper* subsidy, the degree of casual employment in both industries fell in May 2020 (during the first lockdown period), to 56.5% in the case of Accommodation and Food Services and to 25% in the case of Arts and Recreation Services. The peak in award reliance in

⁶⁶ At [10]-[11], [241]-[256]

⁶⁷ At [41]-[45], [291]-[310]

these industries as at May 2021 might therefore be related in part to the reasonably short tenure of the employees concerned. The overall elevated level of casualisation in these industries also signifies their capacity to flexibly adjust their labour costs in response to peaks and troughs in demand.

146. In terms of occupational category, the overall rankings by density of award reliance within each grouping have not shifted, save for a reverse in position between managers and professional. This can be seen in the below table. Whilst it remains the case that community and personal service workers, labourers and sales workers make up well over half of award reliant non-managerial employees, the density of award reliance within each of those occupational categories has notably increased.

Table 9: Density of Award Reliance by Occupational Group (Non managerial employees, 2018,2021)

Occupation	Density of award only NM employees in occupation 2018 (Per cent)	Occupation's share of all award only NM employees 2018 (Per cent)	Density of award only NM employees in occupation 2021 (Per cent)	Occupation's share of all award only NM employees 2021 (Per cent)
Community and personal service workers	38.6	23.9	44.5	26.6
Labourers	34.6	17.3	42.3	18.5
Sales workers	30.4	16.7	34.4	15.6
All occupations	22.5	100.0	24.7	100
Technicians and trades workers	22.1	12.1	24.7	12
Machinery operators and drivers	20.5	6.2	20.5	5
Clerical and administrative workers	16.5	12.6	16.8	11.4
Managers	8.1	1.3	11.6	1.5
Professionals	9.9	9.9	9.1	9.3

Source: ABS 6306, ACTU calculations. OMIEs are excluded.

147. It remains the case that around one half of award only non-managerial employees are employed by businesses with 50 employees or more, however there have been some increases in the density of award reliance in both smaller and larger size businesses. As was observed above in relation to industry data, it is plausible that some of the increase on award reliance is related to an influx of new staff following the lifting of lockdowns or other restrictions.

Table 10: Award-only employees by size of business – (2018,2021)

	Density of award only employees by business size (2018)	Business size share of all award only employees (2018)	Business size share of total employment (2018)	Density of award only employees by business size (2018)	Business size share of all award only employees (2018)	Business size share of total employment (2018)
Employer size	(Per cent)	(Per cent)	(Per cent)	(Per cent)	(Per cent)	(Per cent)
Under 20 employees	28.7	34.2	25.0	35.3	32.3	22.6
20 to 49 employees	39.7	17.0	9.0	32.2	15.9	12.2
50 to 99 employees	29.1	10.4	7.5	35.4	11.7	8.2
100 to 999 employees	16.4	20.6	26.3	23.3	24.6	26.1
1000 and over employees	12.8	17.9	29.3	12.4	15.5	30.9
All employers	21.0	100.0	100.0	24.7	100.0	100

Source: ABS 6306, ACTU calculations. OMIEs are excluded.

4.1.4 Change in award reliance: general remarks

148. The ABS notes that its May 2021 EEH survey was conducted at a time when there were no lockdowns in effect. However, there were undoubtedly some overhangs from lockdowns and broader trading restrictions which impacted on results. What is striking in our view is the extent of similarity between the May 2018 findings and those in May 2021, suggesting that near “normal” levels of award reliance had returned on many measures within just 12 months of the labour market enduring the deepest shocks seen in decades. This in our view provides further evidence of the speed of the economic and labour market recovery commented upon in last year’s decision.⁶⁸ As at May 2021 key characteristics of award reliance were overwhelmingly familiar, as follows:

- a. Award reliant non-managerial employees are more likely to be women (59%), whereas women make up around 49% of non-managerial employees paid above the award;
- b. Award reliant non-managerial employees are more likely to be casually employed (46%), whereas only 15% of non-managerial employees paid above the award are casual;

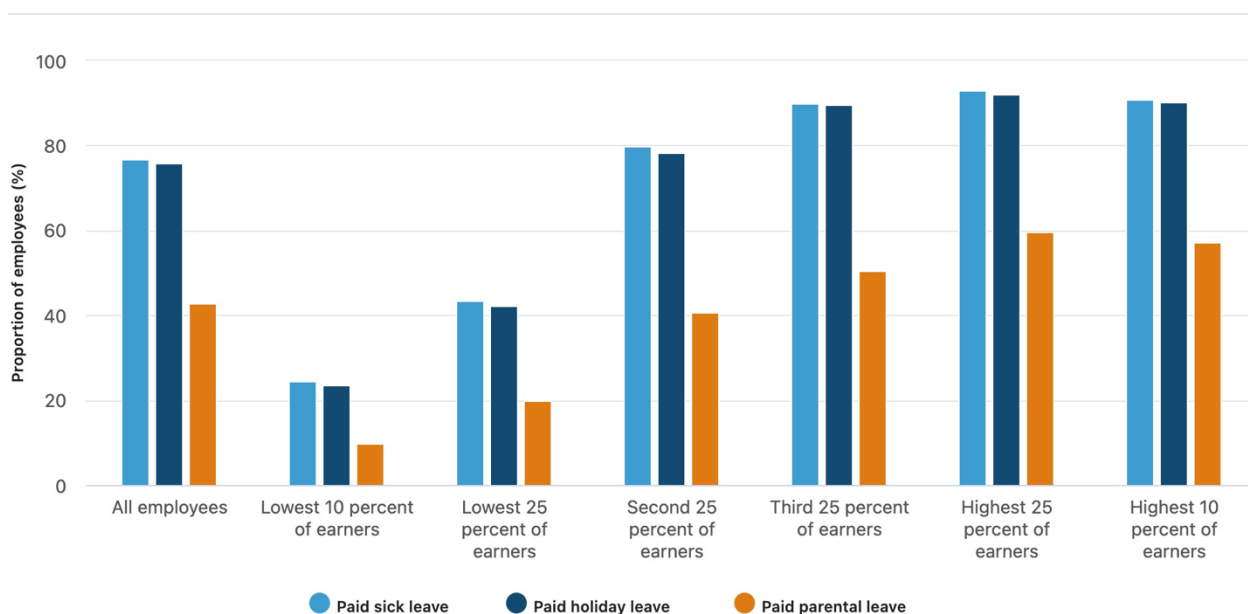
⁶⁸ At [24]-[27] and [131]

- c. Award reliant non-managerial employees are more likely to work part time hours (63%), whereas less than half (45%) of non-managerial employees are paid above the award work part time hours.
 - d. Award reliant non-managerial employees are over-represented in smaller businesses, relative to those businesses' share of total employment of non-managerial employees.
 - e. Award reliant non-managerial employees have lower average weekly earnings than other non-managerial employees.
 - f. The highest densities of award reliant non-managerial employees exist in occupational groupings associated with lower educational or skill requirements; and
 - g. There are high to very high densities of award reliant non-managerial employees in industries that that have been regarded as "essential" during pandemic as well as those which have been deeply disrupted by it.
149. Gendered disadvantage, insecure employment and low bargaining power combine in the award reliant workforce with a direct impact on weekly earnings and living standards. Many award reliant workers have been at the coalface of the pandemic response, such as those in industries like aged care and disability care, those in food supply and many others recognised as essential workers. Yet many of these essential workers have endured the incongruous honour of being labelled as essential whilst having their livelihoods treated as expendable by the gaps in and diminishing level of support available to them during the pandemic. Many have also, for the second time, not shared equally in the benefit of an equal annualised adjustment to their wages, distorting the valuation of their work relative to that of other award reliant workers with comparable skills.

4.2 Essential and award reliant workers impacted by COVID-19

150. Workers who have no paid leave entitlements, such as casual employees who represent a large share of the award reliant workforce as seen above, cannot rely on their employers to support them in the event they contract COVID or are required to isolate due to being a close contact. ABS Characteristics of Employment data from August 2021 demonstrates that there is a relationship between low pay and the absence of leave entitlements, as shown in Figure 56 below.

Figure 56: Paid leave entitlements by lower and higher paid workers



Source: Reproduced from [ABS Media Statement](#), 14 December 2021

151. A recent business survey by ABS has indicated that all industries were impacted to some extent in January 2022 by staff becoming unavailable to work because of the Omicron wave which was approaching its peak at that time.⁶⁹ This included 10% of businesses in Retail Trade, 21% of businesses in Health Care and Social Assistance and 41% of businesses in Accommodation and Food Services. As noted above, these industries are among those with the highest levels of award reliance and are also regarded as essential. Rental hiring and real estate services, also heavily award reliant, had 44% of businesses reporting staff becoming unavailable for due to COVID. Across all business⁷⁰ where employees had become unavailable for any reason, 82% of employers cited self-isolation or quarantine as reasons, 73% reported staff having COVID or COVID symptoms and 33% reported absences due to waiting for COVID test results.

152. Labour force data gives a representation of the number of employees who experienced these impacts. In a media statement released with the January 2022 labour force data, the ABS observed that “January is the middle of summer and usually only around 90,000 to 100,000

⁶⁹ ABS [Business Conditions and Sentiments](#), January 2022.

⁷⁰ An industry level breakdown has not been published.

people in Australia are away from work sick for an entire week. In January 2022 it was around 450,000 (3.4% of employed people). The January 2022 figures are also much higher than in the winter months in Australia, when sick leave has usually peaked in August at around 140,000 to 170,000 people”.⁷¹ The underlying data indicates that whilst 449,900 employees did not work *at all* in the reference week due to illness, a further 239,600 worked *reduced hours* due to illness, totalling 743,500 or 5.6% of employed persons. Table 11 below shows how the share of employed persons unable to work due to illness differs and is slightly elevated for cohorts of workers which are typically more heavily award reliant. Industry level data is not publicly available.

Table 11: Share of workers unable to work, by personal characteristics (Jan 2022)

	Number unable to work	Share unable to work
All employed persons	743,500	5.6
Females	365,400	5.8
Part time employed	277,300	6.6
Under 35	384,100	5.9
Female part time employed	188,300	6.6
Female part time employed, under 35	103,000	7.3

Source: ABS 6202, 6291.0.55.001, ACTU calculations

153. In the absence of employer support, workers with no leave entitlements may have been entitled to access the “Pandemic Leave Disaster Payment” from the Commonwealth Government. Data from the Department of Health indicates that just 388,000 payments were made (against 532,000 claims) for the entire period between 3 and 30 January 2022⁷², significantly less than the number of workers sick during the reference week in January for the purposes of the labour force survey (refer Table 11 above), even allowing for correction based on the typical number of workers who missed a week due to illness in January of a usual year referred to by the ABS in its media statement above.

⁷¹ [ABS Media Statement](#), 17/2/2022

⁷² Derived from daily reports on [4 January 2022](#) and [31 January 2022](#)

154. It is reasonable to hypothesise that some of the award reliant workers that did claim and qualify for the pandemic leave disaster payment were undercompensated for their losses. In its initial iteration from August of 2020, the payment available was \$1500 where a worker was required to self-isolate, quarantine or care for a person with COVID-19 for 14 days (provided the worker was not in receipt of any other income support). This continued until 10 December 2021. It is possible to roughly test, by reference to Figure 54 above (which provides average *weekly* earnings of award reliant workers) and the 2.5% increase to modern award minimum wages in last year's decision, whether any cohorts of award reliant workers were likely to have been undercompensated since that increase took effect (the clear limitation being accounting for variations in hours of work), in the event they relied on the pandemic leave disaster payment for their income. Using that approach:
- a. It is clear that full-time award reliant workers, with assumed *average* fortnightly earnings of \$2661.51 at the relevant time, would have been among those undercompensated by payment. Noting that the minimum wage for full time work at the time was \$772.60, it is reasonable to assume that most such workers, excluding those on junior, apprentice or trainee rates, would have been undercompensated;
 - b. Part time award reliant workers had assumed *average* fortnightly earnings of \$1510.75 at the relevant time, so it is reasonable to assume that a large share were undercompensated;
 - c. Casual award reliant workers had assumed *average* fortnightly earnings of \$1091.83 at the relevant time, so it also reasonable to assume that some (albeit a smaller share than for other cohorts) would also likely have been undercompensated.
155. From 10 December 2021, a change was made to the payment such that it provided \$750 for each 7-day period of quarantine, isolation or care (to align with moves to alter the mandatory quarantine period). A more significant change took effect from 18 January 2022 (close to the time of the January Labour Force survey used for Table 11 above), such that only workers who were expecting to work 20 hours or more during the quarantine, isolate or care period would have been entitled to the \$750 amount, with workers expecting to work less hours entitled to only \$450. By reference to the *average* weekly hours of award reliant part time and casual workers shown in Figure 55 above, it seems that a reasonable share would have qualified only for the lower payment rate. Having regard to the assumed *average* fortnightly earnings for

these workers set out above, it seems that many would also have been undercompensated by the lower payment amount.

156. The payment rates for the pandemic leave disaster payments were similar but often higher than those available under the COVID-19 Disaster Payment scheme, also administered by the Commonwealth Government. These payments were made available to those unable to work because of lockdowns in particular locations declared as “COVID-19 Hotspots”, albeit with inconsistent waiting periods after such a declaration⁷³. Payments ceased to be available at the earlier of the location ceasing to be declared a “COVID-19 Hotspot” or two weeks after the relevant State reaching its 80% vaccination target (with payment rates reducing during those two weeks). Table 12 below sets out when the payments were available in each capital city local government area during the year in review and the payment rates and exclusions applicable.

⁷³ See further: [“Australian Government COVID-19 disaster payments, a quick guide”](#), Parliamentary Library (2022)

Table 12: Availability of COVID-19 Disaster Payments FY2021-22

City area	Date declared a hotspot	Date support payments commenced	Date ceased to be declared a hotspot	Date 80% target reached	Applicable payment rates	Exclusions
Melbourne(1)	27 May 2021	8 June 2021	10 June 2021	30 October 2021	\$325 per week for those who lost fewer than 20 hours of work, \$500 per week who lost more.	No compensation for any impacts of first week of lockdown. Persons on partial income support ineligible.
Sydney	23 June 2021	3 August 2021	18 October 2021	16 October 2021	As per Melbourne (1) above, until 13 July. From 13 July to 28 July, \$375 per week for those who lost fewer than 20 hours of work, \$600 per week who lost more. Thereafter, \$450 per week for those who lost fewer than 20 hours of work, \$750 per week who lost more, and \$200 to income support recipients who lost 8 or more hours of work.	No compensation for an any impacts during first week of lockdown. Until 28 July, persons on partial income support were ineligible.
Melbourne (2)	15 July 2021	8 June 2021	27 July 2021	30 October 2021	\$375 per week for those who lost fewer than 20 hours of work, \$600 per week who lost more.	
Brisbane	31 July 2021	7 August 2021	8 August 2021	8 December 2021	\$450 per week for those who lost fewer than 20 hours of work, \$750 per week who lost more, and \$200 to income support recipients who lost 8 or more hours of work.	
Melbourne (3)	5 August 2021	8 June 2021	31 October 2021	30 October 2021	\$450 per week for those who lost fewer than 20 hours of work, \$750 per week who lost more, and \$200 to income support recipients who lost 8 or more hours of work.	
Canberra	12 August 2021	20 August 2021	18 October 2021	17 October 2021	\$450 per week for those who lost fewer than 20 hours of work, \$750 per week who lost more, and \$200 to income support recipients who lost 8 or more hours of work	
Hobart	15 October 2021	22 October 2021	18 October 2021	9 November 2021	\$450 per week for those who lost fewer than 20 hours of work, \$750 per week who lost more, and \$200 to income support recipients who lost 8 or more hours of work.	
Darwin	17 August 2021	26 August 2021	19 August 2021	8 December 2021	\$450 per week for those who lost fewer than 20 hours of work, \$750 per week who lost more, and \$200 to income support recipients who lost 8 or more hours of work.	

Source: [Parliamentary Library](#); [Services Australia](#); [Department of Health](#).

157. Given that the payment rates for the COVID-19 disaster payment were equal to or less than those for the pandemic leave payment, our observations above concerning the likelihood of undercompensation remain apposite and we would note that in Victoria and NSW, months were spent in lockdown. Whilst the eligibility criteria for the COVID-19 disaster payment was different to that for the pandemic leave disaster payment, in our view there is also an overlap between the former and award dependent workers given the propensity for those workers to be prevented from working by lockdowns. The ABS's employee earnings, working arrangements and characteristics of employment data was collected in August 2021 which coincided with lockdowns as shown in Table 12. The ABS noted that around 64% of managers and professionals, who are typically not award reliant, worked from home at the relevant time (and thus were not eligible for a COVID-19 disaster payment), whereas for all other occupations only around 25% did.⁷⁴ In addition, the ABS commented that "...lower paid workers and their jobs were also particularly affected by lockdowns and restrictions", with the number of workers earning less than \$1,000 falling by around half a million between August 2019 and August 2021.⁷⁵

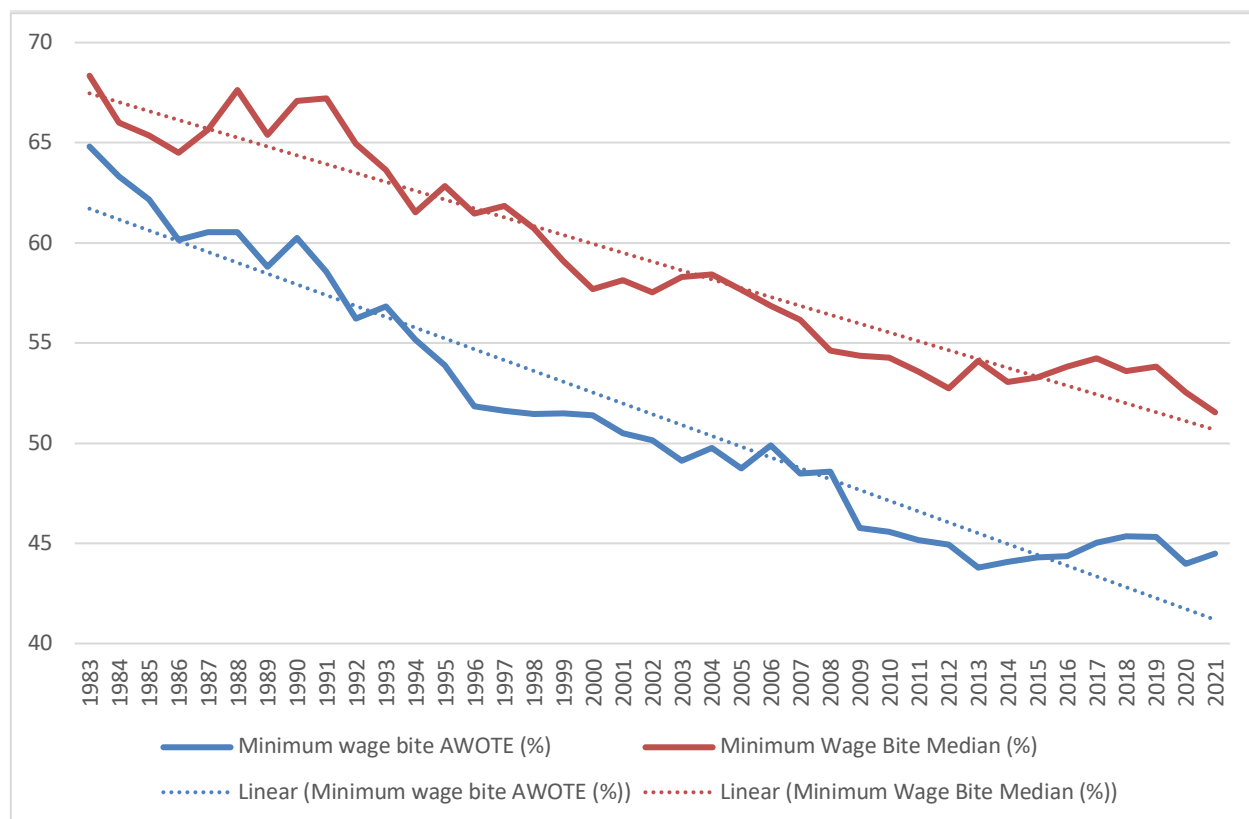
4.3 Relative earnings

158. The long-term decline in the minimum wage bite shows little sign of reversing, as shown in Figure 57 below.

⁷⁴ [ABS commentary](#), 14 December 2021

⁷⁵ [ABS Media Statement](#), 14 December 2021

Figure 57: Minimum wage bites, ratio of the NMW to AWOTE and Median Full Time Earnings (%), 1983-2021



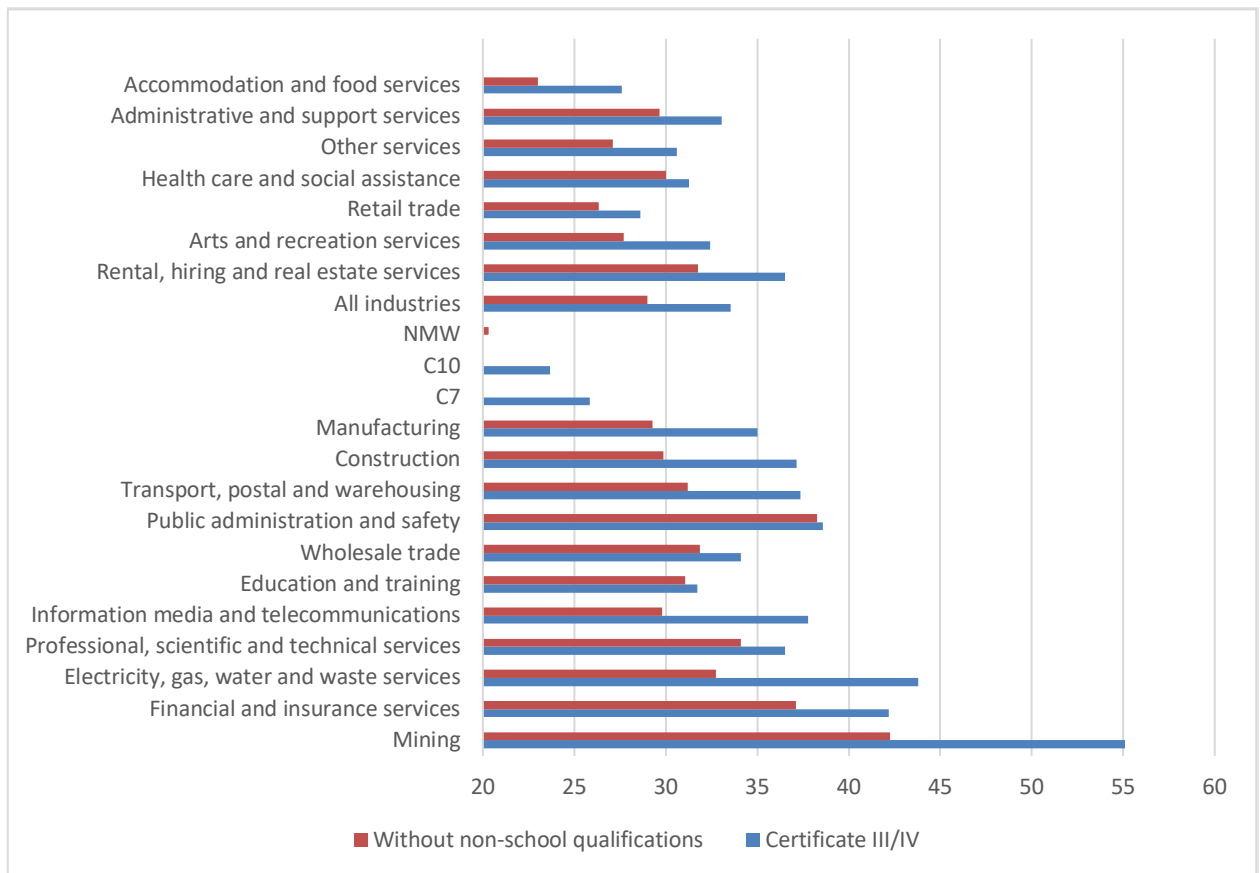
Source: Average full-time earnings is AWOTE from ABS 6302. Median from ABS 6333. NMW Bray 2013 and FWC.

159. The limitations for short run interpretation of the wage bite measures are compounded because the data for the minimum wage, AWOTE and median earnings are from separate data sources with different dates (July or later, May and August respectively). This matters less for long run trend interpretations. All that can sensibly be said about the most recent uptick in the minimum wage bite out of AWOTE in 2021 is that this likely reflects both the more typical level of increase in 2021 compared to 2020 as well as the return to a more normal composition for AWOTE (in terms of employment growing at the lower end of the income distribution) in May 2021 when no lockdowns were in place compared to May of 2020.

160. The earnings in the more award reliant industries tend to be lower than in other industries. Figure 58 below shows median *hourly* earnings between industries (in an attempt to correct for hours of work effect), for Certificate III or IV holders as well as for workers with no non-school classifications. We have also included the National Minimum Wage as well as the

C10 Certificate III and C7 Certificate IV rates from the Manufacturing Award as a comparison, to indicate the broad valuation of those skill levels in the award system relative to their market value.

Figure 58: Median hourly earnings by industry vs. key minimum wages, August 2021



Source: ABS 6333, ACTU calculations

161. The comparison in Figure 58 is limited by not taking into account whether the educational qualifications of the workers are in fact related to and required for their employment and also by not excluding persons who might be paid junior rates. Nonetheless, it is striking that:
- In all of the five most award dependent industries (where density of award reliance is 30% or greater), the median hourly earnings for certificate III or IV qualified workers are below the median hourly earnings for workers in all industries for that level of qualification;
 - In only one other industry (education and training) are the median hourly earnings for certificate III or IV qualified worker lower than the median hourly earnings for workers in all industries for that level of qualification;

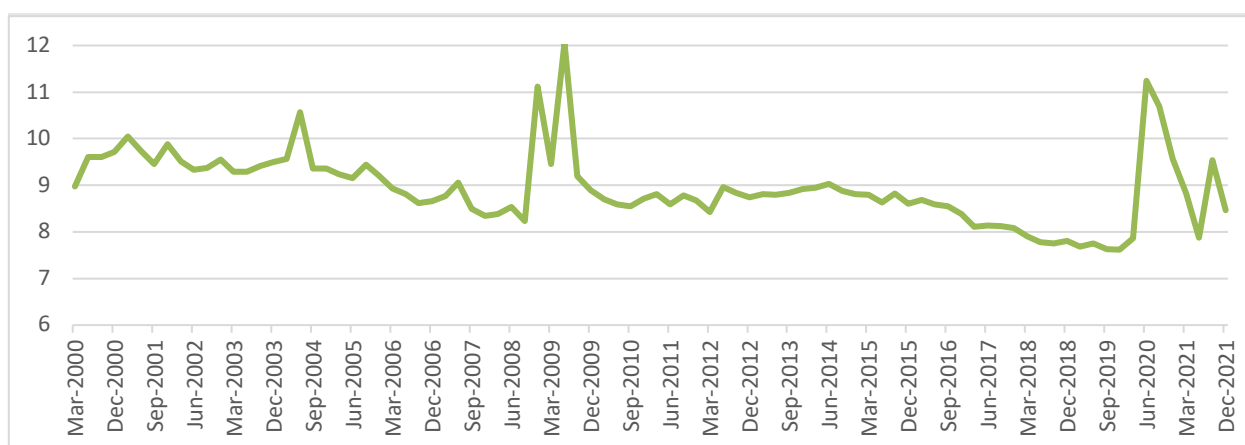
- c. The C10 and C7 rates are far lower than the hourly median hourly rates actually earned by certificate III or IV workers in any industry, including those in heavily award reliant industries – possibly indicating the importance of penalty rates to weekly incomes and/or that award reliance is higher at lower skill levels;
- d. In three of the five most award dependent industries, the median hourly earnings for workers with no non-school qualifications are below the median hourly earnings for workers in all industries for that level of qualification;
- e. In only one other industry (arts and recreation services, also heavily award reliant) are the median hourly earnings for workers with no non-school qualifications lower than the median hourly earnings for workers in all industries for that level of qualification; and
- f. The C14/NMW rate is far lower than the *median* hourly rates actually earned by workers in any industry.

162. The Panel should take these observations into account in forming a view about the relative living standards of the award reliant workforce and in setting minimum wages that are fair and relevant.

4.4 Living Standards and the tax-transfer system

163. At a macro level the share of social assistance out of gross income has declined since the height of the pandemic response, highlighting the temporary nature of many of those response initiatives. This is seen in Figure 59 below. From 2015 to pre-pandemic 2020 there was a gradual decline in the share of social of assistance, with current levels hovering at around the mid-point seen over that period of decline and appreciably less than seen prior to the GFC. The scale of social assistance relative to income in 2021 compared to 2020 is also clearly evident.

Figure 59: Social assistance as a share of gross income (%) 2000-2021



ABS 5620, ACTU calculations

164. At a finer level we acknowledge that some initiatives announced as part of the previous budget will have a positive effect on the living standards of some workers who are award reliant. In particular, the raising of the childcare subsidy to up to 95% for a second and subsequent child, which took effect from March 2022⁷⁶, will benefit some lower income families.

165. Further whilst we acknowledge that the removal of the \$450 monthly income threshold for the making of employer superannuation contributions (due to take effect on 1 July 2022⁷⁷) will benefit the living standards of some workers at a later stage in life, it will make no difference to immediate living standards except insofar as it removes incentives for employers to distribute hours (to casual workers in particular) in a way calculated to avoid liability to pay superannuation contributions.

166. In terms of the initiatives announced as part of this year's budget on 29 March, it is difficult to make solid predictions as to the impact these may have on living standards throughout the period to which the minimum wages as varied in this review will apply. There are five key elements in the Budget that are relevant to this analysis, as follows:

- a. The halving of the Petrol Excise, from 44.2 cents per litre to 22.1 cents per litre is a temporary measure. It is due to commence on 30 March 2022 and conclude on 28

⁷⁶ Family Assistance Legislation Amendment (Child Care Subsidy) Act 2021, s. 2.

⁷⁷ Treasury Laws Amendment (Enhancing Superannuation Outcomes For Australians and Helping Australian Businesses Invest) Act 2021, at Schedule 1.

September 2022,⁷⁸ although it appears that giving effect to this measure would require amendment to Item 10 of the Schedule to the *Excise Tariff Act 1921*. As noted elsewhere in this submission, fuel prices are indeed the major driver of cost of living increases. Petrol price surveys indicate that on Budget night, the national average price for petrol was \$2.21 and \$2.22 for diesel.⁷⁹ The national fuel average price climbed from \$1.59 per litre on 2 January up to to \$2.12 per litre by 20 March 2022, or a rapid 33.9% price increase. This is on top of record price rises in 2021, where automotive fuel rose by 31.5% for 2021. The best possible outcome of the fuel excise reduction for worker and consumers is that, temporarily at least, prices are reduced to what are on any assessment elevated levels related to factors pre-dating the invasion of Ukraine. Indeed, Budget Paper No. 1 states that the forecasts contained therein “assume that the global oil price subsides from the recent spike but remains about pre-invasion levels”(emphasis added).⁸⁰ On that optimistic assumption, it states that “Of the 4.25 per cent inflation forecast through the year to June 2022, around one percentage point is due to the direct effect of higher oil prices on fuel, offset by ⁸¹percentage point by the temporary reduction in excise taxes”.⁸¹ However, the Budget also outlines an alternative scenario, not accounted for in the official forecasts, whereby “disruptions to Russian oil⁸²”, which results a further .25% being added to inflation to June 2022.⁸² This alternative scenario is more consistent with multiple forecasts of higher prices ahead, including some that would easily nullify⁸³.⁸³ Furthermore, the Budget reflects a concern that the reduction in excise will not be passed on in full to consumers, as belied by the statement that the ACCC⁸⁴ to ensure that the lower excise rate is fully passed on to consumers”. There would be no need for monitoring (let alone belated corrective action) unless the expectation was that a

⁷⁸ Commonwealth Treasury (2022), Budget 2022-23 - Budget Paper No. 2, page 15.

⁷⁹ Davis. W., “[Fuel Prices Today: Petrol and diesel hold at record highs ahead of excise cut](#)”, drive.com.au, accessed 30 March 2022.

⁸⁰ Commonwealth Treasury (2022), Budget 2022-23 - Budget Paper No. 1, page 62.

⁸¹ *Ibid.*

⁸² *Ibid.*

⁸³ Prior to the Excise Reduction being announced, a leading energy expert suggested that fuel prices could easily rise to \$2.50 per litre. (Rebecca Scanlan, [Australians react as petrol soars past \\$2 per litre](#)). CBA Mining and Energy Economist Vivek Dhar similarly predicts a risk to \$2.40-\$2.45 per litre (based on oil prices of US\$150 per barrel, which may be surpassed) (Poppy Johnstone, [Forget \\$2 a litre - here's how expensive petrol could really get](#)). Analysts JP Morgan predict that oil prices – a key driver of fuel prices – could rise to \$185 USD per barrel (Mark Saunokonoko, [Petrol could hit \\$2.15 a litre amid threat of Russian oil sanctions](#)). Brent Crude currently (as at 30 March 2022) trades at about \$110 USD per barrel (Bloomberg, <https://www.bloomberg.com/energy>). Economists have generally predicted volatility in global oil prices over the coming period, and pointed to scenarios which could see greater rises. The NRMA’s Peter Khoury states “Whatever the price cut ends up at, the volatility of the oil market means another price spike could eat up the fuel excise cut, and the public don’t get the relief they are hoping for” (Graham, Foley, Toscano, SMH, [Service stations to face delays in passing on petrol price relief](#))

⁸⁴ Commonwealth Treasury (2022), Budget 2022-23 - Budget Paper No. 2, page 15.

share of the reduction would go to profit margins. In our view, there is no basis for the Panel to conclude that this measure will eliminate cost of living pressures that have arisen and will arise from fuel prices in the current year. Further, at this stage at least, its impact is too uncertain for it to be regarded as anything other than a neutral factor over the year ahead.

- b. Changes are planned to the Low-Medium Income Tax Offset (LMITO). Whilst the current financial year will be the last to which the LMITO will apply under the extant legislation, the announced modifications will require legislative change, most likely amendments to section 61.107 of the *Income Tax Assessment Act 1997*. As a non-crediting offset, the LMITO provides no benefit to persons who earn less than the \$18,200 tax free threshold, a group which one might reasonably be assumed to overlap with the part time single parents identified in table 8.6 of the statistical report to have household incomes falling below the 60% median income poverty line at multiple award rates of pay. The announced increase of the existing maximum level by \$420 from \$1,080 to \$1500 does not alter the basic structure of the LMITO which sees the greatest benefit being retained by persons who earn between \$48,000 and \$90,000 per year. Budget paper No.2 suggests the additional \$420 amount will not be payable to all persons who benefit from the LMITO currently:

*“Other than those who do not require the full offset to reduce their tax liability to zero, all LMITO recipients will benefit from the full \$420 increase. All other features of the current LMITO remain unchanged.”*⁸⁵
(emphasis added)

The group of persons who do not require the full offset to reduce their tax liability to zero are those that have a lesser tax liability to begin with, likely because they have lesser earnings. This suggests that the lowest paid will not benefit from the announced initiative. The Panel’s commentary on the LMITO in the 2017-18 Review suggested that the proper impact to take into account for the LMITO would be the impact experienced in the income year in which payment of the offset was actually received.⁸⁶ Subject to further clarification, it would appear that, should the necessary legislation pass, some award reliant workers will receive an additional benefit compared to that they received in the current year, but the lowest paid will not. The Panel should take into account that this “one off” tax relief in arrears does little to

⁸⁵ Commonwealth Treasury (2022), Budget 2022-23 - Budget Paper No. 2, page 16.

⁸⁶ [2018] FWCFB 3500 at [291]-[292].

reduce enduring pressures on the cost of living and living standards, particularly the fall in real wages.

- c. Budget Paper 2 also re-announced that the costs of taking a COVID-19 test to attend a place of work will be tax deductible.⁸⁷ Such deductibility at the end of a financial year does nothing to manage week to week expenses and in any event the impost of outlays for testing directly upon workers is in our view highly objectionable. Employers have a duty to ensure the health and safety of their workforce. This requires taking appropriate measures to mitigate and eliminate risks, including the provision of RATs to its workforce. Relatedly, the provision of up to 20 free COVID-19 rapid antigen to all Australians with a concession card is a once off that will end on 31 July 2022. The budget is also ending the procurement and distribution of RATs to National Disability Insurance Scheme Independent Living residents and workers effectively on 30 June 2022⁸⁸, so these two categories of award reliant workers are likely to face both additional costs, and upfront outlays.

- d. Changes announced to the Medicare levy low-income thresholds for workers are likely to be of negligible real benefit over the year. The Medicare levy is 2% of taxable income and the function of the low-income threshold is to set the income level at which no levy is paid and at which tapering begins. Whilst the Budget papers suggests that the intent of the adjustment is that it “takes into account movements in the consumer price index”⁸⁹, the increase is a \$139 rise from \$23,226 to \$23,365 (%0.6%) for singles and a \$235 for families from \$39,167 to \$39,402 (1%).

- e. A one off \$250 payment will be made to income support recipients in April 2022.⁹⁰ This will provide a small benefit to those award reliant workers who are in receipt of partial income support, but is no substitute for real wage growth. There may be broader, transient, and small stimulus effects from such payments but they are unlikely to result in material changes in living standards for recipients over the year to which wages adjusted in this review will apply. It is unclear to us at the time of writing whether the changes are intended to be given effect to by legislation or paid administratively.

⁸⁷ Commonwealth Treasury (2022), Budget 2022-23 - Budget Paper No. 2, page 18.

⁸⁸ Commonwealth Treasury (2022), Budget 2022-23 - Budget Paper No. 2, page 90.

⁸⁹ Commonwealth Treasury (2022), Budget 2022-23 - Budget Paper No. 2, page 24.

⁹⁰ Commonwealth Treasury (2022), Budget 2022-23 - Budget Paper No. 2, page 167.

167. In our submission, the Budget initiatives discussed above are either transient, of negligible value or both and a poor substitute for real wage growth. Being an election year, it is even more uncertain whether the announcements will come to fruition, whether they are legislatively based or not. The Panel should maintain its established approach of not applying a direct value to them, and to disregard them entirely if not legislated prior to its decision.⁹¹ As the Panel has consistently held, there is no warrant to attempt to mechanistically adjust minimum wages in response to particular initiatives.⁹² A holistic and balanced assessment, which likewise takes into accounts likely improvements in employer's cost base, the costs of living and the performance of the national economy among other relevant considerations, is required.

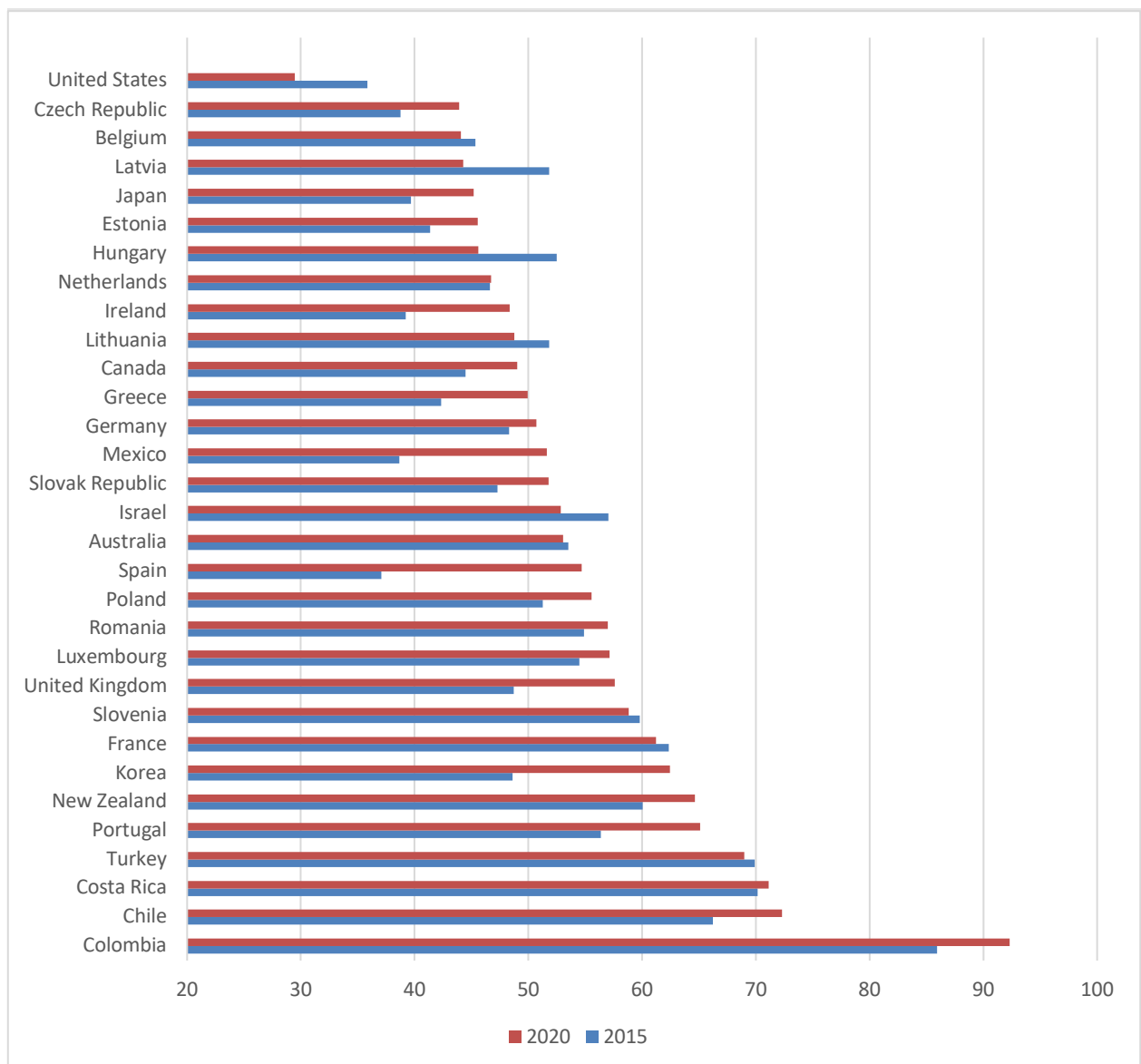
4.5 International comparison

168. Australia is one of only nine OECD countries for which data is available that have experienced a deterioration in the minimum wage bite over the 5 years to 2020, as shown in Figure 60 below:

⁹¹ [2012] FWA FB 5000 at [175]; [2015] FWCFB 3500 at [68], [258]-[260]; [2018] FWCFB 3500 at [292].

⁹² [2018] FWCFB 3500 at [301]

Figure 60: Minimum wage as a percentage of the median, OECD countries, 2015-2020



Source: [OECD](#)

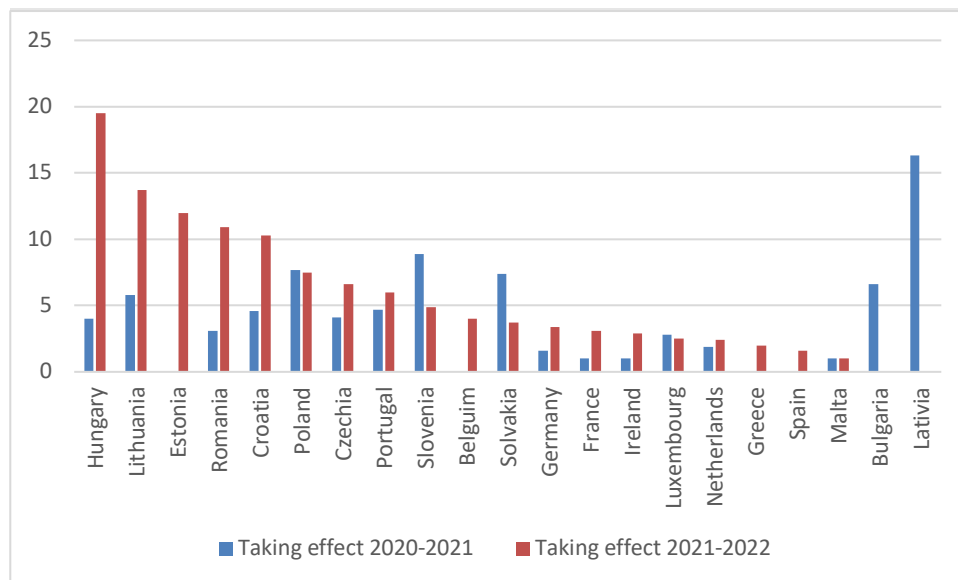
169. Australia is currently around the middle of the pack for its minimum wage bite in 17th place, whereas it was in 9th place only a decade ago and in second place two decades ago 2000.⁹³

170. Data from Eurofound suggests that many EU nations adopted generous minimum wage policies whilst their economies and labour markets are recovering from the effects of the

⁹³ OECD: [Minimum relative average wages of full time workers](#), accessed 28 February 2022.

pandemic, with an average of around a 6% increase in nominal terms to take effect this year versus less than 4% in 2021⁹⁴. This can be seen in Figure 61 below.

Figure 61: EU Minimum wage increases for 2021 and 2022, nominal % in national currency



Source: Eurofound, note 94

171. The above minimum wage increases were established at different times throughout 2020 and 2021 against a backdrop of varying COVID restrictions and highly variable increases in consumer prices across the Euro area as measured by the European Central Bank⁹⁵, averaging 1.4% in the year to January 2020, 0.9% in the year to January 2021, 1.9% in the year to June 2021 and 5.1% in the year to January 2022.

⁹⁴ Vacas-Soriano, C. & Kostolny, J, "[Minimum wages in 2022: Bigger hikes this time around](#)", 27/1/2022.

⁹⁵ The ECB maintains the [Harmonised Index of Consumer Prices](#) based on a representative basket of goods.

5. THE NEEDS OF THE LOW PAID.

172. An assessment of the needs of the low paid requires an examination of the extent to which low-paid workers are able to purchase the essentials for a decent standard of living and to engage in community life, assessed in the context of contemporary norms.⁹⁶ The risk of poverty is also relevant in addressing the needs of the low paid.⁹⁷
173. In this Chapter, we provide evidence which, together with what was seen in Chapter 4, supports a conclusion that the risk of poverty for low paid workers has increased since the last review, and that their capacity to maintain a decent standard of living has deteriorated. This includes evidence on poverty levels among different households, wage disparities, increasing levels of financial stress, costs of living, spending patterns and reliance on secondary employment.

5.1 Relative Poverty

174. In maintaining a safety net of fair minimum wages the FWC must take into account, inter alia, relative living standards and the needs of the low paid (FWA s.284(1)(c)). The Panel has consistently adopted the threshold of two-thirds of median adult full-time ordinary earnings as the benchmark it uses to identify who is “low paid”.¹
175. The Panel reaffirmed in its 2021 decision that:
- “...we accept that if the low paid live in poverty then their needs are not being met. In measuring poverty we continue to rely on poverty lines based on a threshold of 60 per cent of median equivalised household disposable income and that those in full-time employment can reasonably expect to earn wages above a harsher measure of poverty.”²
176. The Statistical Report compares the equivalised household disposable income (EHDI) of 14 hypothetical NMW-reliant households across the C14, C10 and C4 rates of pay as well as AWOTE. Last year the Panel noted that five of the 14 hypothetical household types at the C14 rate in the December 2020 quarter had disposable incomes below the 60 per cent median income relative poverty line. It also noted that there was a decline in equivalised

⁹⁶ [2019] FWCFB 3500 at [17].

⁹⁷ *Ibid.*

household disposable income relative to this poverty line between the December 2019 quarter and December 2020. This was a factor the Panel took into account in awarding the increase last year.⁹⁸

177. There has been a considerable decline in the EHDI of all hypothetical households in the Statistic Report comparing the September 2021 quarter to the December 2020 quarter. All 14 households recorded a decline in the EHDI by an average amount of 8.6% of disposable income as a proportion of median income poverty line.⁹⁹ Key changes include:
- a. Eight of the household types at the C14 rate now fall below of median income poverty line, whereas only five did last year.
 - b. Six of the households at the C10 rate now fall below the median income poverty line, whereas only four did last year.
 - c. Five of the households at the C4 rate now fall below the median income poverty line, whereas none did last year.¹⁰⁰
178. The Panel has also acknowledged that the EHDI assesses the circumstances of hypothetical household types rather than individual circumstances.¹⁰¹ The ACTU submits that it is also important for the Panel to consider whether or not the NMW is enough to lift an individual above 60 per cent of median earnings when considering relative poverty and the needs of the low paid.
179. The National Minimum Wage (NMW) has not kept pace with relative poverty thresholds such as 60% of the median earnings. It fell below that level in 1999 and has now reached a record low of 51.5%, dropping from 1.2% since last year's level of 52.7%. A comparison with Average Weekly Ordinary Time Earnings (AWOTE) is also a helpful measure of whether or not the NMW is keeping up.

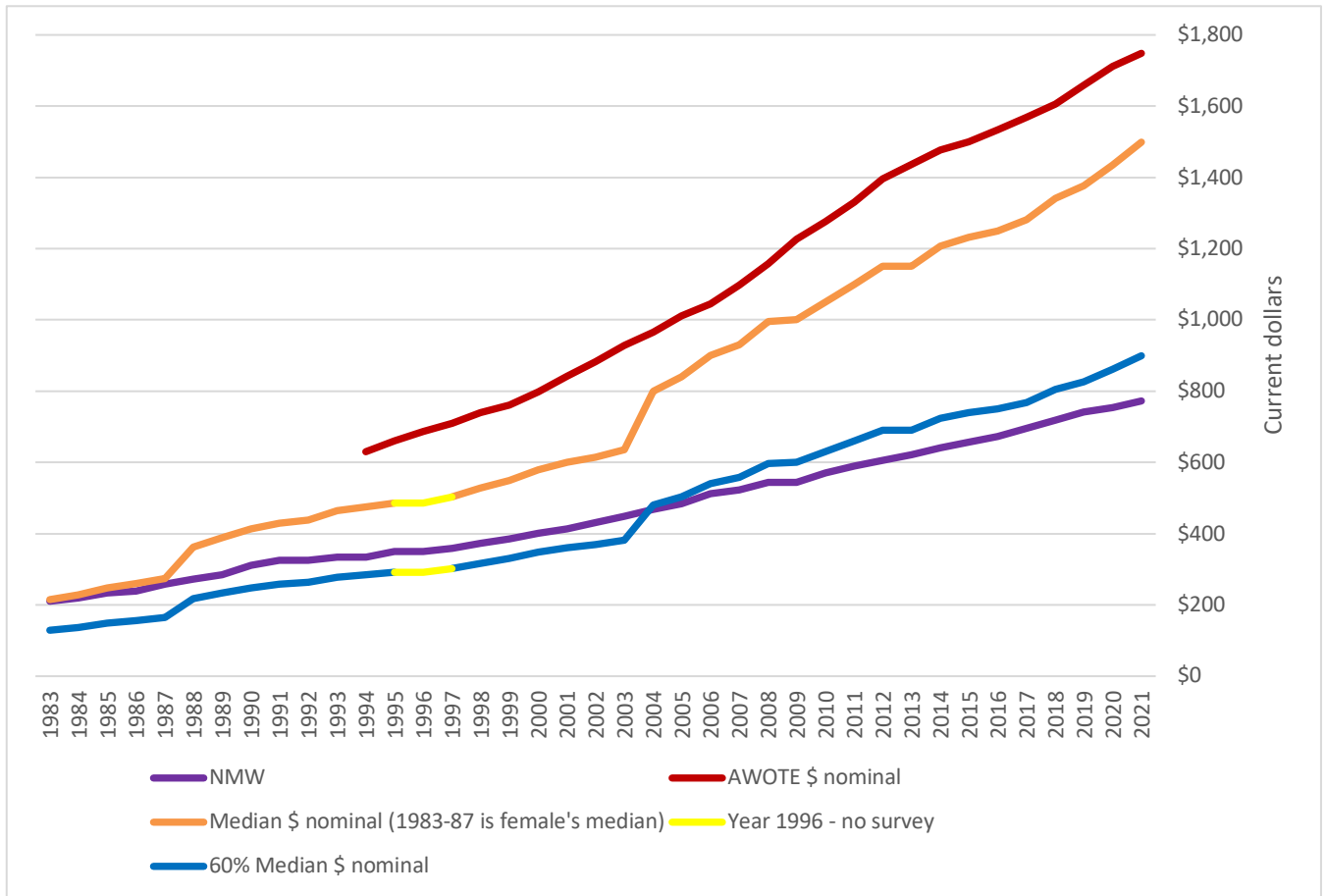
⁹⁸ [2021] FWC 3500 at [146], [176].

⁹⁹ ACTU calculations from FWC Statistical Report Table 8.6; [2021] FWC 3500 Appendix 6

¹⁰⁰ FWC Statistical Report EHDI tables.

¹⁰¹ [2021] FWC 3500 at [140]

Figure 62: National minimum wage, Average Weekly Ordinary Time Earnings, Median Earnings, and 60% of Median Earnings, nominal (current) dollars 1983 - 2021

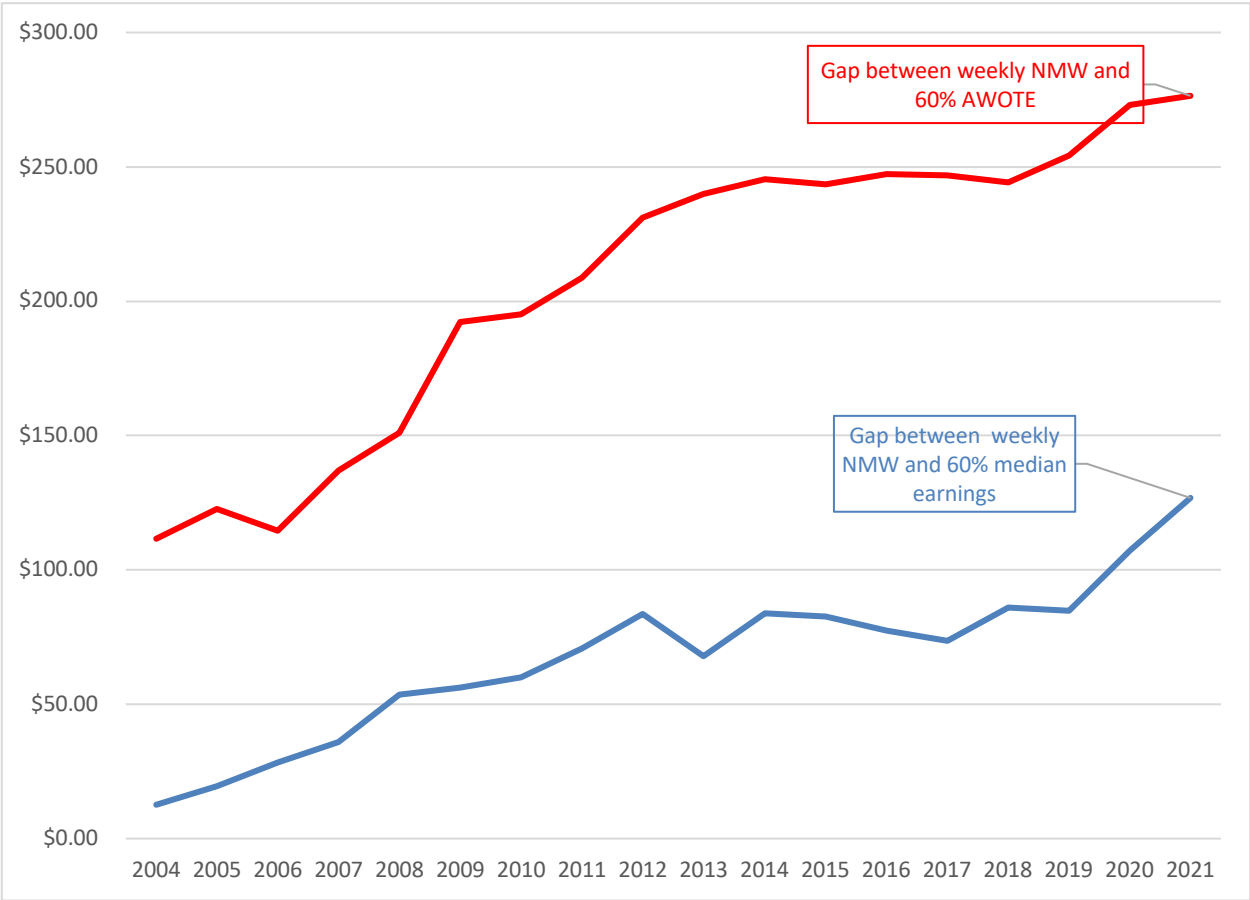


Source: ABS 6302003; 6310; 6333 and ACTU collection on historical minimum wage decisions

180. The gap between the NMW and the median income poverty line as measured in nominal dollars is also significant, growing to a record of \$126.80.¹⁰² By way of comparison, the gap between the NMW and 60 percent of AWOTE has also grown to a record \$276.44 in 2021.

¹⁰² FWC Statistical Report (2022) Table 8.1 page 81 reported this figure at \$127.40, a difference of \$0.60 per week against our calculation.

Figure 63: The current dollar gap between NMW and 60% median earnings and 60% AWOTE



Source: FWC Statistical Report Table 8.1, ABS 6302003, 6310, 6333, and ACTU calculations.

181. Aside from the NMW, Award classifications C13, C12 and C11 also now sit below the median income poverty line. Further, classifications C7 to C14 are now “low paid” sitting below two-thirds of median earnings.

Table 13: Selected Award rates as % of median weekly earnings

Award classification	Current rates	As % of median weekly earnings
	Weekly	Hourly
NMW/C14	772.6	51.5%
C13	794.8	53.0%
C12	825.2	55.0%
C11	853.6	56.9%
C10	899.5	60.0%
C9	927.7	61.8%
C8	955.9	63.7%
C7	981.5	65.4%
C6	1031.3	68.8%
C5	1052.4	70.2%
C4	1080.6	72.0%
C3	1137.2	75.8%
C2	1165.6	77.7%

Source: Manufacturing and Associated Industries Modern Award, ACTU calculations

182. Closing the gap between the NMW and 60% of nominal median earnings would require an increase of around \$127.40 per week, or increase of approximately 16.5%. This amounts to an increase of around \$3.35 per hour. The ACTU's proposal is for a practical increase to the minimum wages by 5% or \$38.63 per week for the NMW. Assuming median weekly earnings increased by the budget projection of WPI growth of 3.25% for the next financial year, then if the Panel passed this increase it would reduce the gap to \$117.40 and lift the NMW to 52.4% of median earnings.

5.2 Financial stress facing the low paid

183. The Panel said last year that the majority had previously acknowledged that:

"The poverty line essentially measures inequality at the lower end of the income distribution and does not measure observed needs or capacity to meet these needs, which is better indicated by measures of deprivation and financial stress".¹⁰³

¹⁰³ [2021] FWC 3500 at 140

184. The current levels of financial stress and deprivation faced by low paid workers has increased, in part because of the impact of the unprecedented COVID-19 income supports and then their narrowing and complete withdrawal in 2021. With the central pillars of *JobKeeper* and the Coronavirus supplement (for those on full or partial income support) tapered down and then completely removed by March of 2021, many low paid, insecure and part-time award reliant workers undoubtedly found themselves in a difficult position as their incomes reduced and became more irregular, particularly in the more COVID-affected locations in the latter half of 2021. The "lumpiness" of the Disaster Payment as a result of it being tied to "HotSpot" declarations and the demand driven nature and inadequacy of both the Disaster Payment and the Pandemic Leave Disaster Payment as discussed in the previous Chapter, lacked the consistency of a proper income support safety net. Between eligibility periods or events for each payment, there was an assumption of normality for those who might otherwise be recipients, but there were doubtless many who experienced hardship as hours or work reduced or became less predictable.
185. A recent research paper by ACOSS found that income inequality and poverty declined in 2020 despite the deep recession and high "effective unemployment" rate because of robust income supports of *JobKeeper* and the Coronavirus Supplement.¹⁰⁴ While these overall observations are sound, they would not account for the acute stress faced by key cohorts of low paid workers, particularly an estimated 1.1 million workers who were ineligible for Job Keeper payments, including casual workers with less than 12 months of service, or those working for ineligible employers, e.g., in local government or higher education.
186. Nevertheless, this general trend in 2020 is supported by other research during this period. Wave 20 of the Household, Income and Labour Dynamics in Australia (HILDA) Survey conducted field work from 4 August 2020 to 7 February 2021. It found a slight decline in the levels of financial stress experienced by low-paid employee households, declining from 31.6% in 2019 to 24% in 2020.¹⁰⁵ Relevantly, prior to the pandemic, the levels of stress for this cohort had been steadily increasing, going from 27.4% in 2016 up to 31.6% in 2019.¹⁰⁶ In awarding an increase last year the Panel similarly noted that:

¹⁰⁴ ACOSS, March 2022, [Covid, Inequality and Poverty in 2020 & 2021: How poverty & inequality were reduced in the Covid recession and increased during the recovery. March 2022](#)

¹⁰⁵ Household, Income and Labour Dynamics in Australia Survey Wave 20.

¹⁰⁶ Unfortunately wave 21 which would pick up the impact of Covid income supports ending is not yet available.

“However, indicators before the pandemic showed that there was a modest increase in the proportion of low-paid employee households experiencing financial stress in 2019. It is clear that some households, particularly low-paid households were experiencing significant disadvantage and that despite some temporary assistance, would have endured hardship last year as they had less savings than other households.”¹⁰⁷

187. The situation changed in 2021. ACOSS argues that as COVID-19 income supports were withdrawn in the first half of 2021, “the available evidence indicates that income inequality and poverty increased above pre-pandemic levels.”¹⁰⁸ The paper states that it is likely that income inequality increased as income supports wound back.¹⁰⁹ In July 2021, as the Delta wave hit, a weaker set of income support measures were put in place. Even then, there was increased demand from welfare agencies as well as increased online search activity for financial assistance over this period in both Sydney and Melbourne from July and August 2021.¹¹⁰ Those supports, relied on by about 1.9 million people, were rapidly phased out as vaccinations targets were hit and lockdowns ended in late 2021.

188. Poverty, defined by ACOSS in its report at the more stringent level of only 50% of median earnings, increased quickly beyond pre-pandemic levels once income supports were lifted in the middle of 2020. From a level of 1.8% in 2019, it jumped up to 13% in the September 2020 quarter and then to 14% in January 2021.¹¹¹

189. Key sources of data measuring financial stress in 2021 have not been available at the time of writing. These include Wave 21 of the HILDA survey. Further, the latest release of the ABS Household Impacts of COVID-19 Survey did not include questions on financial stress which featured in 2020, meaning comparisons are not possible. Finally, relevant update ABS surveys on Household wealth and income have not been released at the time of writing. Nevertheless, two recent surveys do show a return to very high levels of financial stress for the low paid which are now considered in turn.

¹⁰⁷ [2021] FWC 3500 at [153].

¹⁰⁸ ACOSS, op. cit. 8

¹⁰⁹ ACOSS, op. cit. 9

¹¹⁰ ACOSS op. cit. 13

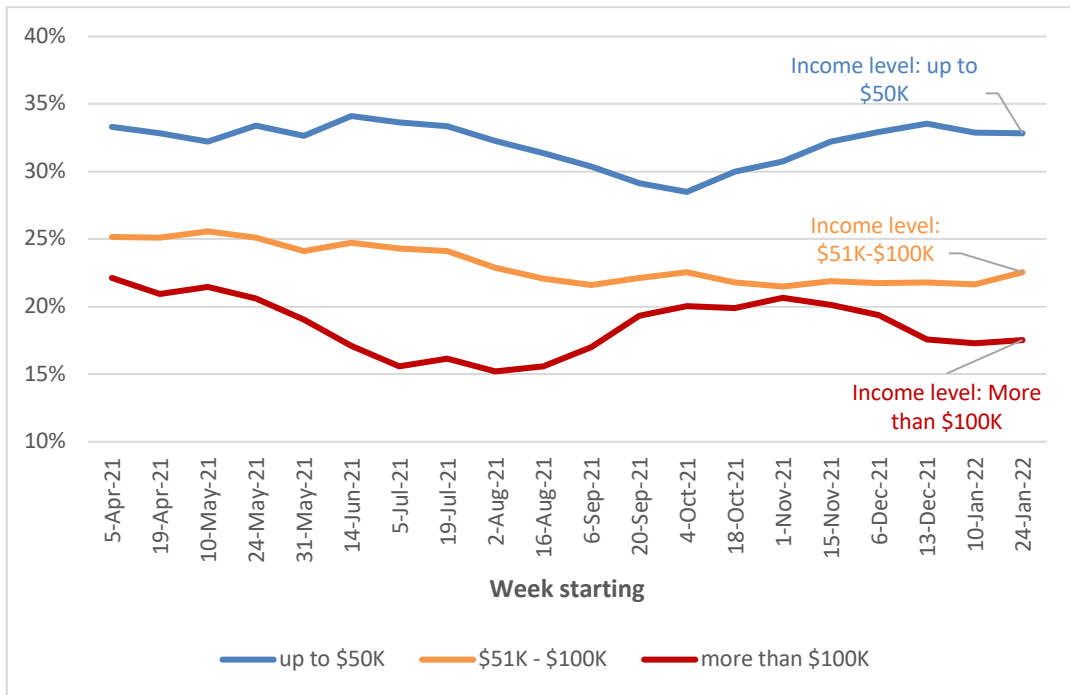
¹¹¹ ACOSS op. cit. 30

5.2.1 Melbourne Institute survey of the impact of Covid-19

190. The Melbourne Institute publishes *Taking the Pulse of the Nation: Melbourne Institute's survey of the impact of COVID-19*, a weekly survey to track changes in the economic and social wellbeing of Australians living through the effects of the pandemic. The survey, which commenced in April 2020, contains 1,200 respondents aged over 18, and the sample is stratified by gender, age and location to be representative of the Australia population. Respondents are asked: "How would you describe your current financial conditions, in terms of paying for essential goods and services such as bills rents, mortgages?" They can answer with options: "very financially stressed", "moderately financially stressed", "making ends meet", "moderately comfortable financially", "very comfortable financially" and "refused/don't know".¹¹²
191. The Melbourne Institute started collecting data on the income levels of respondents in February 2021. To better highlight longer trends the data here is presented as a rolling 6-week average, hence commencing in April 2021. It shows that workers on low incomes (up to \$50,000) experienced levels of stress well above other income cohorts. Their levels of financial stress also closely matched the introduction and withdrawal of COVID income supports in 2021. Levels of financial stress decline with the introduction of income supports in May/June 2021 and then began to rise again when supports were phased out and then withdrawn during August-October 2021 (refer Table 12). These patterns support the analysis of ACOSS above in paragraph 15, that financial stress dropped with the provision of COVID income supports, down to 29% during the 2021 lockdowns, but has then returned to around 33 to 34% by early 2022. These figures are consistent with HILDA findings on financial stress, especially prior to the pandemic.

¹¹² We present the answers as rolling six week averages to more easily identify any trends.

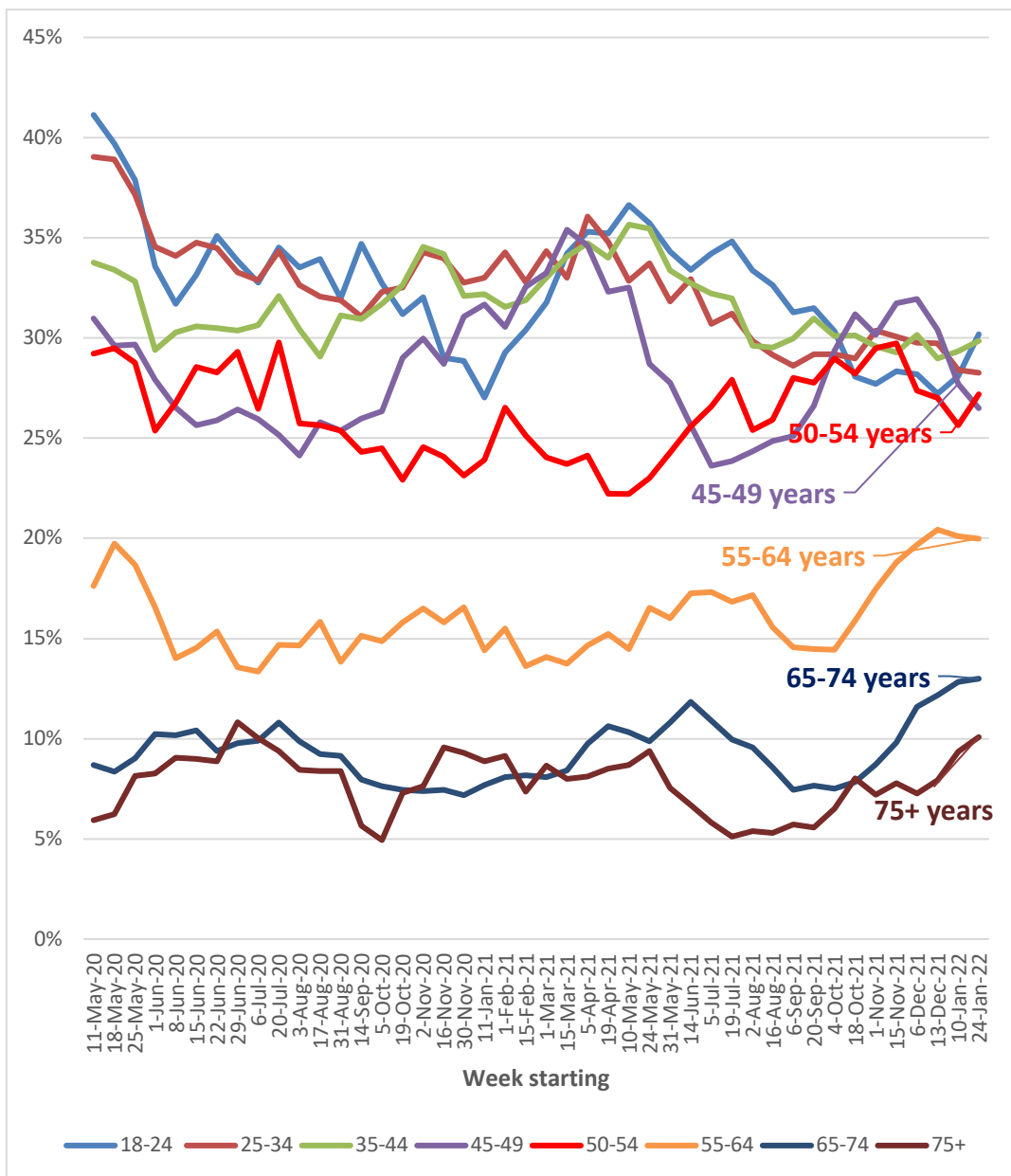
Figure 64: Financial stress by income level



Source: Melbourne Institute, Taking the Pulse of the nation. Data presented in rolling six-week averages.

192. Younger respondents have faced significant levels of financial stress throughout the pandemic and well above the levels faced by other age cohorts. As noted in Chapter 4, award reliant workers are over-represented in the under-25 year age group.

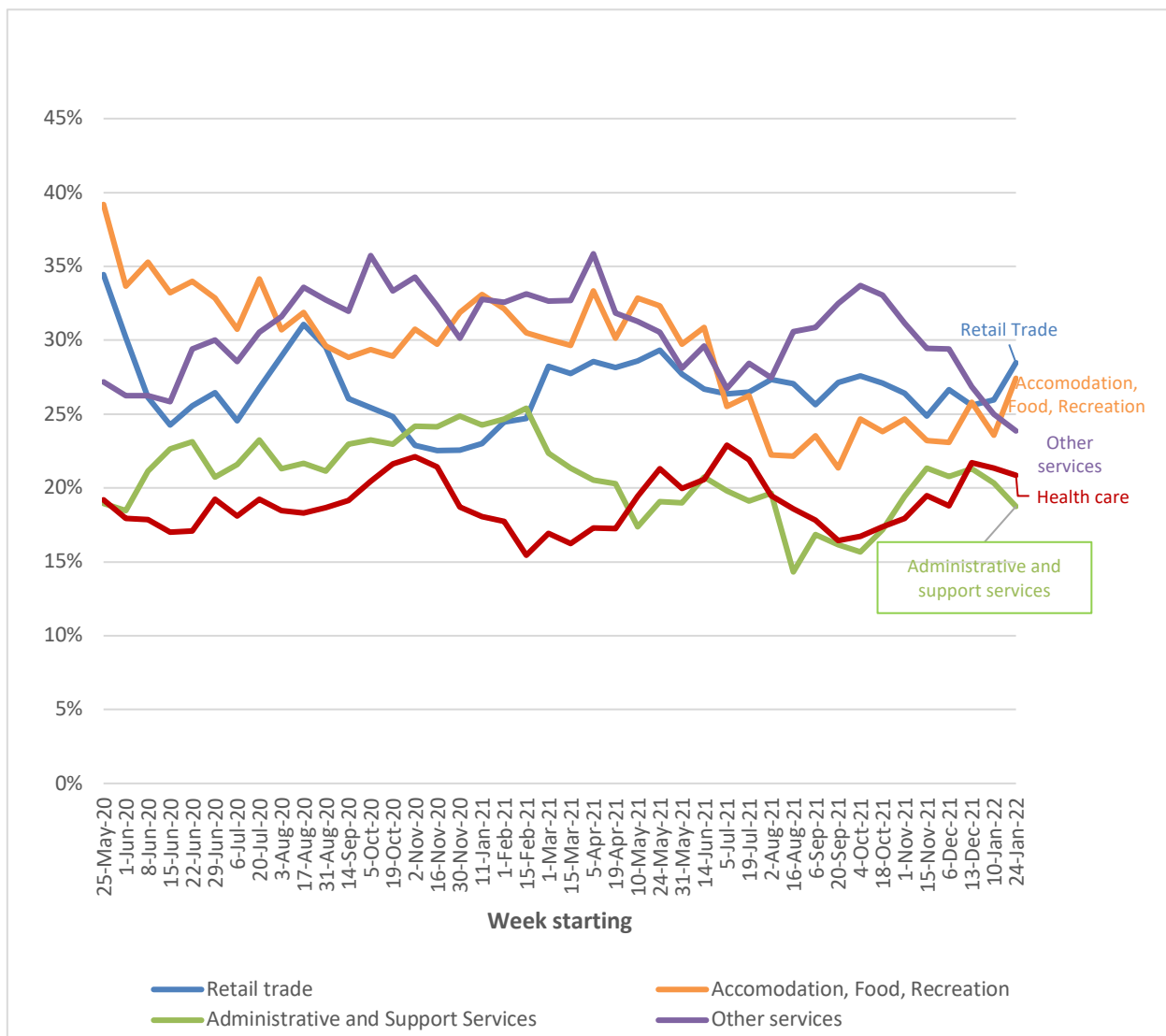
Figure 65: Financial stress by age groups



Source: Melbourne Institute, Taking the Pulse of the nation. Data presented in rolling six-week averages.

193. Industries that are more Award reliant have large proportions of employee respondents exhibiting high levels of financial stress throughout the survey period. Fluctuations during the survey period notwithstanding, by the end of survey period, the financially stressed employees amongst respondents from Administrative and Support Services; Health Care; Other Services remained either as high or almost as high as it was at the start of the survey.

Figure 66: Financial stress amongst workers from industries with high density of award reliance



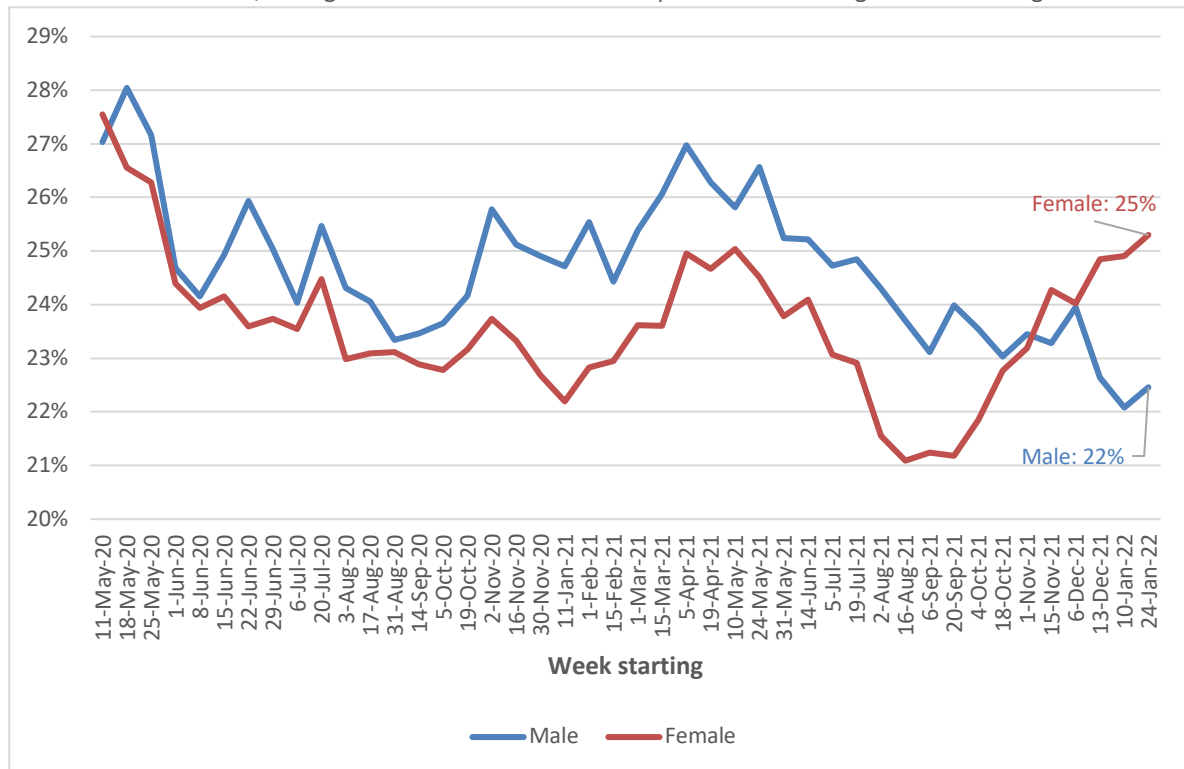
Source: Melbourne Institute, Taking the Pulse of the nation. Data presented in rolling six-week averages.

194. Men have generally experienced higher levels of financial stress than women, but this has changed since November last year, arguably because the withdrawal of COVID related income supports and the growing pressures on the cost of living have affected women more than men. The dependency on COVID income supports itself suggests a greater risk among

women to continuity of employment in the face of COVID outbreaks and/or control measures.

Figure 67: Financial stress by gender

Source: Melbourne Institute, Taking the Pulse of the nation. Data presented in rolling six-week averages.



5.2.2 ACTU Attitudes, Sentiment and Knowledge Survey

195. The ACTU has recently launched a new national tracking survey called *Attitudes, Sentiments and Knowledge (ASK)* asking adults over the age of 18 a wide range of questions on work and home. The first wave was conducted in November 2021 and included 3,000 respondents. The second wave was conducted from 14 to 27 February 2022 and included 800 respondents. Importantly these survey periods occurred after the Sydney and Melbourne lockdowns had finished and then after the peak of the Omicron wave. The results presented below are for adults currently in paid employment and the results of both waves are combined.

196. On three questions about financial stress, there is a striking difference in answers across income groups. Workers on a lower income (under \$52,000) were far more likely to say that they were not better off financially than at the same time last year (-6%) compared to respondents on a middle income (+17%) or higher income (+44%). This suggests that their

financial situation has worsened. They were also less likely to say they earned enough to pay their bills and more likely to agree that they are financially, just getting along.

Table 14: Financial situation by income level

Financial Situation	Under \$52k			\$52k-<\$104k			\$104k+		
	Agree	Disagree	Net score	Agree	Disagree	Net score	Agree	Disagree	Net score
My household is better off financially now than at the same time last year	32%	38%	-6%	45%	28%	17%	57%	12%	44%
I earn enough to pay my bills	54%	21%	33%	73%	14%	59%	84%	2%	82%
Financially, I am just getting along	68%	15%	52%	59%	21%	38%	51%	30%	22%

Source: ACTU ASK Survey

197. Consistent with the Melbourne Institute Data presented in Figure 67 for November 2021 and the evident trend heading into February 2022, women were more likely to report financial strain than men across the three questions. As noted in Chapter 4, women are more Award reliant than men.

Table 15: Financial situation by gender

Financial Situation	Men			Women		
	Agree	Disagree	Net score	Agree	Disagree	Net score
My household is better off financially now than at the same time last year	45%	22%	23%	41%	31%	10%
I earn enough to pay my bills	72%	10%	62%	68%	16%	52%
Financially, I am just getting along	60%	19%	41%	60%	23%	36%

Source: ACTU ASK Survey

198. Similarly, workers in more award reliant industries are more likely to report financial stress than workers in other industries.

Table 16: Financial situation by density of award reliance in industry

Financial Situation	More award-reliant industries			Less award-reliant industries		Difference
	Agree	Disagree	Net score	Agree	Disagree	
My household is better off financially now than at the same time last year	41%	29%	12%	45%	24%	-4%
I earn enough to pay my bills	66%	13%	53%	74%	13%	-8%
Financially, I am just getting along	64%	20%	45%	55%	23%	10%

Source: ACTU ASK Survey. More award-reliant industries=Accommodation and Food Services; Administrative and Support Services, Retail Trade, Health Care and Social Assistance and Other Services.

199. Respondents were also asked about whether or not they could afford particular items in the next 12 months without facing significant financial stress. Those on lower incomes again reported greater levels of significant financial stress across all items compared to the other income groups. Childcare was the item most likely to cause significant financial stress across all income groups, but acutely so for low-income workers. Health and Housing were the next top issues for this group.

Table 17: Affordability of expenses by income

Thinking about your costs/expenses in the next 12 months, to what extent do you agree or disagree that your household will be able to afford the following costs without significant financial stress?	Under \$52k			\$52k-<\$104k			\$104k+		
	Agree	Disagree	Net score	Agree	Disagree	Net score	Agree	Disagree	Net score
Food and groceries	64%	21%	42%	69%	18%	51%	79%	9%	71%
Utilities	55%	23%	33%	60%	22%	38%	79%	10%	69%
Housing	53%	30%	23%	55%	28%	27%	69%	15%	53%
Transport	56%	25%	31%	60%	24%	36%	70%	12%	57%
Health	44%	32%	12%	54%	30%	24%	72%	12%	60%
Debt	52%	24%	27%	56%	24%	32%	72%	10%	62%
Childcare	24%	31%	-8%	36%	25%	11%	48%	19%	29%

200. Women reported more concern with affording all items except for transport and food and groceries, as compared to men. The largest differences were in childcare, debt and housing.

Table 18: Affordability of expenses by gender

Thinking about your costs/expenses in the next 12 months, to what extent do you agree or disagree that your household will be able to afford the following costs without significant financial stress?	Men			Women		
	Agree	Disagree	Net score	Agree	Disagree	Net score
Food and groceries	69%	14%	55%	70%	19%	51%
Utilities	65%	16%	49%	63%	21%	42%
Housing	60%	23%	37%	55%	27%	27%
Transport	60%	19%	42%	62%	23%	39%
Health	56%	22%	34%	55%	30%	25%
Debt	63%	16%	47%	54%	25%	29%
Childcare	42%	19%	23%	31%	31%	0%

Source: ACTU ASK Survey

201. Finally, workers in more award reliant industries reported higher levels of significant financial stress across all items, compared to workers in other industries. Again, childcare was the item most likely to cause stress for both groups, but particularly the former.

Table 19: Affordability of expenses by density of award reliance in industry

Thinking about your costs/expenses in the next 12 months, to what extent do you agree or disagree that your household will be able to afford the following costs without significant financial stress?	More award-reliant industries			Less award-reliant industries		
	Agree	Disagree	Net score	Agree	Disagree	Net score
Food and groceries	68%	18%	51%	71%	15%	56%
Utilities	63%	20%	43%	65%	17%	48%
Housing	56%	29%	26%	58%	21%	38%
Transport	58%	24%	34%	65%	17%	48%
Health	53%	28%	25%	58%	23%	35%
Debt	58%	24%	34%	59%	17%	42%
Childcare	34%	30%	4%	38%	20%	18%

Source: ACTU ASK Survey

5.2.3 NAB Household Financial Stress Index

202. Similar findings were reached in the National Australia Bank's quarterly Household Financial Stress Index where a score of "0" corresponds to "not all concerned about financial stress", and "100" means someone is "extremely concerned". For the December 2021 quarter it found that those on lower incomes were on 48.3 points compared to 34.8 for those on higher incomes. 18 to 29 year olds (48.6) and women (42.6 points) also experienced far higher stress

levels than older people (23.6 points to 46.3 points) or men (39 points) respectively. When asked if they were better or worse off financially than this time last year, low-income respondents had a net balance of 35% saying they were worse off, a worsening from 34% in the previous year.¹¹³

5.3 Inflation and the cost of living.

203. Since the Panel's last decision, the increase in inflation in the second half of 2021 has placed additional and significant financial stress on low-income households. The December CPI quarter was 1.2% for an annualised rate of 3.5%. With the Panel's last decision of 2.5% this represents a real terms pay cut of 1% for NMW and Award reliant employees who had pay increases on 1 July 2021. Employees covered by Awards with deferred increases have suffered greater real terms pay cut.
204. A similar picture emerges for other measures of inflation. Trimmed mean (2.6%) and weighted mean (2.7%) measures of inflation both grew faster than the NNW and the Wage Price Index for 2021 as did the Living Cost Index for employee households (2.6%).¹¹⁴
205. As discussed in section 3.7 of Chapter 3, inflation has continued to increase throughout 2022, with the Federal Budget projecting inflation to hit 4.25% by the middle of this year. Reserve Bank Governor Philip Lowe also speculated that it might reach 4.5%.¹¹⁵ Both estimates represent an even greater worsening of the financial situation facing low paid workers.
206. The situation facing low paid workers is likely to be worse than the situation facing employees generally. This is because they consume more "non-discretionary" items than the general workforce as a proportion of their income, and inflation for these items has been rising faster than for "discretionary" items in 2021. Inflation for non-discretionary items was 4.5% in 2021, whereas for discretionary items it was only 1.9%.¹¹⁶ As the recent study by van Klints and Bruenig (2021), which reviews international studies, concludes, low-income households, defined as those in the bottom quintile of the income distribution, spend a higher proportion

¹¹³ NAB Household Financial Stress Index page 19.

¹¹⁴ ABS, Consumer Price Index, Australia, December 2021, ABS Selected Living Cost Indexes, Australia, December 2021.

¹¹⁵ Guardian, 23 March 2022, "Workers set to take a real pay cut of 1.5% as inflation surges warns RBA boss".

¹¹⁶ FWC Statistical Report, Table 4.3.

of their income on necessities while high income households spend more on transport, recreation and culture.¹¹⁷

207. To better explore this issue, the FWC has released the paper *Experimental estimates of a Consumer Price Index for low-paid employee households* in February 2022, which attempts to build a cost index for low paid employee households. The authors similarly find that low-paid employee households spend more on essentials and less on discretionary items. It finds that households in the low income quintiles and deciles, spend 63% and 63.2% of household expenditure respectively on “non-discretionary” items, compared to 59.1% for the CPI and 57.6% for the LCI.¹¹⁸
208. However, after building a low paid employee household index by reweighting items accordingly from the CPI, the authors conclude that the differences in outcomes between the indexes “are not found to be significant”.¹¹⁹
209. The paper uses December 2021 CPI figures, when other evidence suggests that prices for key “non-discretionary” items have surged in 2022. An update of the index using the March 22 CPI quarter when available would be helpful. In the meantime, to unpack what this might mean for low paid workers, we take the top items in the Low Paid CPI that are weighted higher than the CPI and present them in order of difference as follows.

¹¹⁷ van Kints M & Bruenig R (2021), ‘Inflation variability across Australian households: implications for inequality and indexation policy’, *Economic Record*, Vol. 97, Issue 316, pp 1-23.

¹¹⁸ Yuen K & Rozendes D (2022), *Experimental estimates of a Consumer Price Index for low-paid employee households*, Fair Work Commission Research Report 1/2022, February. p. 35

¹¹⁹ *Ibid* p. 8

Table 20: Top items weighted higher in low paid CPI

Item	Low Paid CPI (quintile)	Low Paid CPI (decile)
Rents	3.7	4.7
Automotive fuel	0.9	0.9
Electricity	0.4	0.5
Vegetables	0.3	0.4
Medical and Hospital Services	0.2	1.1
Secondary education	0.2	0.4
Tertiary education	0	0.7

Source: Yuen K & Rozendes D (2022). P.48

210. Rents are the item most heavily weighted in the Low Paid CPI compared to the general CPI. While rents in the CPI only moved by 0.1% in 2021, they appear to have rapidly accelerated in 2022. One commercial index shows the national average for rents for houses and units for lifting by approximately 4.6% from the start of 2022 to the time of writing.¹²⁰ This would be putting even more strain on low paid households actually renting, assuming many low paid households are not renting, and thereby diluting the impact of rent prices in the Low Paid CPI. As discussed earlier in section 5.2.2, housing costs are the second highest cause of financial stress among low paid workers, according to the ACTU ASK Survey.
211. Further the CPI and Low Paid CPI do not accurately represent the experience of low paid workers in dealing with rental stress. The ABS found that 43.4% of Australian households that were renting were low income in its *Household Income and Wealth* survey of 2017 to 2018.¹²¹ Of these more than half (50.2%) experienced 'rental stress' – defined as spending more than 30% of gross household income on rent. The Productivity Commission recently calculated that 45.7% of low-income households were experiencing rental stress at end of June 2021.¹²² This finding was when rental prices were fairly flat. As discussed above, rental stress is likely to have increased from this already worrying level in early 2022 given the recent spike in prices.
212. Further, the 2022 price rise is even more stark for automotive fuels – the item with the second largest gap between the weighting for low paid households against CPI. According to

¹²⁰ SQM Research, Weekly Rent National Average Prices: <https://sqmresearch.com.au/weekly-rents.php?national=1&t=1> accessed 26 March 2022.

¹²¹ ABS (2019) *Household Income and Wealth*, Australia 2017-2018,

¹²² Productivity Commission, (25 January 2022) Report on Government Services 2022, Chapter G Housing and Homelessness. Available at: <https://www.pc.gov.au/research/ongoing/report-on-government-services/2022/housing-and-homelessness#footnotes>

the Australian Institute of Petroleum the retail pump price for petrol went from \$158.70 per litre on 2 January up to \$212.50 per litre by 20 March 2022.¹²³ That is a staggering rise of 33.9% - greater than the total price rise of 32.5% for all of 2021.

213. The price of food is also expected to rise as a result of the impact of the massive flooding in the East Coast of Australia in early 2022. As the low paid CPI suggests, low paid households spend a higher proportion of their income on fruit and vegetables as well as on food and groceries more generally, than is weighted in the CPI itself.
214. These changes taken together suggest that all employees will have experienced additional stress on incomes in early 2022, but especially low paid households.
215. Some of the weightings for the low paid CPI likely disguise large within group variations. The weighting for childcare, for example, implies that lower paid households use less and spend less of their income on childcare than the equivalent CPI weighting. But not all households are families with young children. Some evidence that finds 33% of families who earn under \$70,000 per year spend 7% to 15% of their household income on childcare. Within this group 15% of them spend more than 15% on childcare. This is compared to 8% of families earning more than \$200,000 spending over 15% on childcare.¹²⁴ Childcare costs are one of the faster growing in the CPI, having risen by +6.5% in 2021.
216. There is another fundamental issue with the weighting process itself: using survey results of low paid household expenditure patterns effectively “bakes in” the difficult choices they have to make with their household budgets, thereby distorting the value of comparing indices. Those difficult choices involve paying for cheaper items or foregoing expenditure to get by. One reason low paid households spend less of their income on childcare may be because they cannot afford it. Instead, the caring responsibility for the children would most likely fall on the adult women in the household, who are then prevented from taking on more hours of paid work if they wanted to. The Low Paid CPI has the unfortunate effect of downplaying the impact of rising childcare costs on low paid families, rather than the reality: the acute

¹²³ Australian Institute of Petroleum, *National Average*, <https://www.aip.com.au/pricing/ulp/national/national-average>

¹²⁴Hurly P & Noble K (2021) *Counting the Cost to Families: Assessing Childcare affordability in Australia*, Mitchell Institute, <https://www.vu.edu.au/mitchell-institute/early-learning/nearly-40-of-australian-families-can-t-afford-childcare>

financial strain placed on the household itself by the unaffordability of childcare. As discussed above at paragraph 199, no other item places low-income workers under more financial stress at the moment than childcare. Therefore, even if the Low Paid CPI matches the CPI in 2021: that is masking the difficult choices low paid workers are forced to make that diminish their living standards.

217. Fourthly, the payment of interest on debt is not included in either the CPI or the low Paid CPI.¹²⁵ This means that the indices are not a complete reflection of the financial pressures on low paid households. Recent evidence suggests households struggling to meet rising living costs are increasingly taking on credit card and pay day loan debt, as well as driving the new and rapid growth of “buy now pay later” services, to “plunge them into deeper financial strife”.¹²⁶ Debt is a concern for around a quarter of low-income respondents to the ACTU ASK survey, as seen in Table 17.

218. Whilst we recommend that the FWC consider updating its Low Paid CPI with the March 2022 quarter CPI figures when they are available, it is important to bear in mind that the product of that is an indicator of exposure to price increases rather than directly of living standards. The impact on living standards is better understood, at least in a qualitative sense, when living costs measures are interpreted having regard to the pre-existing levels of financial stress in which they operate - which we have shown above to be higher amount the low paid. Additionally, as mentioned above, there are differences in household composition which may mean a greater exposure to some classes of expenses (for example childcare) than is apparent through the averaging or summing methodology used to measure consumption or expenditure patterns of the low paid as higher level category for the purposes of weighting that category as a whole.

5.4 Food insecurity

219. The extent of food insecurity facing low-income households would also not be adequately picked up by the low paid CPI. The Food Bank Hunger Report 2021 is informed by a national survey conducted between 1 and 28 July 2021 involving more than 2,877 Australians

¹²⁵ Yuen & Rozendes, op. cit. 18.

¹²⁶ Towell, Noel, 25 March 2022, “Buy-now-pay-later borrowers rake in cash as families feel financial pinch”, Sydney Morning Herald: <https://www.smh.com.au/business/the-economy/payday-lenders-cash-in-as-families-feel-cost-of-living-crunch-2022033-p5a71z.html>

representing the Australian population, and 1,203 who were “moderately” or “severely food insecure” at some point in the last 12 months.

220. The report finds that 28% of Australian adults could be categorised as food insecure. One in six (17%) Australians are severely food insecure meaning they have multiple disruptions to their eating patterns and are forced to reduce their food intake. A further 11% of Australians are “moderately food insecure” meaning they have had to reduce the quality, variety or desirability of their diet. 1.2 million children are living in food insecure households.
221. Of those that are defined as food insecure, the majority are in the workforce and low paid. 56% of “Food insecure” respondents were either in full time work (37%) or part time or casual work (19%). 12% of those surveyed have less than \$385 in income per week. 20% have between \$386 to \$699. 21% are \$700 to 1,199 and another 22% are on between \$1,200 to \$1,999 per week.¹²⁷ The most common reasons why people report experiencing food insecurity are unexpected expenses or bill shock (35%) or overall low incomes (30%).¹²⁸
222. Rising food insecurity is also linked to Government supports related to COVID. Food Bank argues that food insecure Australians are not coping since government assistance has been wound back. To support that conclusion it found that June 2019, 21% of Australians experienced a time in the past twelve months where they or anyone in their household ran out of food and did not have enough money to purchase more. In June 2020 that figure dropped to 13%, given the support of *JobKeeper*, and increase in *Newstart/JobSeeker*. Yet by June 2021, the figure had increased again to 18% once supports had again ceased, or been scaled back.¹²⁹ More than one in three food insecure Australians (38%) had never experienced food insecurity prior to COVID-19.⁵
223. Finally, the levels of food insecurity facing the low paid is likely to have increased as the prices for goods and groceries rise in response to the devastating floods on the east coast of Australia in early 2022 and as fuel price rises filter through supply chains to consumers.

¹²⁷ Foodbank 2021, [Foodbank Hunger Report](#), 7

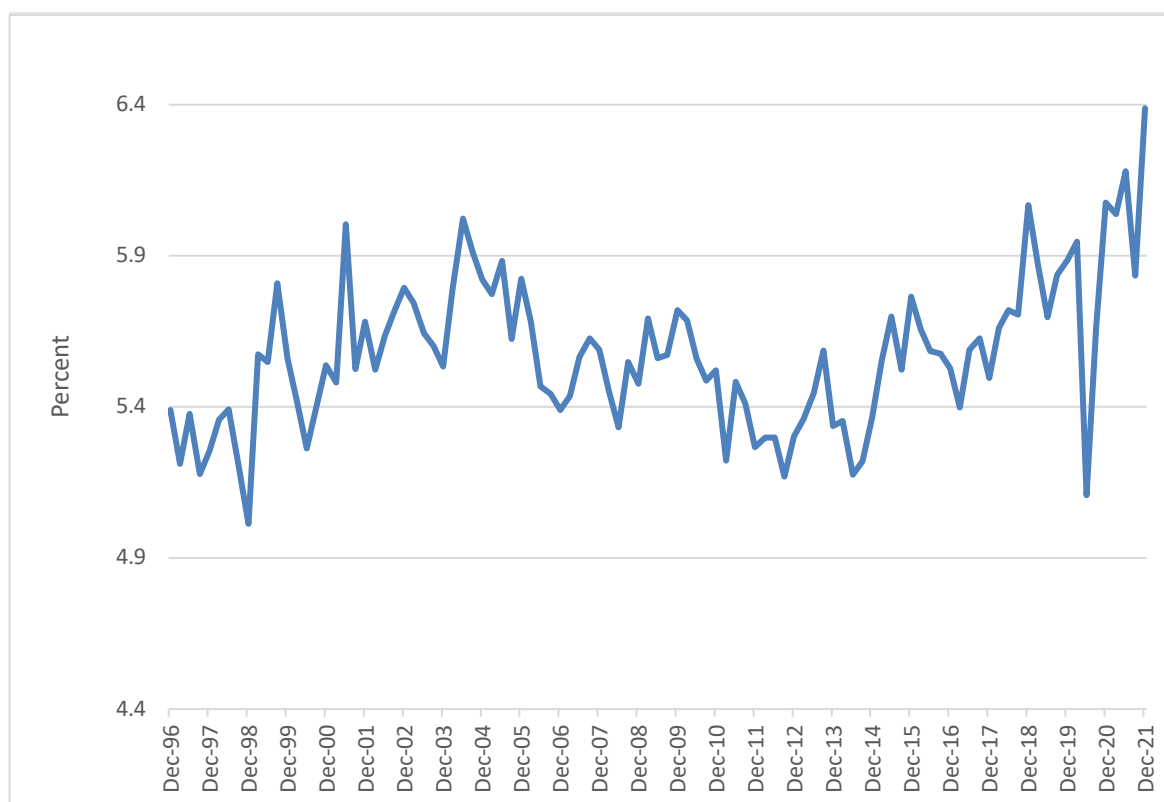
¹²⁸ Foodbank 2021, [Foodbank Hunger Report](#), 5

¹²⁹ Foodbank, op. cit. 22

5.5 Trends in hours of work and multiple job holders

224. Australia now has a record number of people working more than one job – both in absolute numbers (867,000) and as a proportion of the total workforce (6.4%) according to the December 2021 quarter of the ABS Labour Accounts.¹³⁰

Figure 68: Percentage of employed persons working more than one job

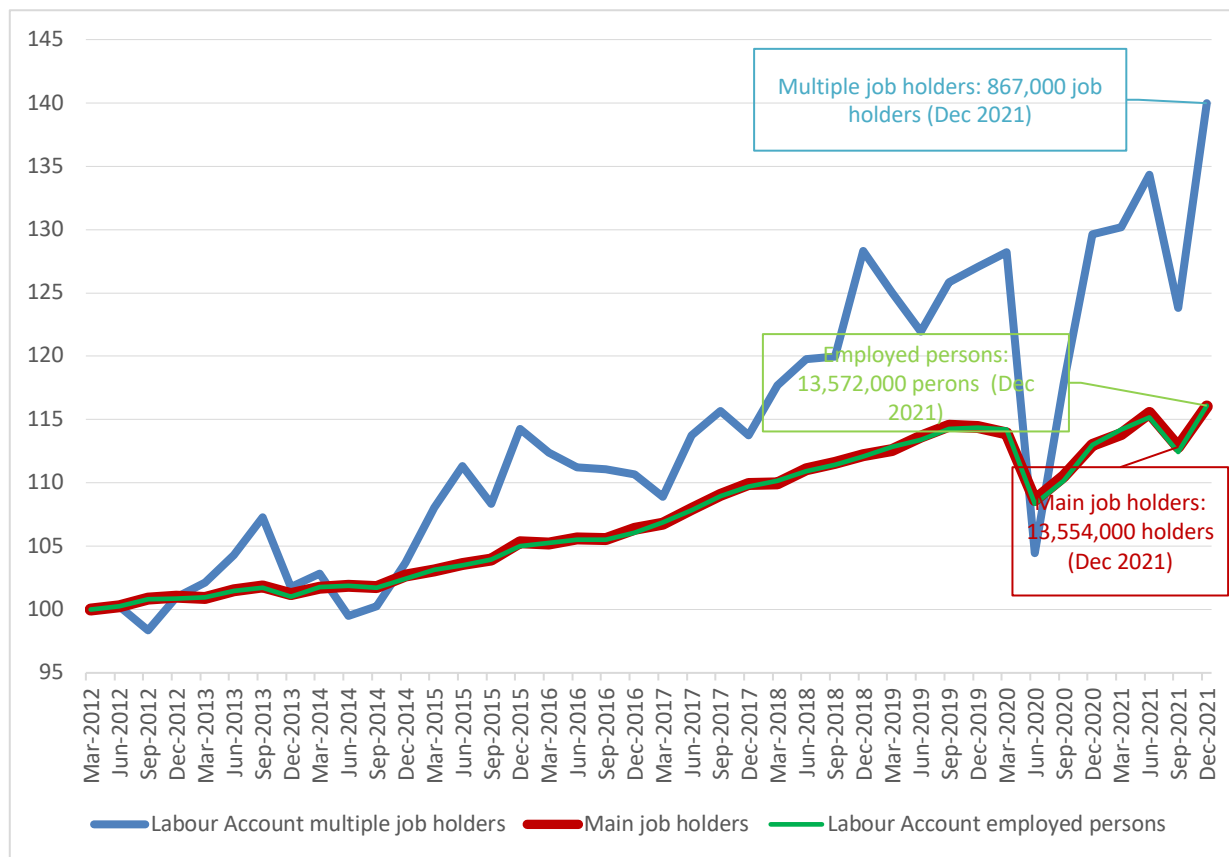


Source: ABS Labour Accounts, December 2021.

225. Since March 2012, the number of multiple job holder has grown by 40% while the number of main job holders and job growth itself has only grown by 16%. While lockdowns caused rapid drop-offs in the number of multi-job holders, those numbers have rapidly recovered as the economy has opened up again.

¹³⁰ ABS Labour Account, December 2021

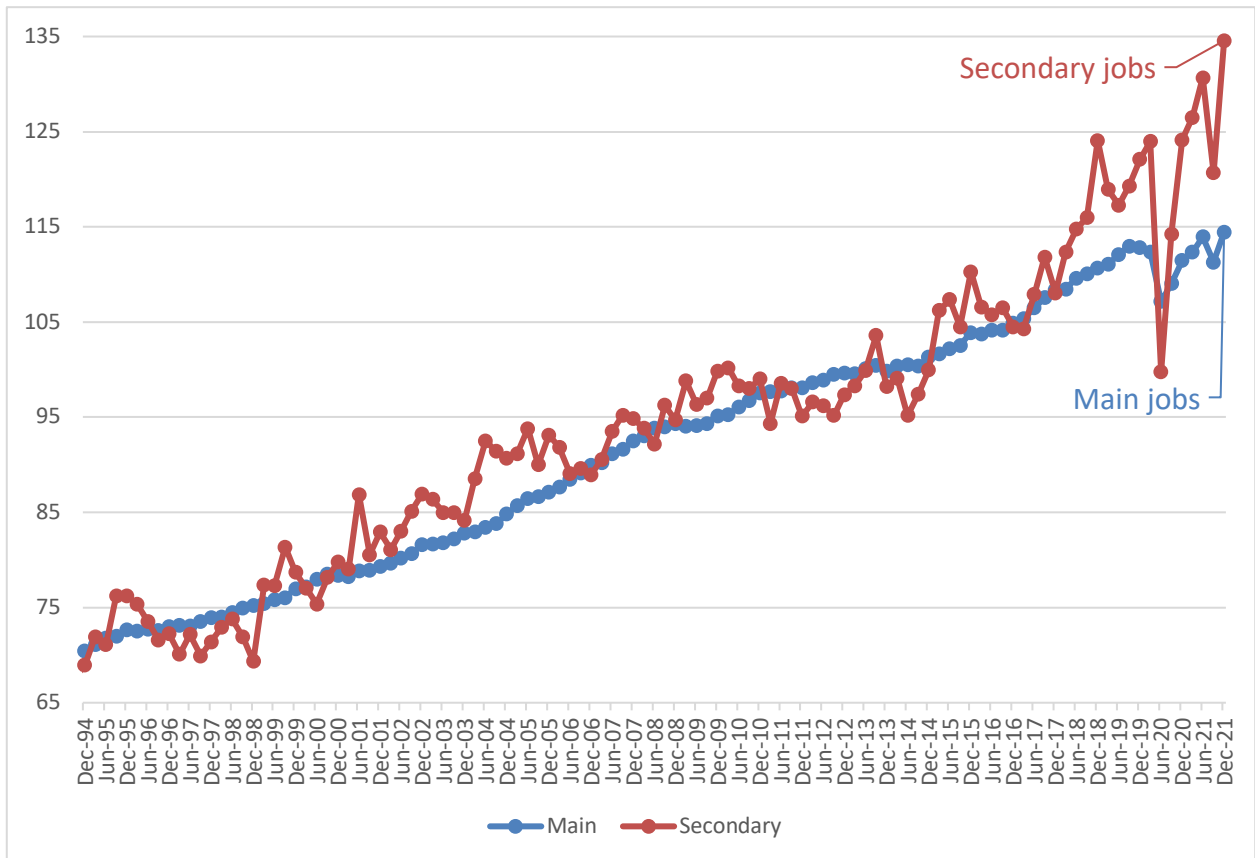
Figure 69: Growth in multiple job holders, main job holders and employed persons 2012-2021



Source: ABS Labour Account, December 2021, ACTU Calculations.

226. Measuring the growth in “secondary jobs” i.e. the number of jobs that aren’t a “main job”, rather than the number of people working more than one job, shows a similar trend: an acceleration over the past six or seven years relative to the growth in main jobs.

Figure 70: Growth in secondary jobs, 1994-2021



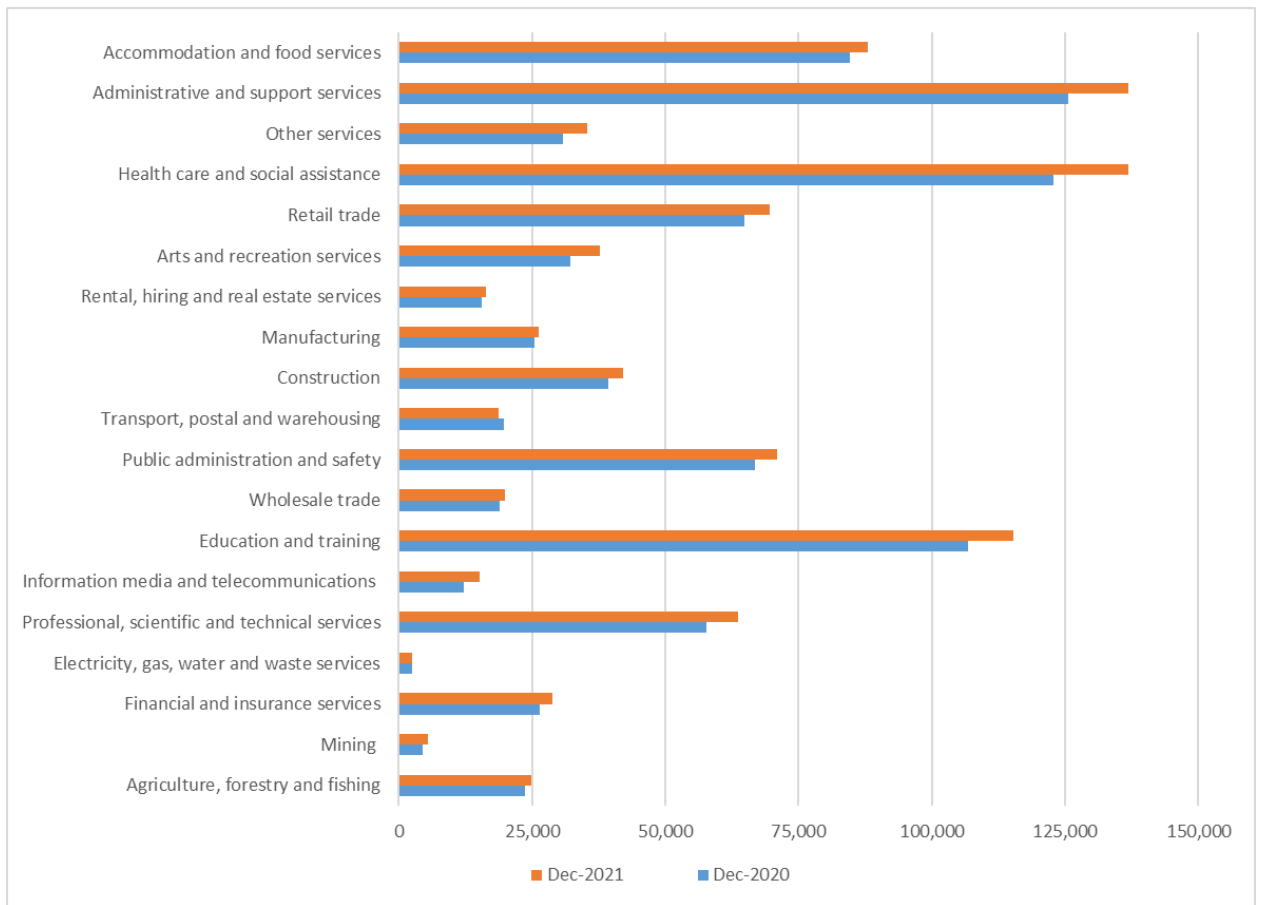
Source: ABS Labour Account, December 2021.

227. Why is this a rapidly growing trend? The ACTU submits that the rapid growth in people working more than one job, both in absolute numbers and as a percentage of the workforce, is because people cannot earn enough to get by on just one job. Earlier data from the ABS Jobs in Australia (2016-17) survey shows that the median total employment income of multiple job holders was \$40,500 with the median income for women estimated at \$36,500 and for men estimated at \$46,000., yet all employees – the majority of who are just working one job, earned \$49,083. While the data is old the trend would still hold true.

228. Indeed, the greatest growth and levels of multiple job holding is primarily in Award reliant industries, including accommodation and food services, administrative and support services and health care and social assistance and the retail trade. Like employees in Award reliant industries, multiple job holders are more likely to be women (53.7%) and more likely to be under 35 years of age (55%), according to the older ABS Jobs in Australia series.¹³¹

¹³¹ ABS Jobs in Australia, 2018-2019.

Figure 71: Secondary jobs by industry



Source: ABS Labour Account, December 2021.

229. More than half of all secondary jobs (52%) are concentrated in the top six Award-reliant industries.

Table 21: Proportion of secondary jobs and award reliant industries.

Industry	Proportion of all secondary jobs	Employee Award reliance (%)
Health care and social assistance	14%	33.3%
Administrative and support services	14%	42.4%
Accommodation and food services	9%	60.4%
Retail Trade	7%	29.6%
Arts and Recreation Services	4%	26.6%
Other Services	4%	38.1%

Source: ABS Labour Accounts and ACTU Calculations, Table 7.1 Statistical Report.

230. Finally, the recent growth in multiple job-holding may also be associated with the particular employment practices in sectors that have put on more staff during the pandemic. Of all 98,600 secondary jobs created in the December 2021 quarter, more than half of them were concentrated in health care and social assistance, administrative and support services, education and training and accommodation and food services – all sectors where the use of a range of non-standard working arrangements, as such minimum hours part time, casual and fixed term contracts is more common.

5.6 The impact of a delay in implementation

231. In its 2019-20 decision the Panel decided to delay the implementation of increases of modern award minimum wages in certain Awards on the grounds that “Exceptional circumstances” applied (s.286(2) *Fair Work Act 2009*). Awards were placed into three groups, where the increase for the group 1 Awards occurred on 1 July 2020, for group 2 on 1 November 2020 and for group 3 1 February 2021.¹³² The increase in the NMW still occurred on 1 July 2020.

232. In its decision last year, the Panel reconsidered the question and reduced and adjusted the size and composition of groupings and the dates of implementation of minimum wage increases. The Panel determined that the variation to the *General Retail Industry Award 2010* would take place on 1 September 2021, and that variations for Awards closely aligned with the aviation and tourism sectors would come into effect on 1 November 2021.¹³³ The

¹³² [202] FWC 3500

¹³³ [2021] FWC 3500 at [298], [299]

remaining majority of modern awards did not face exceptional circumstances justifying another delay, according to the Panel.¹³⁴

233. The ACTU submits in this review that all increases to minimum wages in all modern awards should take place on 1 July 2022 because there are no “exceptional circumstances” that are evident to us. Insofar as COVID-19 impacts are concerned, we refer to our discussion of industry level data in Chapters 2 and 3 as well as what we have said in this Chapter and Chapter 4 concerning impacts on employees. We will of course respond to any claims for a deferral on their merits.

¹³⁴ [2021] FWC 3500 at [295]

6. GENDER EQUITY AND DIVERSITY

234. It is well established that the obligation to ensure that the safety net is ‘fair and relevant’ requires the Panel to consider the issue of gender pay equity, and in particular the gender pay gap, as part of its work in the Review.¹³⁵ The Panel has accepted that gender equity also arises for consideration in respect of promoting social inclusion through workforce participation, because increases in the minimum and award wages may have beneficial effects on women’s participation in the workforce.¹³⁶
235. Both the modern awards objective and the minimum wages objective require the Commission to take into account ‘the principle of equal remuneration for work of equal or comparable value’.¹³⁷ In 2018-19, the Panel said of that principle that:
- “For the reasons given in the 2017–18 Review decision, Review proceedings are of limited utility in addressing any systemic gender based undervaluation of work. Proceedings under Part 2-7 and applications to vary modern award minimum wages for ‘work value reasons’ pursuant to s 157(2) or in the current 4 yearly review of modern awards provide more appropriate mechanisms for addressing such issues. But the broader issue of gender pay equity, and in particular the gender pay gap, is relevant to the Review. This is so because it is an element of the requirement to establish a safety net that is ‘fair’.”¹³⁸
236. The ACTU submits that Review proceedings have a significant role to play in addressing the systemic gender-based undervaluation of work. The majority of low-paid award-reliant workers are women. Therefore, increases to award wages, particularly those which exceed bargained outcomes, increase the value placed on women workers and the work they perform, thereby contributing to addressing the systemic gender-based undervaluation of female-dominated work. The Panel has found that as women are disproportionately represented among the low paid and award reliant, an increase in minimum wages is likely to promote gender pay equity and have a beneficial effect on the gender pay gap.¹³⁹ The ACTU contends that national minimum wage and award wage increases provide a substantial and meaningful opportunity to reduce the gender pay gap, due to the relatively high number

¹³⁵ Annual Wage Review 2016–17 [2017] FWCFB 3500 at [77]-[79]; Annual Wage Review 2018-19 FWCFB 3500 at [18]; Annual Wage Review 2019–20 FWCFB 3500 at [405]

¹³⁶ Annual Wage Review 2016–17 [2017] FWCFB 3500 at [77] and [643]

¹³⁷ Sections 134(1)(e) and 284(d)

¹³⁸ Annual Wage Review 2018-19 [2019] FWCFB 3500 at [18]

¹³⁹ [2019] FWCFB 3500 at [71]

of women workers reliant on minimum wages. As women's employment rebounds during this recovery phase, women will return to work in award-reliant sectors, magnifying the positive impact of an increase in the NMW and award wages on the gender pay gap and gender pay equity.

237. In 2015-16, the Panel observed that increases in the NMW and modern award wages could assist to address the gender pay gap in two ways:

“The first is that it would raise the level of low pay rates relative to median pay rates, and hence particularly benefit women, who disproportionately receive low pay rates. The second is that an increase in the higher levels of award rates will particularly benefit women because, at the higher award classifications, women are more likely to be paid the award rather than the bargained rate than are men.”¹⁴⁰

These conclusions remain relevant.

238. The Panel has previously determined that a uniform percentage increase to the national minimum wage and award wage rates (as opposed to a flat rate increase) is most consistent with the equal remuneration principle (s.134(1)(e) and s.284(1)(d)). This is because percentage adjustments (particularly those that exceed increases won through bargaining) have a broader beneficial impact than flat rate increases applied to lower classification levels, because of ‘the dispersion of women within award classification structures and the greater propensity for women to be paid award rates at all levels.’¹⁴¹

239. It is submitted that the obligation to ensure that the safety net is ‘fair and relevant’ also requires the Panel to consider broader equity and diversity issues, including the need to prevent discrimination on the basis of race and disability (s 578). This requires – to the extent the data allows – an assessment of the impact of the national minimum wage on different groups. However, there is a significant data gap in Australia regarding the impact of factors such as race, disability and migrant status on wages and employment. There are some efforts underway to address these shortcomings. The recent review into the effectiveness of the *Workplace Gender Equality Agency (WGEA)* recommended that WGEA lead a piece of qualitative research on the best way to collect more diversity data (in addition to gender data) to improve reporting on issues such as Aboriginal and Torres Strait Islander

¹⁴⁰ [2016] FWCFB 3500 at [75]

¹⁴¹ Annual Wage Review 2016–17 [2017] FWCFB 3500 at [77] and [99]

background, cultural and linguistic diversity, and disability.¹⁴² We submit that future research programs undertaken by the Fair Work Commission should give detailed consideration not only to the relationship between minimum wages and gender, but also factors such as race and disability.

240. Given the lack of Australian data currently available on other equity issues, this chapter will focus on gender equity considerations

6.1 COVID-19 – Continuing impact on women’s employment

241. Women’s experience of disproportionate job losses during COVID is a clear insight into the poorer quality and security of their jobs, compared with men’s, as well as impacts of unpaid care responsibilities. Of women who stopped working during the pandemic, 50% did so to undertake unpaid housework and caring roles – compared with only 17% of men who ceased work.¹⁴³ The number of unemployed women significantly increased during the pandemic, reaching an unemployment rate of 6.6%. It is important to note that these figures do not include jobless people who stopped looking for work altogether – which many women did in order to attend to increased care responsibilities. Women’s employment declined by 210,000 positions or 3.4% between February and August 2020, compared with a 2.9% decline for men. Pre-COVID, women held just 37% of all full-time employee positions. Making matters worse, the majority (57%) of women’s jobs lost under COVID-19 were full-time – that is, 120,000 full-time positions since February 2020.¹⁴⁴ In Victoria, the state hardest hit by lockdowns, there was a 7.1% decline in the number of Victorian women in jobs. ABS monthly labour force data showed that in mid-May 2020 the number of unemployed Victorian women was at an all-time high.¹⁴⁵ The number of women receiving *JobSeeker* more than doubled from December 2019, to three quarters of a million women.¹⁴⁶ Between January 2020-21, more women left the labour market than men. Women’s participation decreased 0.3%-points to 61.2%, but male participation increased 0.4%-points over the same period.

¹⁴² Department of the Prime Minister and Cabinet, *WGEA Review Report Review of the Workplace Gender Equality Act 2012*, December 2021 at pp45-46

¹⁴³ ABS Catalogue no. 6291.0.55.001, EM2a - Employed persons who worked fewer hours than usual by Hours actually worked in all jobs and Sex, July 2020. Table 1.

¹⁴⁴ ACTU, *Leaving women behind: The real cost of the Covid recovery*, November 2020

¹⁴⁵ The Mckell Institute, *The Impact of COVID-19 on Women and Work in Victoria Research Insights August, 2020* at pp 2 and 3

¹⁴⁶ *Ibid* at p 3

242. Women were also more likely to hold multiple jobs pre-pandemic ,as discussed in Chapter 5. The number of secondary jobs declined by almost 200,000 or 20% between March and June 2020 – indicative not of a declining need for secondary employment to make ends meet, but of a lack of availability of those jobs. Further, *JobKeeper* was only payable to one employer per covered worker, exacerbating this problem of secondary job loss for women.
243. Even as women returned to work in late 2021, the heavy losses of employment during the pandemic will have an enduring impact on women. It will mean reduced lifetime career (and therefore retirement) earnings for women, which were already estimated to be \$2 million less than men prior to the pandemic¹⁴⁷. Time out from work will have further slowed women’s progression in the workplace and for key groups of women, with some observers predicting significant labour market scarring as women struggle to get back into the labour market.¹⁴⁸
244. As women begin to return to work, they are returning to work in award-reliant jobs, which means the Review decision this year presents an even more significant opportunity to address the gender pay gap. Women’s greater reliance on income supports in 2021 demonstrates women’s ongoing vulnerability to COVID-related job-losses.¹⁴⁹

6.2 Causes of the gender pay gap

245. The Australian workforce has always been, and remains, highly gender segregated. Industries and occupations dominated by women are characterised by high levels of award dependency, lower wages and fewer protections.¹⁵⁰ Many lower paid sectors include those workers who have carried our community through the pandemic, including frontline workers in Healthcare, Retail and Hospitality.¹⁵¹

147 Grattan Institute (2021) Women’s Work: The Impact of the Covid-19 crisis on [Australian women](#), page 24.

148 Ibid page 24.

149 See for example <https://www.aihw.gov.au/reports/australias-welfare/income-support>. Greater reliance on income supports is derived from a calculation by ACTU on data up until December 2021 from Department of Social Services accessible at [DSS Payment Demographic Data - Dataset - data.gov.au](#)

¹⁵⁰ Wilkins R & Zilio F (2020), *Prevalence and persistence of low paid award-reliant employment*, Fair Work Commission [Research Report 1/2020](#), pp 11 and Table 3; Barbara Broadway and Roger Wilkins, *Working Paper Series: Probing the Effects of the Australian System of Minimum Wages on the Gender Wage Gap*, December 2017

¹⁵¹ [Statistical Report – Annual Wage Review 2020-21](#) V1 26 Feb 2021 p.51 Table 7.1

246. There is a significant body of research highlighting and describing the causes of the gender pay gap. Relevantly to the Review, one of the primary causes is the relatively lower pay rates in female-dominated industries and occupations. Other key contributing factors include the disproportionate responsibility that women have for unpaid caring and domestic work and the workforce disruption this causes, lack of access to secure flexible work, adequate paid parental leave and quality, affordable early childhood education and care (ECEC), and discrimination in hiring, promotion, access to training, and pay decisions.¹⁵²
247. As the Panel has observed, women are more likely than men to be both low-paid and award reliant,¹⁵³ and are disproportionately affected by the trend towards insecure and underemployment. 57% of underemployed Australians are women.¹⁵⁴ 25% of all women employed have been employed on a casual basis, that is without leave entitlements (compared with 21.0% of men).¹⁵⁵ 54% of casual employees are women,¹⁵⁶ while women continue to comprise around 48% of the workforce.¹⁵⁷ Much of the long-term growth in employment has occurred in part-time employment in award dependent industries: women account for 69% of the part-time workforce¹⁵⁸ and 59% of award reliant workers.¹⁵⁹
248. In Chapter 4 and Chapter 5 of this submission, we explain the range of factors impacting on the living standards of the low-paid workforce, including high inflation and low wages growth, combining to form a decline in real terms. While these impacts affect all low-paid workers, women workers are disproportionately affected. While female-dominated sectors such as food and accommodation, administrative and support services, retail trade, art and recreation and other services, health care and social assistance all reported an annual wage growth rate of at least 2% to December 2021; this arrived on the heels of weak wage growth in the preceding year.¹⁶⁰ Moreover, award reliant female dominated industries have lower

¹⁵² See for example KPMG, *She'd Priced(less): The economics of the Gender Pay Gap*, 2019

¹⁵³ [Wilkins R & Zilio F \(2020\), Prevalence and persistence of low paid award-reliant employment, Fair Work Commission Research Report 1/2020](#), pp 11 and Table 3; *Annual Wage Review 2019–20* [2020] FWCFB 3500 at [115], [127] and [400]

¹⁵⁴ ABS 6291019, February 2022

¹⁵⁵ 6291.0.55.001 - EQ04, March 2022

¹⁵⁶ 6291.0.55.001 - EQ04, March 2022

¹⁵⁷ ¹⁵⁷ 6291.0.55.001 - EQ04, March 2022

¹⁵⁸ 6291.0.55.001 - EQ04, March 2022

¹⁵⁹ ABS 6306 Employee Earnings and Hours May 2021 most recent.

¹⁶⁰ Wage Price Index from ABS 634505b December 2021.

levels of Average Weekly Ordinary Time Earnings than others.¹⁶¹ This is demonstrative of widening, and gendered, inequality.

249. The impact of women's disproportionate responsibility for unpaid care work and the resulting work/care collision has been thoroughly examined over many years, with evidence demonstrating that for women, the effect is 'curtailed career aspirations, reduced life-time earnings, and inadequate superannuation.'¹⁶² The propensity of women with care responsibilities to end up in 'poorly remunerated and insecure work without training and promotion opportunities, and with continuing clashes between work and care responsibilities' has also been well-documented over many years.¹⁶³ The legal and policy framework continues to entrench gendered norms regarding work and care. Exacerbating this existing inequality is the COVID-19 pandemic, throughout which women have had to take on even more unpaid work.¹⁶⁴
250. Pre-pandemic, the high cost of childcare was already a significant barrier to women's workforce participation. OECD data shows that net ECEC costs in Australia total 14% of the earnings of a minimum wage worker with two children whose partner works full-time at 67% of the average wage; making Australia the 9th most expensive of the 31 OECD countries reviewed. A couple with two children aged 2 and 3, where one parent is on the minimum wage and the other parent works full-time at 67% of the average wage, would lose 74% of their income to either higher taxes or lower benefits if they use ECEC. COVID-19 has further exacerbated the ECEC crisis in Australia.
251. Australia's Paid Parental Leave scheme, which is paid at the national minimum wage, is the second worst in the OECD.¹⁶⁵ Compulsory superannuation is not paid on Australia's PPL scheme. Men account for only 6.5% of all primary carer's leave taken, with the vast majority of paid parental leave undertaken by women.¹⁶⁶ Increases to the minimum wage will flow through to PPL, increasing the income and living standards of women on parental leave

¹⁶¹ ABS 6302

¹⁶² See for example Chapman, A, *Industrial Law, Working Hours, and Work, Care and Family*, Monash University Law Review (Vol 36, No 3), 190-216

¹⁶³ Ibid at 201 and 202, and references

¹⁶⁴ Craig & Churchill. (2020). Dual-earner parent couples' work and care during COVID-19, May.

¹⁶⁵ OECD Family Database (2020), Table PF2.1,

<https://www.oecd.org/els/family/database.htm>

¹⁶⁶ [Parental leave | WGEA](#), [Towards gender balanced parental leave | WGEA](#) accessed 4 March 2021

commensurate with the quantum of that increase (whether or not those women are otherwise dependent on the NMW or the Award wage system in terms of their non-PPL remuneration).

252. An increase in the NMW will also better incentivise more fathers or secondary carers to access parental leave and assist with caring responsibilities, making a significant contribution towards gender equality, especially by improving women's workforce participation. Currently fathers or secondary carers are entitled to two weeks of paid leave at the NMW under the Dad and Partner Pay entitlement. However it is estimated that only about 1 in 4 eligible fathers or partners use this entitlement.¹⁶⁷ A key barrier is the low rate of the NMW which would represent a significant pay cut for a man, already earning more on average than a woman. Further, the Government announced in the Federal Budget an intention to introduce "Enhanced Paid Parental Leave"¹⁶⁸ which would combine both existing paid leave entitlements (18 weeks plus 2 weeks) and allow the parents to share the entitlement flexibly. If the legislative change necessary to give effect to this proceeds, an increase to the NMW will have even more impact in incentivising fathers to take leave, better supporting women's improved workforce participation.

6.3 Measuring the gender pay gap

253. While the principle of equal pay was embedded in federal industrial law over 50 years ago,¹⁶⁹ on all measures a significant gender pay gap persists. At present, the national gender pay gap stands at 13.8%. The gap in fulltime earnings has hovered between 17.7% and 13.8% for over two decades, resulting in a net reduction of only 4 percentage points. The true gender pay gap, factoring in hours worked, is over 30%.

¹⁶⁷Emslie, O, "The best present for fathers would be more paid parental leave", Herald Sun, 5 September 2021, <https://grattan.edu.au/news/the-best-present-for-fathers-would-be-more-paid-parental-leave/>

¹⁶⁸Budget 2022-23, Women's Budget Statement 2022-23, page 39.

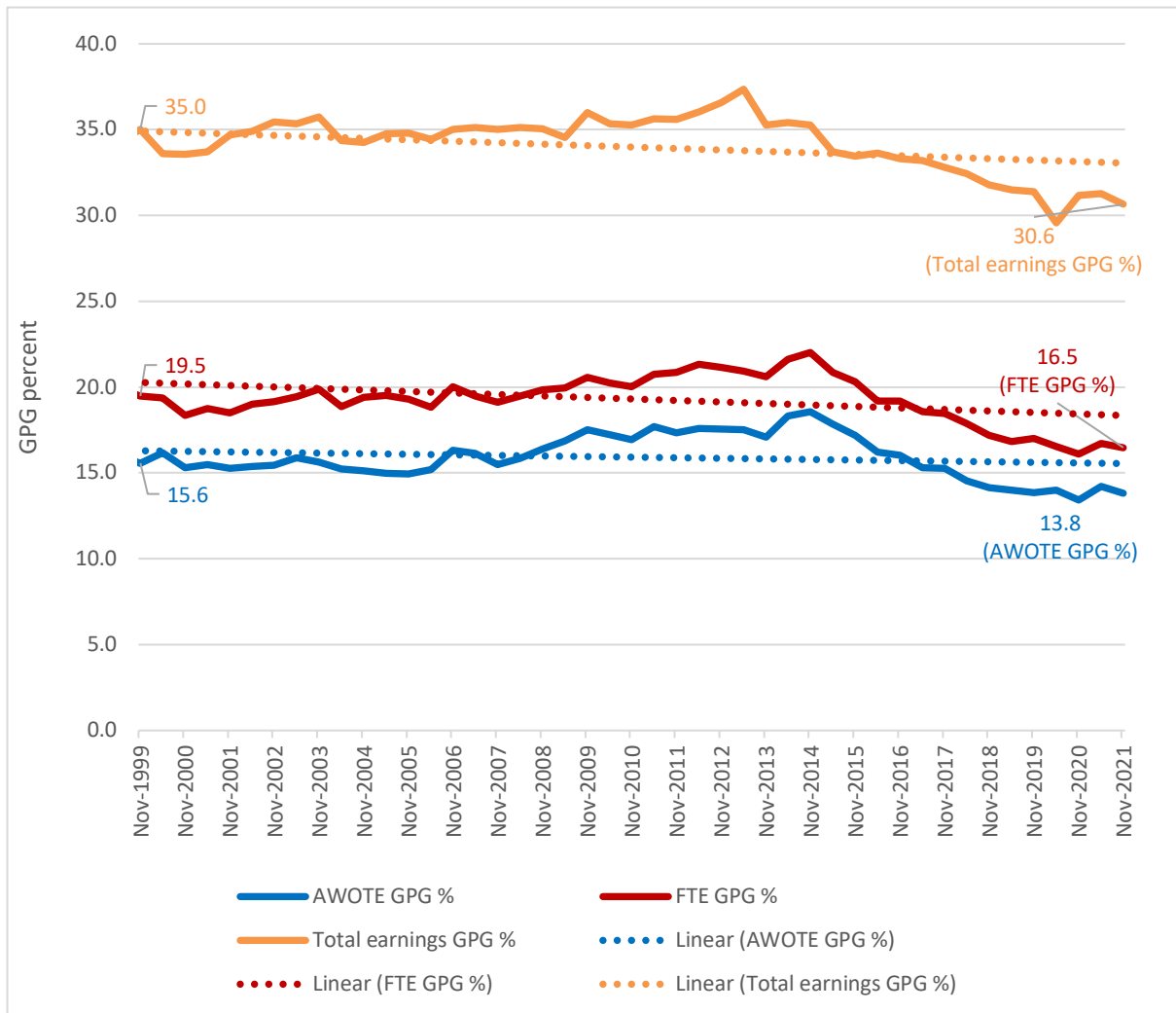
¹⁶⁹ *Australasian Meat Industry Employees Union v Meat and Allied Trades Federation of Australia* (1969) 127 CAR 1142 ('Equal Pay Case'); *National Wage and Equal Pay Case* (1972) 147 CAR 172.

254. The impact of the COVID-19 pandemic in exacerbating existing gender inequalities is well documented.¹⁷⁰ Over the 15-year period between 2006 and 2021, Australia has fallen from 15th to 50th in the World Economic Forum Gender Gap Report.¹⁷¹
255. Figure 72 shows the gap between men’s and women’s weekly earnings taking women’s earnings as a percentage of men’s, based on three different measures of weekly earnings. These are: Adult average weekly ordinary time earnings; Adult average weekly full time earnings including overtime and bonuses, and Average weekly total earnings.
256. Based on Adult Average Weekly Ordinary Time Earnings, women working full-time earn \$255.30 a week less than men working full-time. It is important to note that this measure does not capture overtime or bonuses, and excludes those who work less than full-time hours (who are predominantly women performing unpaid and caring work). The gap in average total weekly earnings between all men and women is \$483.30 – equivalent to well over half the current weekly minimum wage.

¹⁷⁰ See for example Meraiah Foley and Rae Cooper, The University of Sydney Business School, *Australian Workplace gender equality in the post-pandemic era: Where to next?* 2021; Grattan Institute, *Women’s work: The impact of the COVID crisis on Australian women*, 12 April 2021; Carson, Andrea; Ruppanner, Leah and Ratcliff, Shaun, *Worsening of Australian Women’s Experiences under COVID-19: A Crisis for Victoria’s Future*, Report, September 2020; L Risse and A Jackson, *A gender lens on the workforce impacts of the COVID-19 pandemic in Australia*, Australian Journal of Labour Economics, Vol 24, No. 2, 2021; ACTU, *Leaving Women Behind: The Real Cost of the Covid Recovery*, November 2020.

¹⁷¹ https://www3.weforum.org/docs/WEF_GGGR_2021.pdf

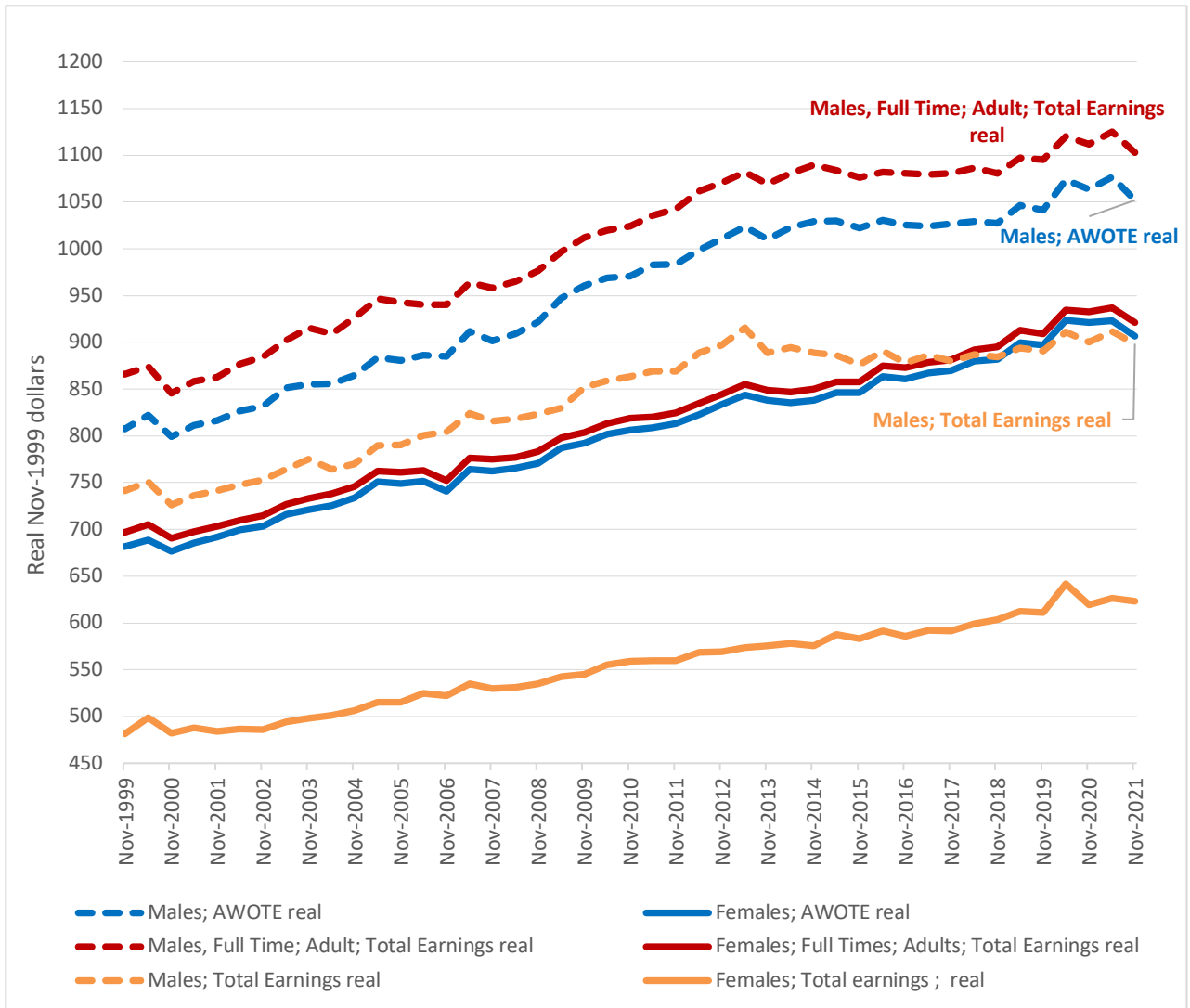
Figure 72: Gender pay gaps for Average Weekly Ordinary Time Earnings, Full Time Earnings and total earnings



Source: ABS 63020010a, 63020010d, ACTU calculations, accessed 16/03/2022

257. Figure 73 shows the three measures of weekly earnings in real terms for men and women. It shows that the very small percentage point reductions in the gender pay gaps after 2013 (as charted in Figure 72) are due to men’s average earnings flattening out, largely due to reductions in top earnings after the mining boom, and not due to other measures to close the gender pay gap, or significant increases in women’s wages. This trend continues: men’s earnings increased by only \$25 per week between May 2021 and May 2022; with women’s earnings increasing by only \$17. Minimum wage increases which help to sustain women’s earnings may have also played a role in the small percentage point reductions in the gender pay gap since 2013.

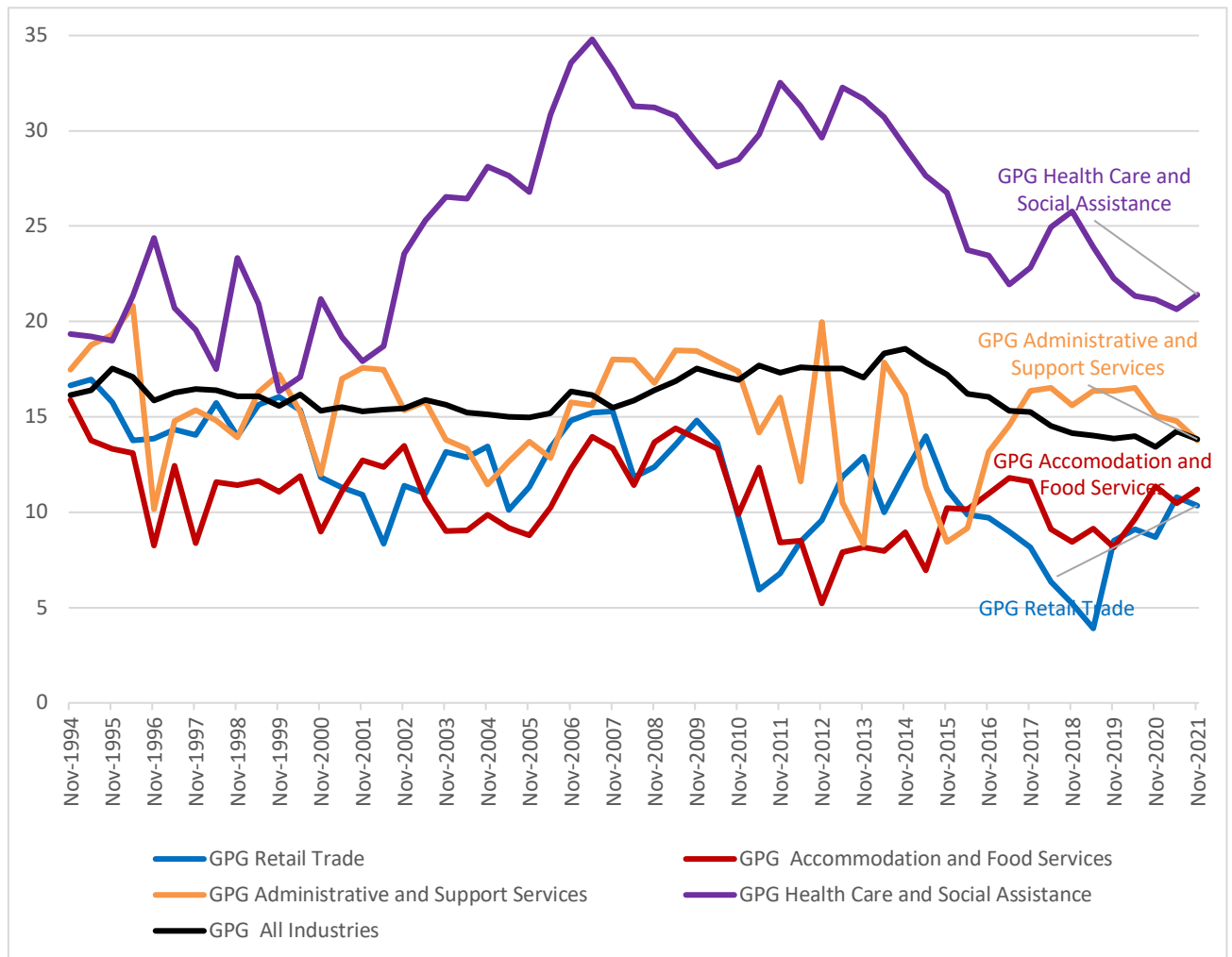
Figure 73: Average Weekly Earnings, Full Time Earnings and total earnings (real dollars), female and male



Source: ABS 63020010a, 63020010d, 6401, ACTU calculations, accessed 16/03/2022

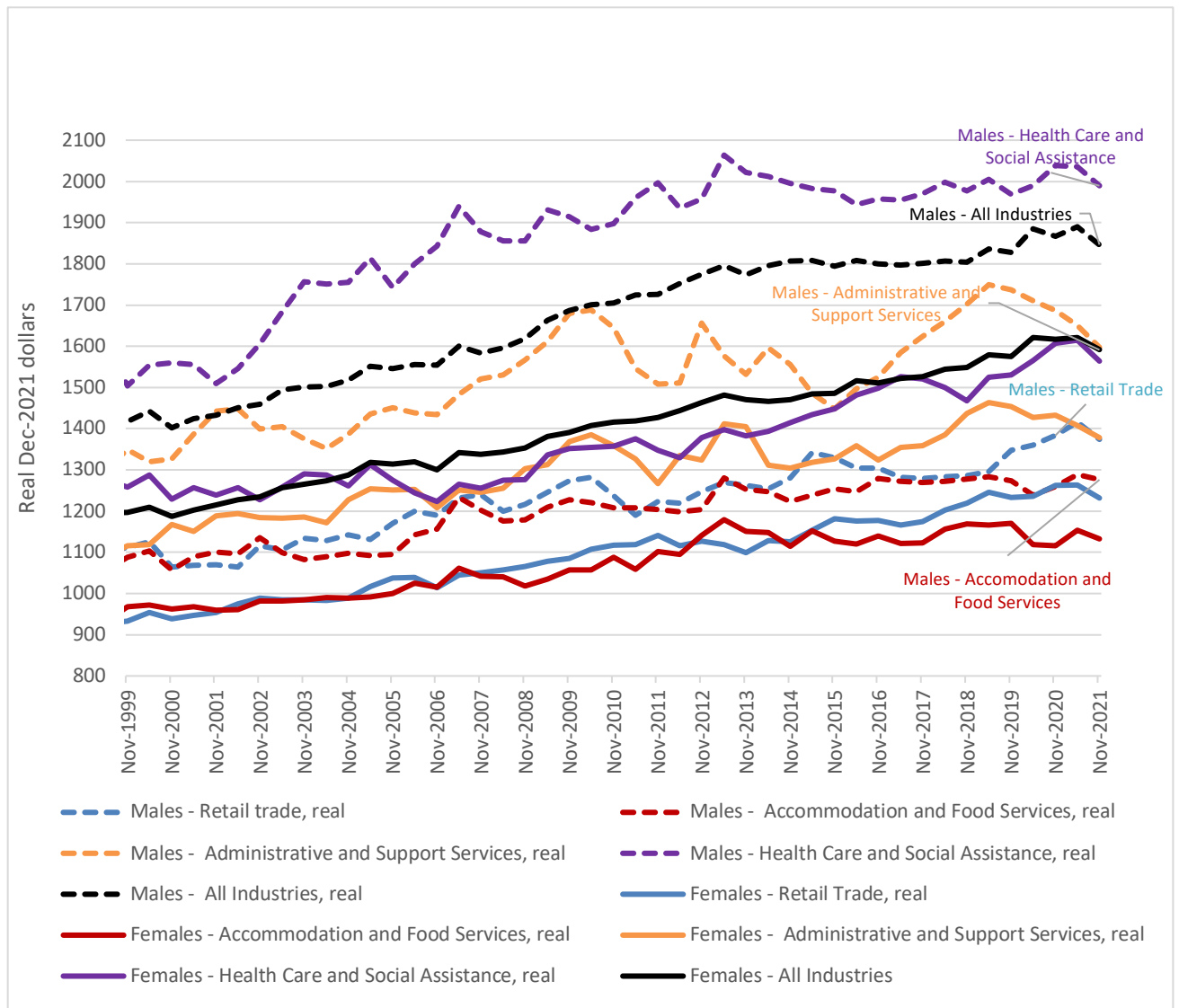
258. Figure 74 shows the gender pay gaps for the more award reliant industries and Figure 75 shows real adult AWOTE for females (solid lines) and males (dotted lines) in the more award reliant industries.

Figure 74: Gender pay gap for AWOTE, more award reliant industry sectors and for all industries, percent of male earnings



Source: ABS 63020010a, 63020010d, ACTU calculations, accessed 16/03/2022

Figure 75: Adult Average Weekly Ordinary Time Earnings, male and female, more award reliant industries and total industry (real)



Source: ABS 63020010a, 63020010d, 6401, ACTU calculations, accessed 16/03/2022

259. In all cases, women in award reliant industries earn less than the ‘all industry’ average. Increases in average earnings in 2020 are due to low paid workers in award reliant industries and occupations losing employment during the COVID-19 pandemic in greater numbers than others. Except for accommodation and food services, real wages in award-reliant sectors are now lower as of November 2021 than they were a year ago. The analysis of the position in relation to the Accommodation and Food Services Industry is particularly sensitive to the time interval. A November-November comparison allows the most recent data to be used, corresponding to the pay period ending on or before the third Friday in November.¹⁷² The

172 See ABS (2022), [Average Weekly Earnings Australia Methodology](#).

measurement captures two minimum wage adjustments rather than only one, due to the deferral of wage increases for awards in those industries to 1 February 2021 in the 2019-20 Review and 1 November 2021 in the 2020-21 Review.

260. Figure 75 shows how an increase in the minimum wage for these industries would directly benefit the lowest paid and women in particular. An increase in real terms, as is proposed in our claim, would make a more tangible difference.

7. ENCOURAGING COLLECTIVE BARGAINING

261. In previous years, the Panel has considered that:
- a. It is obliged to consider whether its decision will encourage collective bargaining;
 - b. Its previous decisions have not discouraged collective bargaining.
262. The ACTU submits that consideration of whether or how the Panel's decision in the current review impacts on collective bargaining does not weigh against, or temper, granting an increase to the national minimum wage or modern award minimum wages in the terms sought by the ACTU.

7.1 Obligation to Consider Encouraging Collective Bargaining

263. The Panel has identified two sources of its obligation to consider encouraging collective bargaining in the course of an Annual Wage Review.
264. The first is the obligation in section 134 of the Act to "...ensure that modern awards, together with the National Employment standards, provide a fair and relevant safety net of terms and conditions, taking into account... the need to encourage collective bargaining".¹⁷³
265. The second is a reference in the object of the Act to "...provide a balanced framework for cooperative and productive workplace relations that promotes national economic prosperity and social inclusion for all Australians by...achieving productivity and fairness through an emphasis on enterprise level collective bargaining..." in conjunction with a consideration of the purpose of the Act as a whole.¹⁷⁴
266. It is uncontroversial that a corollary of the above considerations is that Panel must take into account the extent to which (if any) its decision might discourage collective bargaining.

¹⁷³ [2021] FWCFB 3500 at [135]; [2020] FWCFB 3500 at [206]; [2019] FWCFB 3500 at [7]; [2018] FWCFB 3500 at [11]

¹⁷⁴ [2021] FWCFB 3500 at [156]; [2020] FWCFB 3500 at [207]; [2019] FWCFB 3500 at [7], [364]; FWCFB 3500 at [11]

7.1.1 How the Consideration affects the Review

267. The ACTU submits that if the Panel is to consider the effect of its decision on encouraging collective bargaining, it must regard it:
- a. As a negative factor (i.e. as being against an increase to the minimum wage or as a limit to such an increase) if it is satisfied that the evidence supports a finding that awarding an increase (or awarding an increase above a certain quantum) would discourage collective bargaining; or
 - b. As a positive factor (i.e. in favour of awarding an increase to the minimum wage and/or in favour of a larger increase) if it is satisfied that the evidence shows that awarding an increase (or awarding a larger increase) would encourage collective bargaining; or
 - c. As a neutral factor (i.e. one that has no bearing on the decision of the Panel) if it cannot be satisfied, on the available evidence, that collective bargaining would be encouraged or discouraged.

7.1.2 The Decline or Otherwise of Collective Bargaining

268. Table 22 below shows the number of current collective agreements by quarter, and the employees covered by those agreements.

Table 22: Current Agreements and Employees Covered

Quarter	Public Sector		Private Sector		Total	
	Current Agreements	Employees Covered ('000)	Current Agreements	Employees Covered ('000)	Current Agreements	Employees Covered ('000)
September 2018	525	705.9	10,472	1,192.00	10,997	1,897.80
December 2018	535	736	10,370	1,147.10	10,905	1,883.10
March 2019	562	784.2	10,015	1,301.90	10,577	2,086.10
June 2019	599	821	10,741	1,379.10	11,340	2,200.10
September 2019	580	830.2	10,300	1,340.60	10,880	2,170.80
December 2019	581	822.9	10,161	1,422.80	10,742	2,245.60
March 2020	573	793.6	10,112	1,412.20	10,685	2,205.70
June 2020	571	763.1	10,144	1,392.90	10,715	2,156.10
September 2020	493	651.8	9,329	1,242.40	9,822	1,894.20
December 2020	481	655.7	9,513	1,245.00	9,994	1,900.60
March 2021	460	625.2	9,539	1,266.40	9,999	1,891.60
June 2021	459	541.6	9,729	1,240.30	10,188	1,781.90
September 2021	401	424.1	9,709	1,222.30	10,110	1,646.40

Source: Attorney-General's Department, Trends in Federal Enterprise Bargaining Report September quarter 2021 Table 4

269. The following is evident from Table 22:

- a. The total (combined public and private sector) number of current agreements has increased since September 2020.
- b. In the longer term, there has been a decrease in the (combined public and private sector) number of current agreements since September 2018. However, over the same time period the number of current private sector agreements has decreased only slightly, with the number of employees covered by those agreements increasing.
- c. Both the number of current agreements and the employees covered by those agreements in the public sector has fallen since September 2020 and since September 2021.
- d. The number of current agreements in the private sector rose from September 2018 until June 2020, fell sharply and then has risen since. The number of employees

covered by those agreements similarly rose between September 2018 and June 2020 and fell sharply but has remained approximately stable since then.

270. Table 23 below shows the number of agreements approved by quarter, and the employees covered by those agreements.

Table 23: Agreement Approvals and Employees Covered

Quarter	Agreement Approvals	Employees Covered ('000)
September 2018	873	132.8
December 2018	923	138.4
March 2019	1,331	367.7
June 2019	1,580	195.4
September 2019	1,247	168.5
December 2019	1,126	201.8
March 2020	957	143.6
June 2020	761	142.5
September 2020	716	60.7
December 2020	847	174.7
March 2021	880	116
June 2021	1,065	100.1
September 2021	1,272	180.5

Source: Attorney-General's Department, Trends in Federal Enterprise Bargaining Report September quarter 2021 Table 5

271. Table 23 paints a similar but not identical picture to the current agreements data shown in Table 22. There was a sharp drop in the number of new agreements in March 2020, which continued throughout that year. However, June 2021 and September 2021 saw a sharp increase in new agreements, with September 2021 recording the highest number of employees covered by new agreements since the start of the COVID-19 pandemic. As seen in Chapter 4, there was slight decline in share and of employees paid pursuant to collective agreement between 2018 and 2021 as measured by the EEH survey from 37.9% to 35.1%, an estimate that would include operative but expired collective agreements not captured by the *Trends in Enterprise Bargaining* reports.

272. Two relevant contextual observations are necessary:

- a. The overall figures are affected significantly by a sharp reduction in current agreements and employees covered in the public sector since September 2019. This

drop is likely to find explanation in sector-specific issues – such as the effect of government bargaining policies and the use of non-bargaining methods of wage and condition setting (such as “section 24 determinations” in the Commonwealth APS) – rather than being attributable to past decisions of the Panel. At any rate, as seen in Chapter 4 the public sector is less likely to be Award-reliant or to have wages set by awards.

- b. That the number of current agreements in the private sector fell sharply in September 2020 should be understood within the wider context of the ongoing COVID-19 pandemic. The increase to the number of current agreements and agreements approved in the latter part of 2021, is indicative of the unwinding of this dampening effect, possibly due to greater certainty, experience and confidence among bargaining parties about how pandemic impacts on the workplace and working conditions can be accommodated.

273. Over the longer term, collective bargaining has been declining in Australia. However, Australia is not unique among global economies in this regard. Indeed, the OECD has previously found that the number of workers covered collective bargains, and moreover collective bargaining itself is declining in a number of economies, including those with differing systems for the adjustment of minimum wages.¹⁷⁵

274. In the shorter term, captured in the above tables, the trend appears to be more nuanced. As set out above, the number of current agreements has fallen since September 2018 (notwithstanding a rise since September 2020) *but* the number of workers covered by those agreements has risen over the same period. The ACTU has previously submitted that this is suggestive of a pattern whereby employers are choosing to rationalise the structure of their industrial arrangements by entering into fewer enterprise agreements with wider scopes of coverage.¹⁷⁶ This in itself is not indicative of a decline in collective bargaining.

275. Bray et. al., commenting on Australia note a contraindicative rise in the number of workers covered by collective agreements against a declining number of collective agreements and observe as follows (citing Chaudhuri and Sarina 2018):

¹⁷⁵ OECD, *Facing the future of work: How to make the most of collective bargaining* in OECD Employment Outlook 2019; OECD 2004 in Antonczyk et. al. 'Rising wage inequality, the decline of collective bargaining, and the gender wage gap' (2010) 17, Labour Economics 835-847, 835

¹⁷⁶ See [2020] FWCFB 3500 at [391]

There are potentially many broader causes for the conspicuous decline of collective bargaining since 2012. It is difficult not to attribute much of the decline to the peculiar provisions of the Fair Work Act that give employers the right to make key decisions in the bargaining process and the new ways in which employers are exercising that discretion.¹⁷⁷

276. Accordingly, the ACTU submits that even if the Panel is satisfied that collective bargaining is declining, it cannot be further satisfied that this is in any way related to the past decisions of the Panel. Such a finding would be entirely consistent with past decisions of the Panel.

7.1 Previous Panel Findings

277. In its 2019 decision, the Panel observed that:

‘We do not detect anything in these data to suggest that past Review decisions have impacted on collective agreement coverage. We see nothing to change the view expressed in previous Review decisions that the extent of enterprise bargaining is likely to be impacted by a range of factors.’¹⁷⁸

278. In its 2021 decision, the Panel observed:

Consistent with the views expressed by the majority in the 2019–20 Review decision, we accept that there has been a decline in current enterprise agreements, but a range of factors impact on the propensity to engage in collective bargaining, many of which are unrelated to increases in the NMW and modern award minimum wages. Given the complexity of factors which may contribute to decision making about whether or not to bargain, we are unable to predict the precise impact of our decision on bargaining.

279. The Panel has previously also concluded that:

- a. The rate of the decline in collective agreement making from its peak in 2010 has not decreased so as to support a conclusion that NMW decisions have discouraged collective bargaining.¹⁷⁹

¹⁷⁷ Bray et. al. ‘Unions and Collective Bargaining in Australia in 2018’ 2019, Vol. 61(3) *Journal of Industrial Relations* 357–381

¹⁷⁸ [2019] FWCFB 3500 at [372]

¹⁷⁹ [2019] FWCFB 3500 at [386]

- b. Where there has been a decline in current enterprise agreements, this has likely been caused by ‘a range of factors [which] impact on the propensity to engage in collective bargaining, many of which are unrelated to increases in the NMW and modern award minimum wages’¹⁸⁰
- c. The NMW decision impacts on different industries in different ways and previous NMW decisions have been considered not to discourage collective bargaining ‘*in the aggregate*’.¹⁸¹
- d. Taking into account the wide range of facts impacting collective bargaining, it is unlikely that past NMW decisions have discouraged collective bargaining.¹⁸²

7.2 How the Panel should discharge its obligation to consider encouraging collective bargaining

280. It follows from these observations, in our submission, that whilst quantitative information about the raw number of collective agreements being approved or operating can identify trends, it does not directly or ultimately address what factors are encouraging or discouraging bargaining in aggregate or within particular cohorts. Likewise, identifying associations between particular characteristics (e.g. employer size, industry participation, union density) is informative¹⁸³ but also not determinative.

281. The closest one gets to measuring *motivations* to bargain or not (and then of employers only) is the now dated 2015 General Manger’s report into enterprise bargaining, which based on AWRS data relevantly found that among employers that had no enterprise agreement, 31.8% gave as a reason for this that they believed that award rates were “adequate” yet only 1% agreed they were actually “concerned about the financial cost of meeting employee demands”. Against this, of employers that *did* have enterprise agreements, reasons given included 22% agreeing that they wanted to reward employees with higher wages, 13.3% agreeing that award wages were not competitive for attracting and retaining workers and

¹⁸⁰ [2019] FWCFB 3500 at [69]

¹⁸¹ [2018] FWCFB 3500 at [96];

¹⁸² [2020] FWCFB 3500 at [397]; [2019] FWCFB 3500 at [386]

¹⁸³ See Peetz, D. & Yu, S. (2017), *Explaining recent trends in collective bargaining*, Fair Work Commission 4/2017; Peetz, D. & Yu, S. (2018), *Employee and employer characteristics and collective agreement coverage*, Fair Work Commission Research Report 1/2018.

22.9% (the leading reason) agreeing that the reason they had an enterprise agreement was that they were provided with a log of claims (i.e. they were asked to bargain, so they did).¹⁸⁴

282. A trend of increasing award reliance, as is evident from Chapter 4, ought not be attributed without more to adjustments in minimum wages discouraging bargaining. It is difficult to sustain an argument that award wage costs drive employers away from bargaining in aggregate when aggregate measures also show the overall share of employees covered by individualised above award arrangements has remained reasonably stable (as seen in Figure 47) and a significant gap between hourly earnings between award and market rates across many industries and skill levels (as seen in Figure 58). Moreover, it is unclear how an increased level of award reliance of its own would be seen as inconsistent with the Commission's overarching obligation in section 134 to ensure that modern awards provide a safety net that is both fair and *relevant* (emphasis added). An increased level of award reliance does however alert the Commission that any adjustment it does make to minimum wages may have more widespread effects than when award reliance was lower, which is a pertinent consideration in this year's review in circumstances where wage growth generally is lagging what might be expected given the current prevailing labour market and macroeconomic conditions.

283. There is insufficient evidence to support an inference that awarding a wage increase in the terms sought by the ACTU could *discourage* collective bargaining, much less a clear available identification of the manner in which such an inference could reasonably be drawn from that evidence (were it to exist). Accordingly, the ACTU submits that the Panel cannot view this a negative factor in its deliberations and there is no reason for the Panel to depart from its previous findings as referred to above.

284. This leaves the Panel to consider whether or not awarding a wage increase in the terms sought by the ACTU could encourage collective bargaining. The ACTU submits that, having ruled out a negative treatment, the Panel must consider this factor:

- a. To weigh positively if it is satisfied that awarding a wage increase in the terms sought by the ACTU will encourage collective bargaining;

¹⁸⁴ See Fair Work Commission, *General Manager's report into developments in making enterprise agreements under the Fair Work Act 2012-2015*, Fair Work Commission 2015.

- b. to weigh neutrally if it is not satisfied that awarding a wage increase in the terms sought by the ACTU will encourage collective bargaining.

285. Accordingly, the ACTU submits that the Panel ought find that the encouragement of collective bargaining weighs positively or neutrally, subject to its finding in relation to the above.

8. OTHER MATTERS

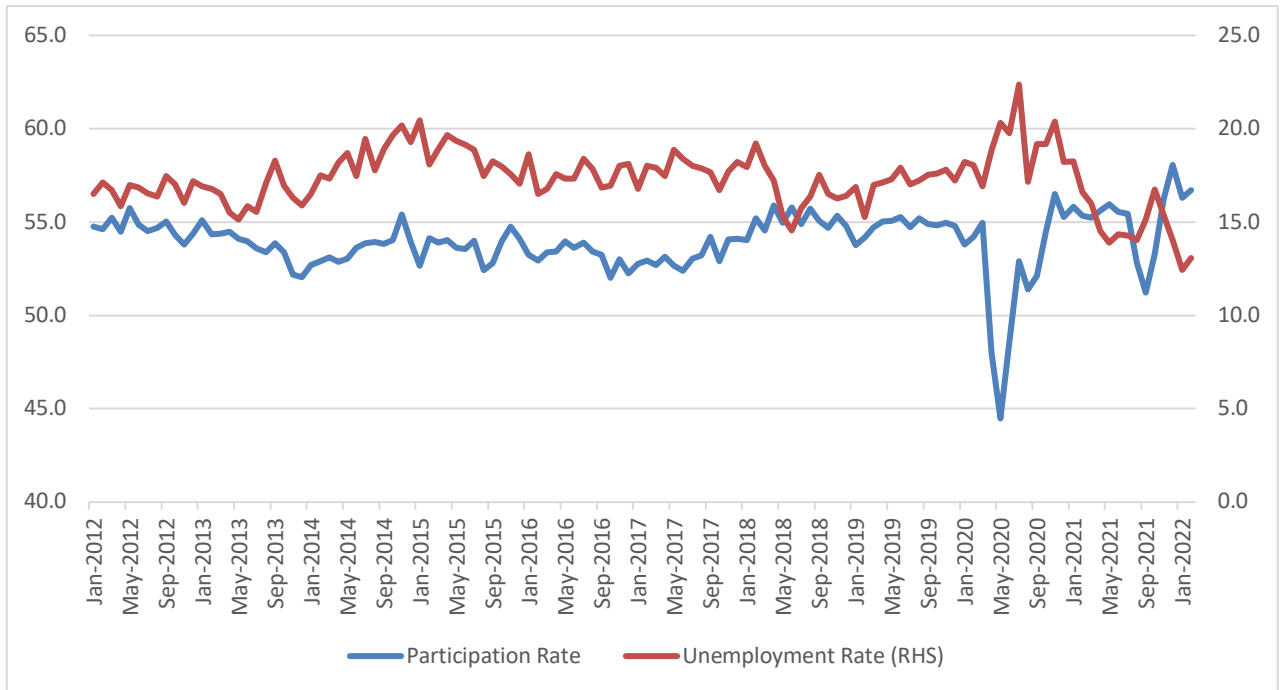
286. The National Minimum Wage Order made as a consequence of the Review must set the National Minimum wage as well as special national minimum wages for award/agreement-free employees who are junior employees, employees to whom a training arrangement applies, and employees with a disability. It must also set the casual loading for award/agreement free employees.
287. The Panel's review of modern award minimum wages encompasses casual loadings and piece rates in modern awards, as well as modern award minimum wages for junior employees, employees to whom a training arrangement applies and employees with a disability.
288. This chapter sets out our position on how these various minimum wages and modern award minimum wages ought to be adjusted in this Review.

8.1 Juniors

289. Minimum rates for juniors in modern awards may apply to employees aged under 21 and are usually expressed as a percentage of an adult rate of pay in modern awards. Adjusting modern award minimum wages in the usual way - via a uniform percentage increase - will preserve the existing relativities between adult rates and junior rates in particular awards.
290. Chart 6.6 of the Statistical Report shows the traditional volatility and overall higher level of youth unemployment relative to adult unemployment. In terms of unemployment, the 15-19 year old cohort (which aligns closely with the cohort to which junior rates apply) has traditionally fared the worst in absolute terms and, continues to do so relative to the other groups. However, the level of youth unemployment is presently remarkably low, consistent with the broad-based high demand for labour evident from the analysis provided in Chapter 2. As with other cohorts shown in Chart 6.6, there was a rise in the unemployment rate for the 15-19 year old group which was associated with COVID restrictions in the second half of 2021; however, that rate clearly remained lower than was the case for the other cohorts shown. As is seen in Figure 76 below, the fall in participation in the second half of 2021 was

also less extreme than observed in 2020. Participation for this age group from November 2021 and unemployment from December 2021 is at levels not seen for at least a decade.

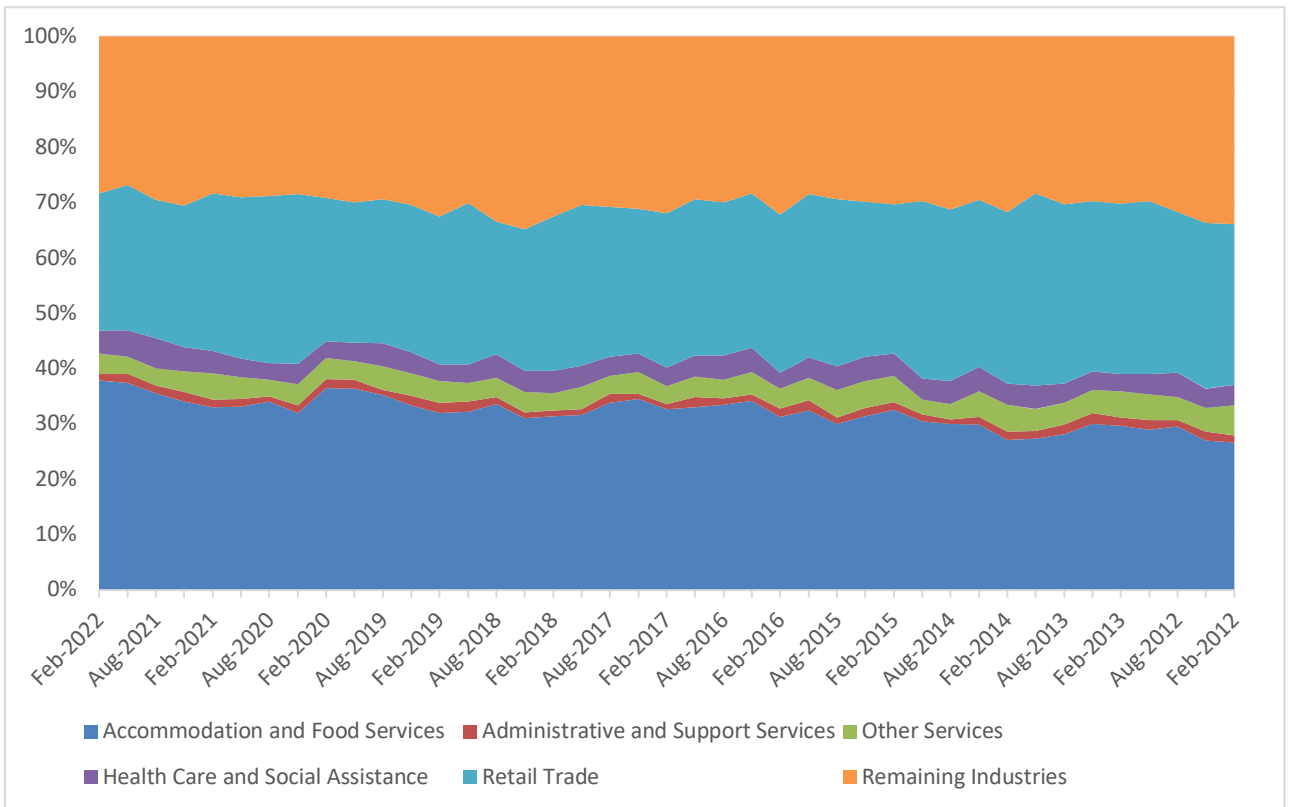
Figure 76: Unemployment and participation rates, 15-19 years, 2012-22



Source: ABS 6202

291. The five most award reliant industries employed 71.7% of 15-19 year olds as at February 2021, compared to 66% as at February 2012. Whilst the overall shares between those industries and the less award reliant industries have not shifted greatly over the decade, a greater share has emerged post the initial COVID restrictions for both Accommodation and Food Services and Health care and Social Assistance, as seen in below. Overall, there is no suggestion that continuing the path of proportionally adjusting junior rates poses a risk to youth employment.

Figure 77: Employed persons aged 15-19, selected industry shares



Source: ABS 6291.0.55.001

292. Overall, the prospects of a 15-19 year-old finding a job in award reliant industries are presently good having regard to the medium term position and there is no suggestion that continuing the path of proportionally adjusting junior rates poses a risk to youth employment.

8.2 Apprentices and Trainees

293. Government measures directed at the commencement of new apprenticeships and traineeships were in effect in 2020-21 and 2021-22. Under these measures, businesses (including Group Training Organisations) that engage a new apprentice or trainee between 5 October 2020 and 30 March 2022 are eligible for a subsidy of up to 50% of apprentice or trainee wages, capped at \$7,000 per quarter per worker. This initiative was extended in the 2023-23 budget to be operative for a further 3 months, so it will capture apprentices or trainees engaged until 30 June 2022.¹⁸⁵ The payment continues for 12 months in respect of each apprentice or trainee engaged during the relevant period. Whilst this subsidy is not

¹⁸⁵ Commonwealth Treasury, "2022-23 Budget – Budget paper No. 2", at page 77.

subject to business size, it is only available in respect of qualifications at Certificate II level or higher.¹⁸⁶

294. Further support available to employers in 2022-23 comes from phase one of the Australian Apprenticeships Incentive System, which will provide subsidies and transfers to employers depending on location and skills demand as follows:

Table 24: Australian Apprenticeships Incentive System

Circumstance	Assistance available
Employer hires a new or recommencing Australian apprentice <u>not</u> in a priority occupation.	\$3,500 paid in two equal six monthly installments.
Employer hires a new or recommencing Australian apprentice in a rural regional location, in a priority occupation.	15% of wages for first year apprentices, capped at \$2,250 per quarter. 10% of wages for second year apprentices, capped at \$1,500 per quarter. 5% of wages for third year apprentices, capped at \$750 per quarter.
Employer hires a new or recommencing Australian apprentice outside of a rural regional location, in a priority occupation.	10% of wages for first year apprentices, capped at \$1,500 per quarter. 5% of wages for second and third year apprentices, capped at \$750 per quarter.

Source: [Department of Education, Skills and Employment](#)

295. Assistance is also available directly to apprentices, in the form of six monthly payments of \$1,250 for the first two years of an apprenticeship and a living away from home allowance for those not already living independently (\$77.17 per week in the first year, \$38.59 in the

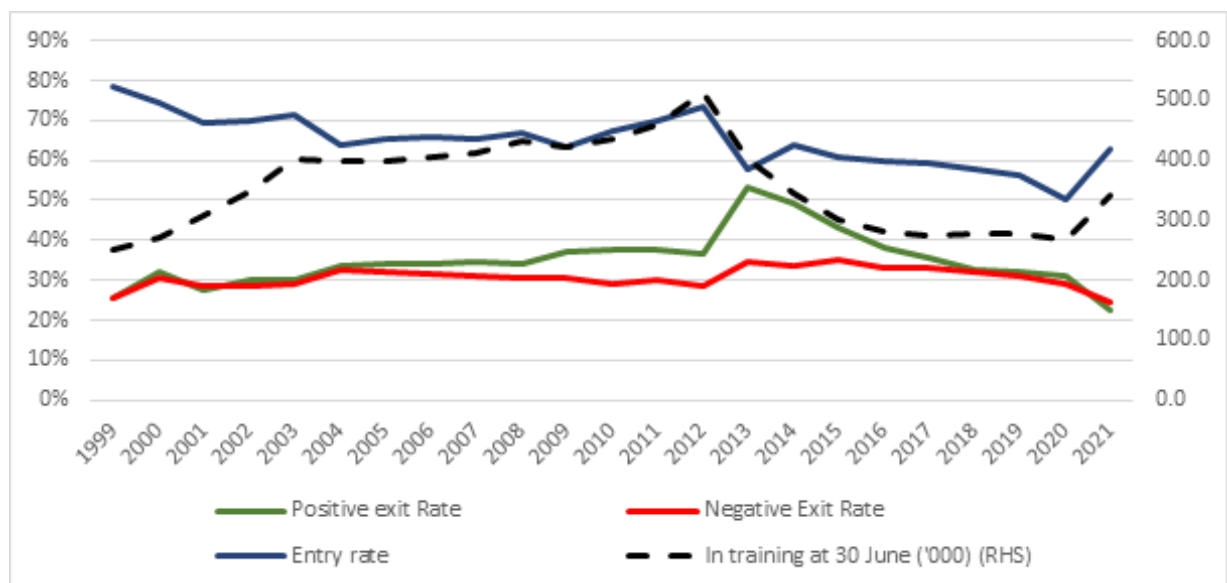
¹⁸⁶ See Department of Education, Skills and Employment fact sheet on [Boosting Apprenticeships Commencements](#); MYEFO at [Appendix A](#) at p 151; See Budget Paper No. 2, at p 77.

second and \$24 per week in the third). Applications may also be made for trade support loans, depending on occupation and other factors.¹⁸⁷

296. The aggregate level of persons in training conducting an apprenticeship or traineeship are shown in Figure 78 below, along with the following measures:

- a. *Positive exit rate*: the number of completions as a share of the persons in training, expressed as a percentage
- b. *Negative exit rate*: the number of cancellations or withdrawals as a share of the number of persons in training, expressed as a percentage.
- c. *Entry rate*: the number of persons commencing training as a share of the persons in training, expressed as a percentage.

Figure 78: Apprentice and trainee entry and exit, June Quarter 1999-2021



Source: NCVET, ACTU calculations

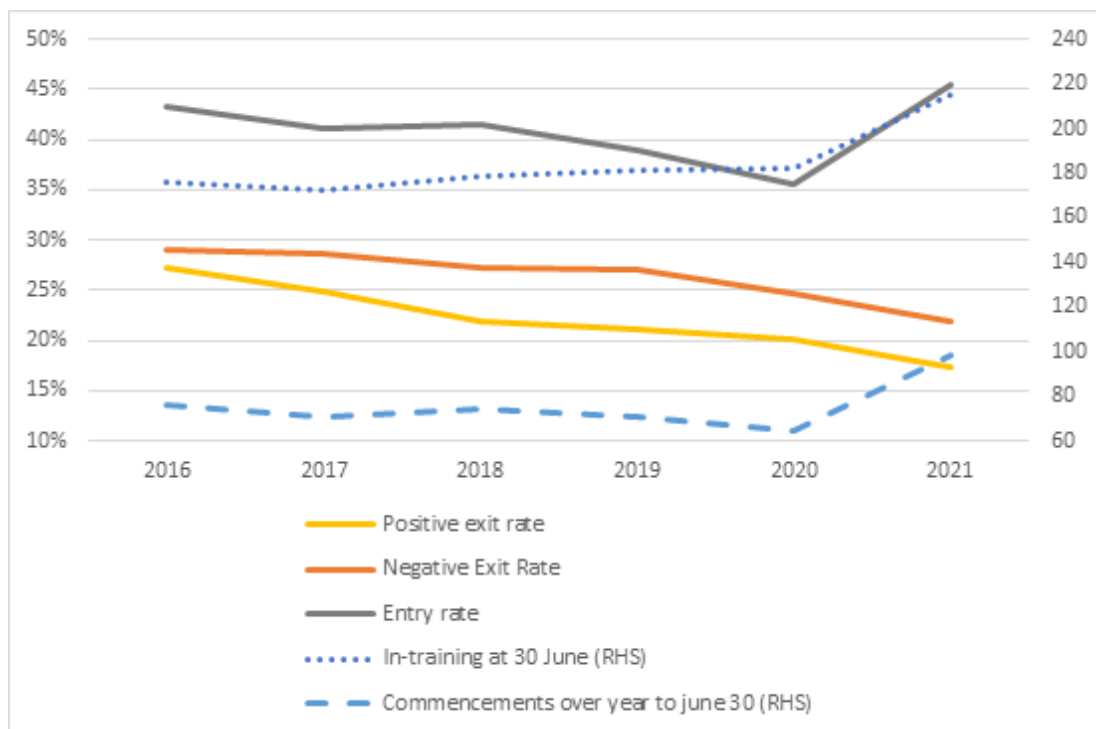
297. The long-term decline in entry partially reversed in 2021. This is likely partially due to a ‘backlog’ of entrants from the previous year when apprentice and trainee position availability was constrained by pandemic measures. Some other elements of this recovery however can also likely be attributed to the economic recovery after initial COVID lockdowns and an attendant increase in the demand for workers in apprentice/trainee positions. The fact that

¹⁸⁷ Commonwealth Treasury, “Budget 2022-23 – Budget Paper No. 2”, page 76, Department of Education Skills and Employment [Fact Sheet](#).

the positive exit rate has declined proportionally with the increase in entry is indicative of an overall stable (positive and negative) exit rate for the training system as a whole. This likely indicates that the demand for skilled labour, implied by the increase in entry as existing within the market, is unlikely to be met in the short to medium term. In the market context, even short-term skills shortages would create some pressure for wage increases which, by definition in award-reliant work, are not offered voluntarily by employers.

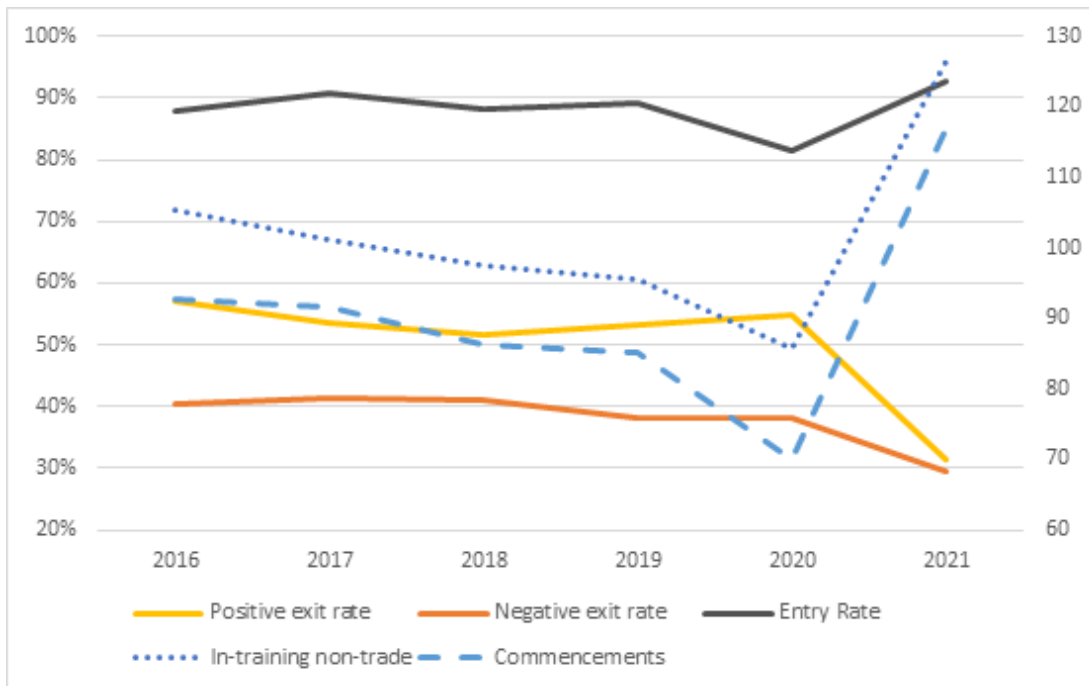
298. An interesting observation from Figure 78 is that negative exit rates appear to have declined at a lower rate than positive exit rates. Why this might be case is difficult to tell from these figures, but it would represent a concerning trend for the availability of skilled workers if it continues in future quarters. Additionally, there was a marked difference in the experience for apprentices as opposed to trainees. The NCVER groups data according to “Trades” and “Non Trades”, which is an appropriate differentiator between apprenticeships and trainees in our view.

Figure 79: Apprenticeship entry and exit, June Quarter 2016-2021



Source: NCVER, ACTU calculations

Figure 80: Trainees entry and exit, June Quarter 2016-2021



Source: NCVER, ACTU calculations

299. Figure 79 and Figure 80 above, shown at similar scale, indicate more substantial movements with respect to trainees than apprentices, with the recovery in entry rate, commencements and numbers in training more obvious, particularly with reference to figures in previous years.

300. A number of forces have combined to create a rebound in the commencements and in-training numbers which is likely to be supported by the assistance measures to employers and employees in the years ahead. It remains appropriate for apprentice and trainee wages to be lifted in the usual way to attract new entrants, recognise increased demand and maintain rather than worsen the level of consistency in treatment in the system. The apprentice and trainee rates set out in the *Miscellaneous Award* should continue to form the basis for apprentice and trainee rates expressed in the National Minimum Wage Order.

8.3 Employees with a disability

301. Special National Minimum Wage 1 should continue to be set at the same level as the National Minimum Wage, as varied in this Review. It is submitted by the ACTU that doing otherwise – that is, the setting of a lesser minimum wage for workers with a disability solely as a

consequence of their having a disability – could lead to an outcome that is at odds with *the Fair Work Act 2009 (Cth.) s 153*.

302. Special National Minimum Wage 2 should continue to be set by reference to the National Minimum Wage, as varied in this review, in conjunction with Supported Wage System assessments (as reproduced in modern awards other than the Supported Employment Services Award).
303. Employees with a disability which affects the employee’s productivity who are covered by an award other than the Supported Employment Services Award should continue to be remunerated according to the minimum wages as varied in this review and the Supported Wage System schedules in those awards, subject to the minimum payment set by reference to the income test free area of the disability support pension.¹⁸⁸
304. Employees with a disability whose disability affects their productivity may find pathways into employment through Disability Employment Services. The 2022-23 Budget contained an announcement that Restart Wage Subsidies (up to \$10,000) will remain available over 2022-23 and 2023-24 for employers who employ mature aged Disability Employment Services Participants (50 years or over).¹⁸⁹ This will contribute to meeting the costs of the wages adjusted in this review.
305. The current terms of the Supported Wages System Schedule that forms part of the *Supported Employment Services Award* does not require the separate adjustment of a minimum weekly payment. The adjustment of the minimum rates expressed in the *Supported Employment Services Award* is sufficient to flow the effects of the current decision on to employees covered that Award and we would urge the Panel to do. We note that this award is itself presently the subject of review and submit that any further variation or consideration of that award should properly be the subject of that review.

¹⁸⁸ See [2021] FWCFB 3500 at [314]

¹⁸⁹ Commonwealth Treasury, “Budget 2022-23 – Budget Paper No. 2”, page 74. See also Disability Employment Services [Factsheet](#).

8.4 Casual loading

306. The casual loading should be maintained at 25% in this review.

8.5 Piece rates

307. The adjustments to modern award minimum wages should flow through to piece work rates in the usual way. The standard method of adjustment is compatible with the new minimum hourly rate floor for piece rates due to take effect in the *Horticulture Award* in April of this year.

8.6 Other instruments

308. The adjustments to modern award minimum wages should flow through to any transitional instruments and copied state awards in the usual way.

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