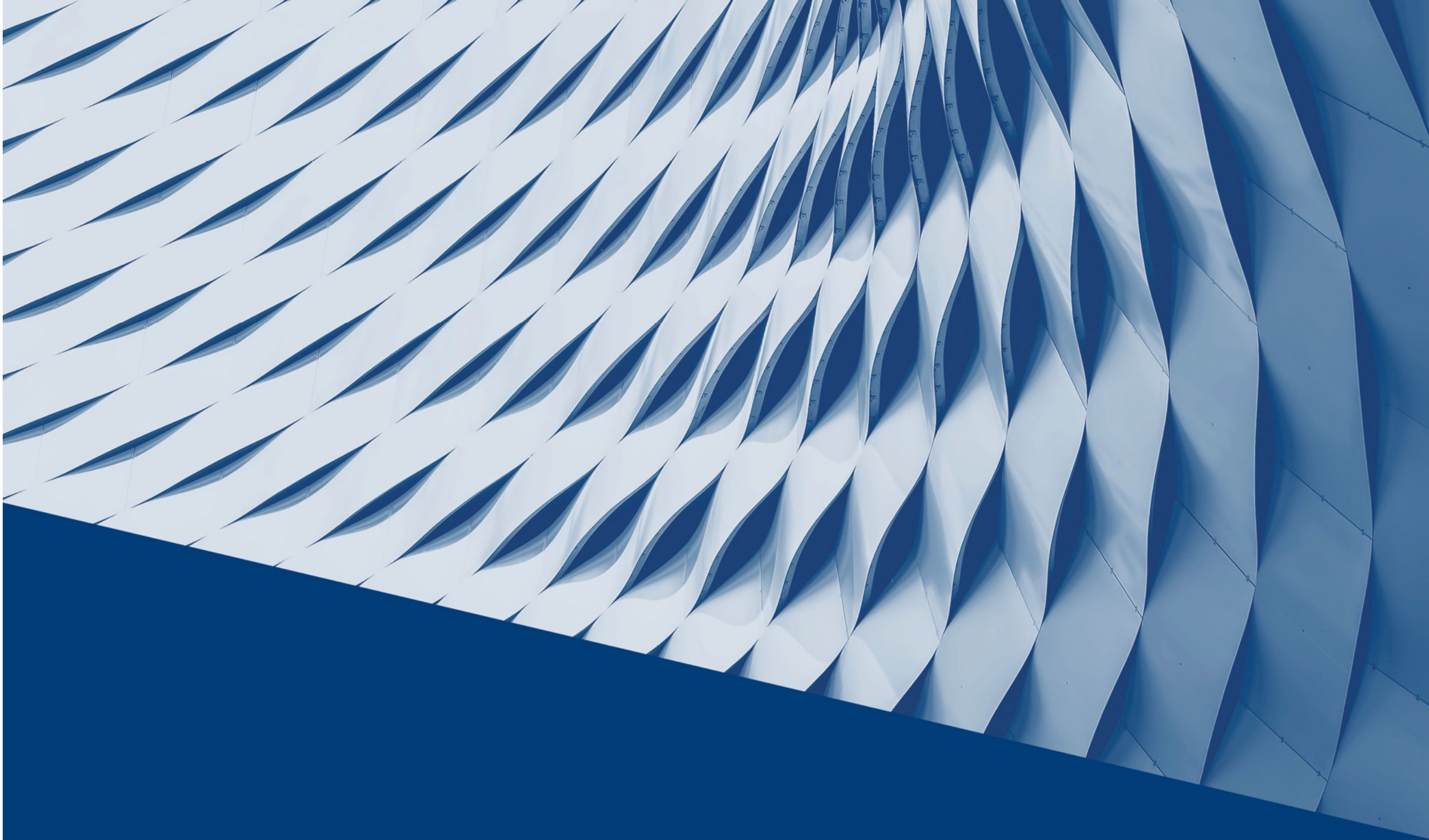

Additional Submission to the Annual Wage Review 2019-20

ACTU Submission, 5 June 2020

D. No.: 24/2020

australian council of trade unions

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1. COMMENT ON MATTERS ARISING SINCE 29 MAY

1. We provide our observations on recent major statistical releases below.

1.1 Business indicators

2. ABS Business Indicators for March quarter 2020 released on 2 June[1] suggest that it was still prior to the full impact of the pandemic. Most significantly, while output and profits increased, wages did not.

3. Manufacturing sales rose 2.2% in the March quarter 2020 from the December quarter 2019, and 2.8% from the March 2019 quarter, chain volume measures, seasonally adjusted.

4. Wholesale trade rose 1.6% for the March quarter 2020 but fell by 0.1% over the year chain volume measures, seasonally adjusted.

5. Profits (current measure) picked up 1.1% from the December quarter 2019, and also rose 1.5% from the March quarter 2019, seasonally adjusted.

6. The ACTU notes that wages and salaries were unchanged from the December quarter 2019 in current terms, which means they fell in total around 0.3% (cpi increase) in the March quarter 2020 in terms of purchasing power. That is, total wages for all workers fell about 0.3% in real terms. At the same time total employment rose 0.3% in the same period (ABS 620201), implying a fall in real average wages. Total hours remained basically the same (ABS 6202019) as the December quarter.

7. In annual terms, wages and salaries had increased 3.8% from the March quarter 2019, current terms, compared with the growth in employment of 1.8% (ABS 6202).

8. ABS said that in the March Quarter 2020 that the chain volume seasonally adjusted estimate for inventories fell 1.2% in the March quarter 2020. The ACTU notes that this may

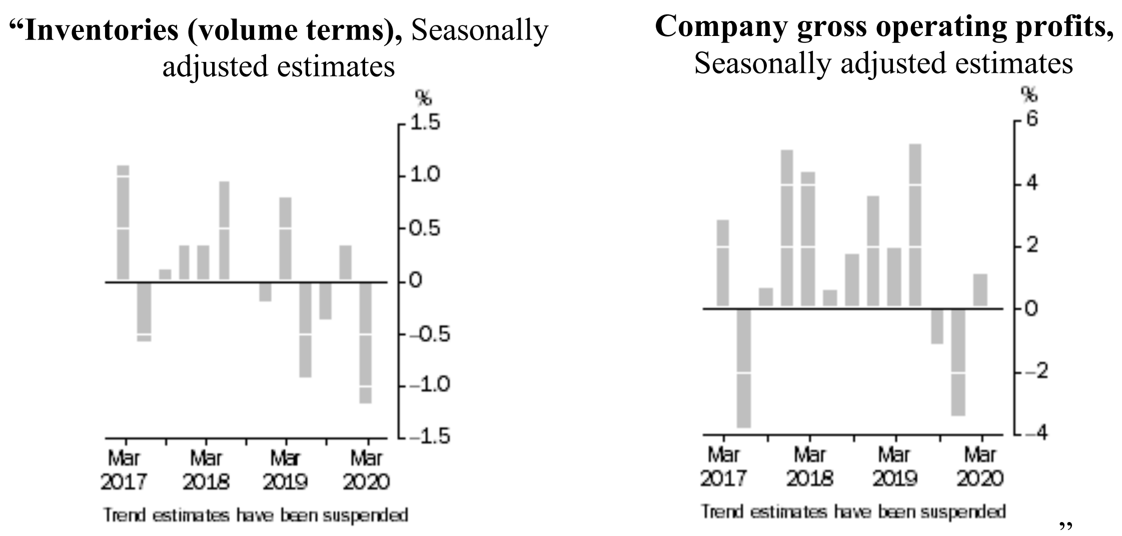
[1] https://www.abs.gov.au/ausstats/abs@.nsf/mf/5676.0?OpenDocument

be a sign of businesses running down inventories in anticipation of a downturn, as from the perspective of the individual business, they would anticipate losses in demand for output.

9. ABS said that in the March Quarter 2020 that the chain volume seasonally adjusted estimate for Manufacturing sales of goods and services rose 2.2%, and for Wholesale trade sales of goods and services rose 1.6%.

10. The ABS notably said: “The current price seasonally adjusted estimate for company gross operating profits rose 1.1% in the March quarter 2020, while the estimate for wages and salaries remained relatively unchanged.”[2]

Figure 1: Inventories and profits



Source: https://www.abs.gov.au/AUSSTATS/abs@.nsf/ProductsbyReleaseDate/77EDC9DB1157AB98CA2578FF0016D19D?OpenDocument

1.2 Household Impacts of COVID-19 Survey, 12-15 May 2020

11. ABS 4940.0 - Household Impacts of COVID-19 Survey, 12-15 May 2020, weekly release of 3 June said:[3]: “The proportion of Australians aged 18 years and over with a job remained stable between early-April (63.4%) and mid-May (63.2%)”. Table 1 below, reproduced

[2] https://www.abs.gov.au/ausstats/abs@.nsf/mf/5676.0?OpenDocument

[3] https://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/4940.0Main%20Features212-15%20May%202020?opendocument&tabname=Summary&prodno=4940.0&issue=12-15%20May%202020&num=&view=

from the ABS release, shows the self-reported job status of Australians aged 18 years and over covering the period early-March to mid-May.

Table 1: Persons aged 18 years and over, Self-reported job status

	Early March (1st survey cycle)	Early April (1st survey cycle)	Mid-April (2nd survey cycle)	Early May (3rd survey cycle)	Mid-May (4th survey cycle)
Has a job	66.2%	63.4%	63.6%	64.2%	63.2%
Working paid hours	*64.0%*	*55.8%*	*56.6%*	*59.0%*	*58.7%*
Not working paid hours	*2.2%*	*7.6%*	*7.0%*	*5.3%*	*4.5%*
Does not have a paid job(a)	33.8%	36.6%	36.4%	35.8%	36.8%

Footnote(s): (a) Includes all people without a job and should be considered only a loose approximation for the combined "unemployed" and "not in the labour force" groups."

Source: ABS, Note 3.

12. ABS said: "Of persons aged 18 years and over who had a job in mid-May one in five (20%) said they were eligible to receive the fortnightly JobKeeper payment; a further 7% did not know whether they were eligible for the payment; and one in eight (13%) had started receiving the fortnightly JobKeeper payment."[4]

13. ABS also noted that: "The results of the ABS survey estimated that one in twenty Australians aged 18 years and over who had superannuation applied for early access (5%)", with 9% of people who did not have a job applying for it compared with 3% who did. People who did not have a job in mid-May were more likely to have applied for early access to their superannuation than those who had a job (9% compared with 3%). 57% of those who applied for early access to superannuation "used or planned to use the money to pay household bills, mortgage, rent and other debts."[5]

[4] https://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/4940.0Main%20Features212-15%20May%202020?opendocument&tabname=Summary&prodno=4940.0&issue=12-15%20May%202020&num=&view=

[5] https://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/4940.0Main%20Features212-15%20May%202020?opendocument&tabname=Summary&prodno=4940.0&issue=12-15%20May%202020&num=&view=

14. One in fifteen reported that one or more persons in their household had received at least one type of payment relief due to COVID-19, with mortgage more likely to receive (12%) than outright own (3%) or renting (4%).[6]

15. With the relaxing of social distancing and related restrictions commencing from late May, we would anticipate some improvements in the near term.

1.3 ABS Quarterly National Accounts, March 2020

16. The March quarter remains too early to capture the feed through of the pandemic, although the ABS incorporated extra surveys for the last weeks of March.

17. The ABS release 5206 of National Accounts for the March quarter 2020 of 3 June said:

- "The Australian economy contracted by 0.3% in seasonally adjusted chain volume terms in the March quarter 2020
- Through the year GDP was up 1.4%
- The terms of trade rose 2.9%
- Household saving ratio increased to 5.5% from 3.5%."[7]

18. These data need to be seen in the context of the quarterly series, as the shown in Table 2 below. Table 2 presents lines from the ABS table summarising the key figures.

[6] https://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/4940.0Main%20Features512-15%20May%202020?opendocument&tabname=Summary&prodno=4940.0&issue=12-15%20May%202020&num=&view=

[7] https://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/5206.0Main%20Features1Mar%202020?opendocument&tabname=Summary&prodno=5206.0&issue=Mar%202020&num=&view=

Table 2: National accounts data, derived from ABS table

	Seasonally adjusted, percentage change (a)					
	Dec 18 to Mar 19	**Mar 19 to Jun 19**	**Jun 19 to Sep 19**	**Sep 19 to Dec 19**	**Dec 19 to Mar 20**	**Mar 19 to Mar 20**
Chain volume GDP and related measures (b)						
GDP	0.5	0.6	0.6	0.5	-0.3	1.4
GDP per capita (c)	0.1	0.3	0.2	0.2	-0.7	-
Gross value added market sector (d)	0.7	0.3	0.3	0.4	-0.6	0.3
Real net national disposable income	1.0	1.7	0.9	-0.7	0.5	2.4

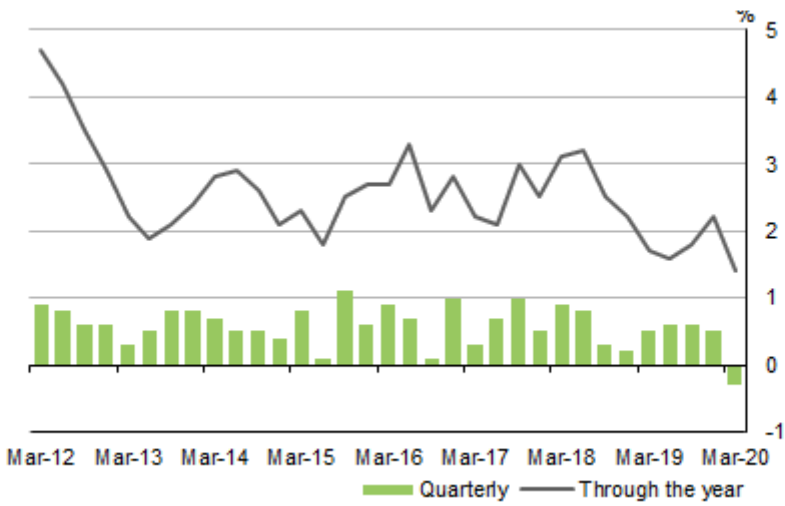
na not available

(a) Change on preceding quarter, except for the last column which shows the change between the current quarter and the corresponding quarter of the previous year. Excludes Household saving ratio.

Source:
https://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/5206.0Main%20Features1Mar%202020?opendocument&tabname=Summary&prodno=5206.0&issue=Mar%202020&num=&view=

19. The ABS Figure for GDP growth rates from 2012 indicates that some other quarters have been very close to zero for GDP growth.[8]

Figure 2: GDP Growth - March 2012-March 2020



Source: ABS https://www.abs.gov.au/ausstats/abs@.nsf/mf/5206.0

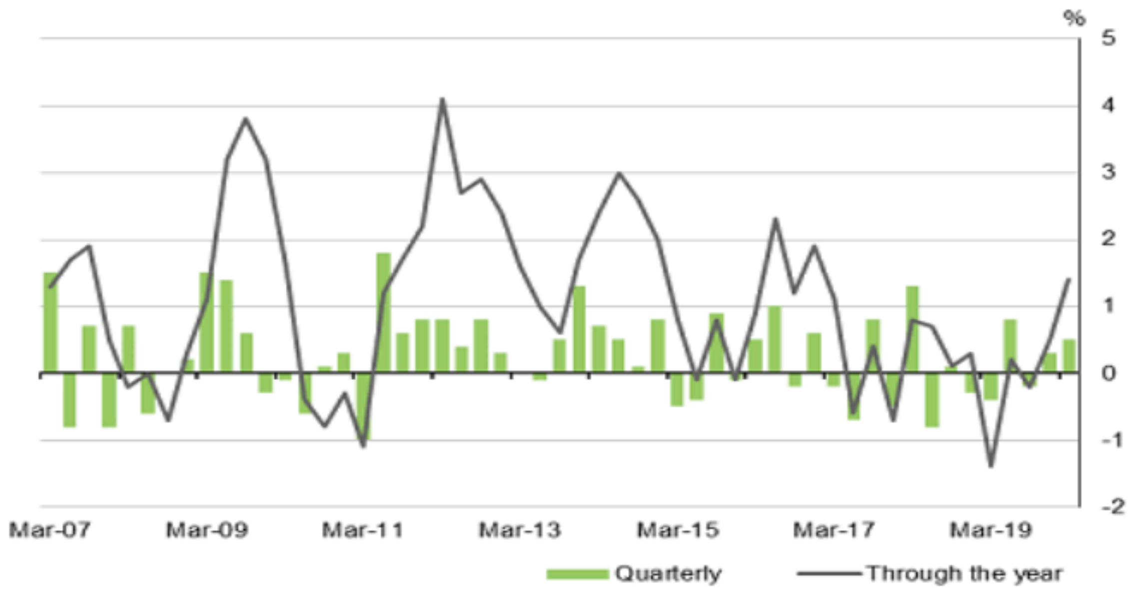
8 https://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/5206.0Main%20Features1Mar%202020?opendocument&tabname=Summary&prodno=5206.0&issue=Mar%202020&num=&view=

20. Household consumption chain volume was down 1.1% over the year to March 2020 but most of that was due to the December quarter 2019 which was down 1.1%, not the March quarter 2020 which was down 0.2%, seasonally adjusted chain volume. Hours worked declined 0.8% in the March quarter.

21. The ABS said: "Hours worked fell 0.8% in the March quarter, with significant impacts on key national accounts aggregates including GDP per hour worked and unit labour costs."[9]

22. The ABS Figure presenting GDP per hour worked indicates the growth in hours worked over the December 2019 and March 2020 quarters.[10]

Figure 3: Growth in hours worked, March 2007-March 2020



Source: ABS, Note 10

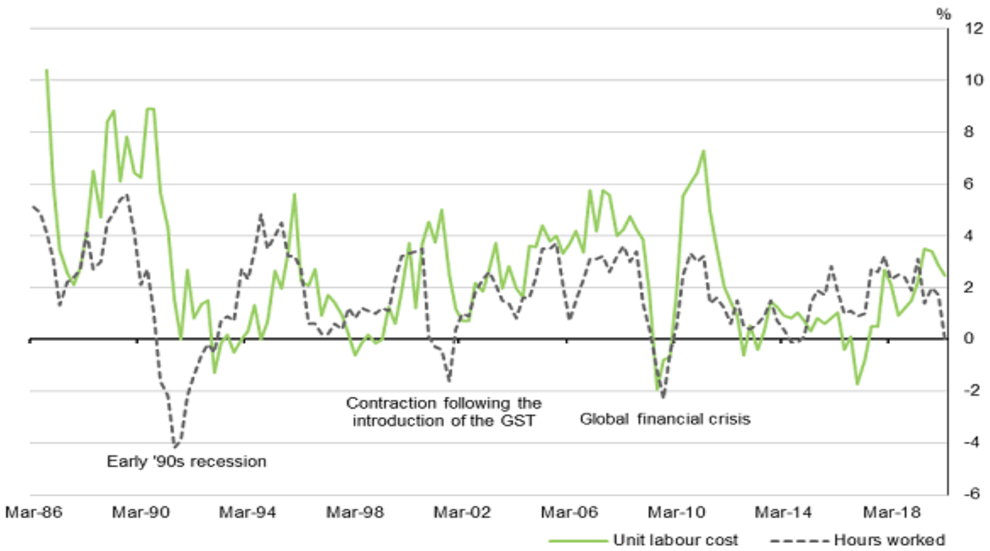
9 https://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/5206.0Main%20Features20Mar%202020?opendocument&tabname=Summary&prodno=5206.0&issue=Mar%202020&num=&view=

10 https://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/5206.0Main%20Features20Mar%202020?opendocument&tabname=Summary&prodno=5206.0&issue=Mar%202020&num=&view=

23. The ABS said: "With the decline in hours worked greater than the decline in GDP, the result was 1.4% growth in GDP per hour worked through the year."[11]

24. In terms of resultant effects on unit labour costs, the ABS said: "Unit labour costs (ULC) slowed to 2.4 per cent through the year, indicating growth in average labour productivity (GDP per hour worked) outpaced average cost of labour. Historically, a steep decline in hours worked and associated economic downturn (for example, in 1990-91 and 2008-09), tend to coincide with a decline in the ULC."[12]

Figure 4: Unit labour costs and hours worked, seasonally adjusted, through the year



Source: https://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/5206.0Main%20Features20Mar%202020?opendocument&tabname=Summary&prodno=5206.0&issue=Mar%202020&num=&view=

11 https://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/5206.0Main%20Features1Mar%202020?opendocument&tabname=Summary&prodno=5206.0&issue=Mar%202020&num=&view=

12 https://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/5206.0Main%20Features20Mar%202020?opendocument&tabname=Summary&prodno=5206.0&issue=Mar%202020&num=&view=

25. The more award reliant industries have been highlighted by the ACTU in Table 3 from ABS. They show a diverse pattern of growth in Gross Value Added (GVA). This does not offer grounds for limiting the increase in the minimum wage and awards.

Table 3: Industry gross value added (a), chain volume measures (b) seasonally adjusted, percentage changes (c)

	Dec 18 to Mar 19	Mar 19 to Jun 19	Jun 19 to Sep 19	Sep 19 to Dec 19	Dec 19 to Mar 20	Through the year, Mar 19 to Mar 20	Contribution to growth, Dec 19 to Mar 20
Agriculture, forestry and fishing	1.2	-4.7	-3.1	-0.6	-2.1	-10.1	-
Mining	1.0	3.1	1.1	0.9	-1.0	4.1	-0.1
Manufacturing	-0.3	-1.3	-0.5	2.3	2.1	2.6	0.1
Electricity, gas, water and waste services	0.9	-0.6	-0.2	0.1	-1.7	-2.4	-
Construction	-0.2	-1.5	0.7	-2.5	-0.5	-3.7	-
Wholesale trade	0.6	-0.9	-0.6	0.3	1.5	0.3	0.1
Retail trade	-0.1	-0.2	-	0.2	1.7	1.7	0.1
Accommodation and food services	-0.2	1.6	0.4	0.5	-7.5	-5.2	-0.2
Transport, postal and warehousing	0.1	-0.6	-0.1	2.4	-4.9	-3.3	-0.2
Information media and telecommunications	-0.3	1.4	0.7	0.1	0.3	2.5	-
Financial and insurance services	1.0	0.1	0.4	0.5	1.2	2.2	0.1
Rental, hiring and real estate services (d)	0.1	0.7	0.7	2.6	-1.7	2.3	-0.1
Professional, scientific and technical services	1.9	1.6	1.4	0.3	1.5	4.8	0.1
Administrative and support services	2.0	0.8	0.8	-1.0	-3.7	-3.2	-0.1
Public administration and safety	-0.3	1.8	1.5	1.1	1.4	5.9	0.1
Education and training	0.6	0.6	0.6	0.6	0.4	2.1	-
Health care and social assistance	2.0	1.8	2.7	1.6	-0.1	6.1	-
Arts and recreation services	2.3	0.2	0.5	-0.8	-2.4	-2.5	-
Other services	2.1	1.7	-1.6	1.0	-4.2	-3.2	-0.1
Ownership of dwellings	0.6	0.6	0.6	0.6	0.6	2.4	-
Gross value added at basic prices	**0.7**	**0.5**	**0.6**	**0.6**	**-0.3**	**1.4**	**-0.3**
Taxes less subsidies on products	-0.2	0.1	0.3	0.4	-0.5	0.3	-
Statistical discrepancy (P)	. .	. .	. .	. .	. .	. .	-
Gross domestic product	**0.5**	**0.6**	**0.6**	**0.5**	**-0.3**	**1.4**	**-0.3**

. . not applicable

- nil or rounded to zero

(a) At basic prices.

(b) Reference year for chain volume measures is 2017-18.

(c) Change on preceding quarter; second column from right shows the change between the current quarter and the corresponding quarter of the previous year; last column shows the contribution to growth in GDP.

(d) Excludes ownership of dwellings.

Source: ABS

26. Income from GDP data from the ABS National Accounts release also indicates increases in the March quarter 2020, with the exception of gross mixed income.[13]

Table 4: Income from GDP, current prices seasonally adjusted, percentage changes (a)

	Dec 18 to Mar 19	Mar 19 to Jun 19	Jun 19 to Sep 19	Sep 19 to Dec 19	Dec 19 to Mar 20	Through the year, Mar 19 to Mar 20	Contribution to growth, Dec 19 to Mar 20
Total compensation of employees	**1.4**	**1.4**	**1.2**	**1.0**	**0.5**	**4.2**	**0.3**
Total gross operating surplus	**2.0**	**1.8**	**1.4**	**-0.9**	**0.9**	**3.2**	**0.3**
Gross mixed income	-0.3	-1.5	-0.8	-1.2	-0.6	-4.1	-
Total factor income	**1.5**	**1.3**	**1.1**	**0.1**	**0.6**	**3.1**	**0.5**
Gross domestic product	**1.6**	**1.4**	**1.2**	**-0.2**	**0.8**	**3.1**	**0.8**

. . not applicable
- nil or rounded to zero
(a) Change on preceding quarter; second column from right shows the change between the current quarter and the corresponding quarter of the previous year; last column shows the contribution to growth in GDP.
(b) Includes contributions to superannuation made by employers and payments of workers' compensation premiums.

Source: https://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/5206.0Main%20Features2Mar%202020?opendocument&tabname=Summary&prodno=5206.0&issue=Mar%202020&num=&view=

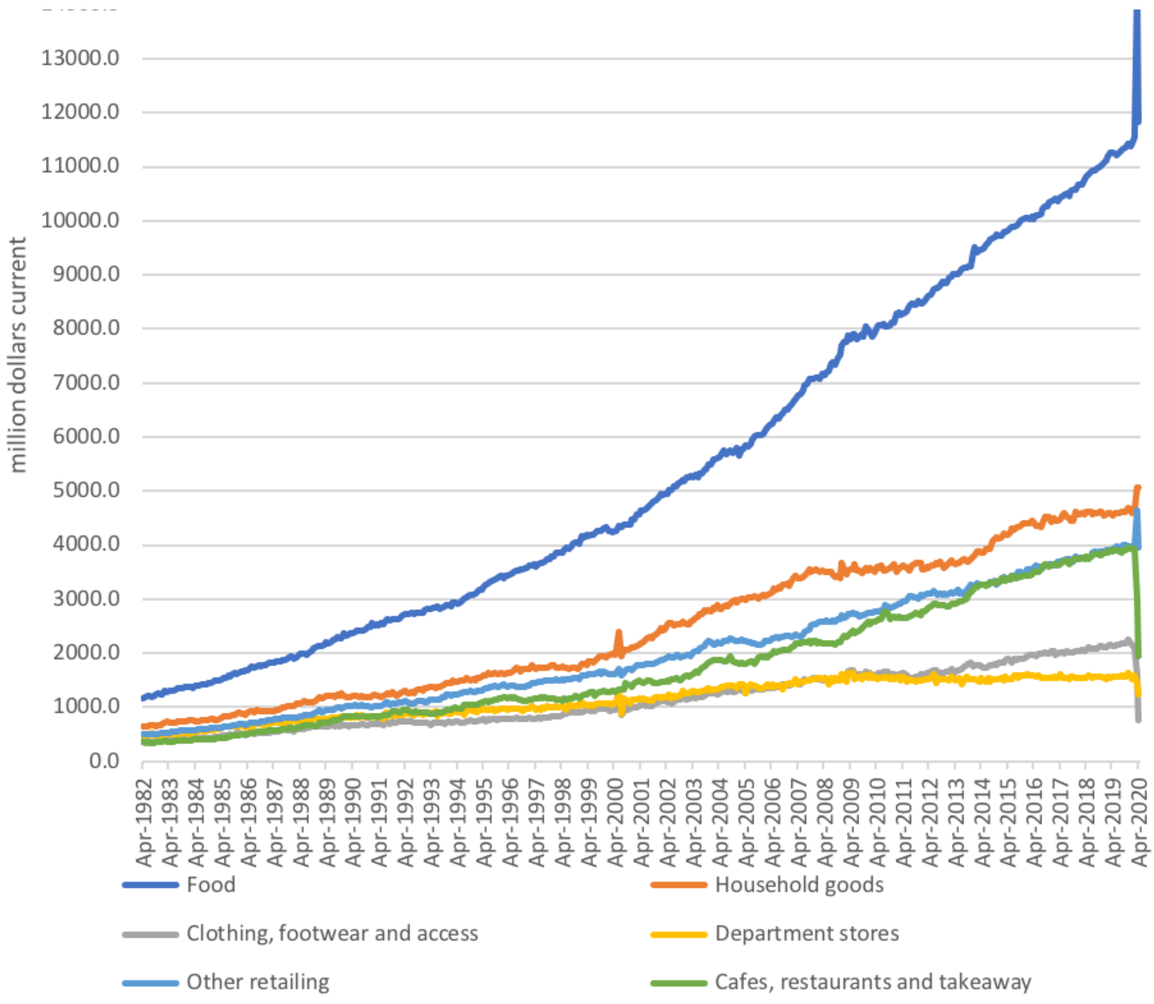
13 https://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/5206.0Main%20Features2Mar%202020?opendocument&tabname=Summary&prodno=5206.0&issue=Mar%202020&num=&view=

1.4 Retail Trade for April.

27. The ABS released 8501.0 Retail Trade, Australia, April 2020, on 4 June.[14]

28. Figure 5 shows the upheavals to retail segment turnovers in current dollars over the last two months. A return to a more normal scale of spending will be assisted by an increase in the minimum wage and awards.

Figure 5: Retail turnover, industry sectors, current million dollars

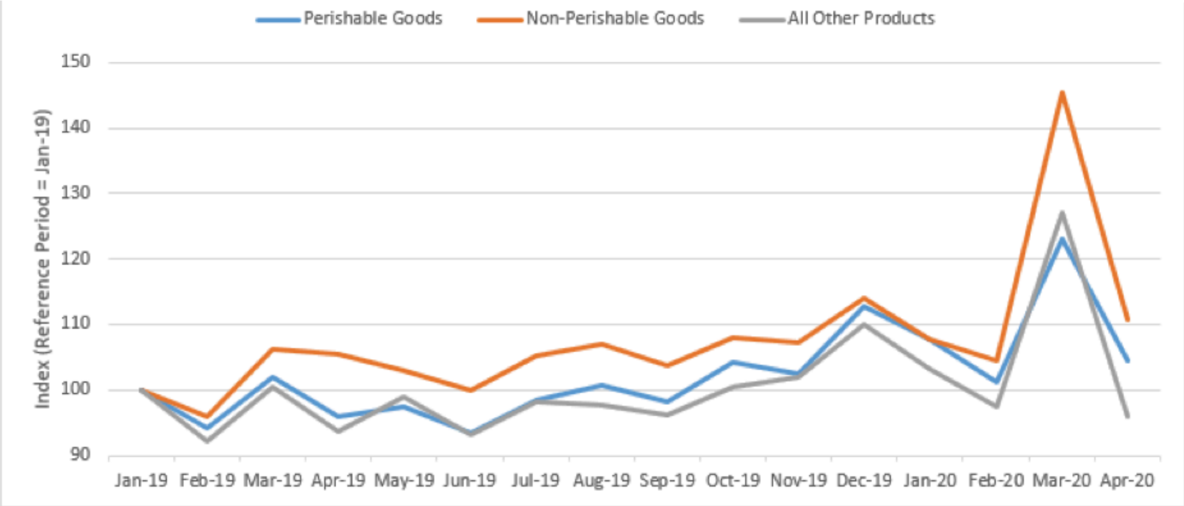


14 https://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/8501.0Main%20Features1Apr%202020?opendocument&tabname=Summary&prodno=8501.0&issue=Apr%202020&num=&view=

29. The ABS also analysed scanner data from supermarkets:[15]

"Retail turnover fell for Non-Perishable Goods (-23.7%), Perishable Goods (-15.3%) and All Other Products (-24.5%) in April 2020 compared to March 2020, in original terms. These falls follow significant rises in March 2020 for Non-perishable goods (39.0%), Perishable goods (21.6%), and All other products (30.5%)."

Figure 6: Total Revenue- Perishable goods vs. non-perishable goods vs. all other products



Source:
https://www.abs.gov.au/AUSSTATS/abs@.nsf/Latestproducts/8501.0Main%20Features4Apr%202020?opendocument&tabname=Summary&prodno=8501.0&issue=Apr%202020&num=&view=

30. The ABS said that despite "the month-on-month falls, retail turnover for all three categories remains at higher levels when compared to April 2019. Annually Perishable Goods rose 8.8%, Non-Perishable Goods 5.1%, and All Other Products rose 2.3%."

31. The ABS said: "On average, Perishable Goods make up approximately 40% of total supermarket turnover each month, whilst Non-Perishable Goods make up 35% and All Other Products make up 25%."[16]

15 https://www.abs.gov.au/AUSSTATS/abs@.nsf/Latestproducts/8501.0Main%20Features4Apr%202020?opendocument&tabname=Summary&prodno=8501.0&issue=Apr%202020&num=&view=

16 https://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/8501.0Main%20Features4Apr%202020?opendocument&tabname=Summary&prodno=8501.0&issue=Apr%202020&num=&view=

1.5 Reserve Bank of Australia

32. Hansard transcript of RBA Governor Philip Lowe's testimony to Senate Select Committee on COVID-19 on 28 May 2020 was released subsequently.

33. Governor Lowe said in his opening statement that as the recovery gets underway, "as a country, we'll need to turn our minds to how best to move out of that shadow and form an agenda that makes Australia a great place for businesses to expand, to invest, to innovate, and to hire people; that will certainly help here. For its part, the RBA will maintain its expansionary settings and monetary policy. Progress is being made towards full employment, and we are confident that inflation will be sustainably within the two to three per cent target band."[17]

34. Governor Lowe indicated to the Senate Select Committee that "the outlook is incredibly uncertain." That uncertainty does not refer to the minimum wage and awards. There is no reason to think that the increase in the minimum wage and awards in the ACTU's claim would contribute to that uncertainty. Moreover, on the basis of the Governor's argument an increase in the minimum wage and awards would assist with the recovery as it offers an efficient means of promoting spending and employment in the economy. The corollary is that It cannot be observed that an increase in the minimum wage and awards would result in any decline in hours, rather, it would assist with increasing hours. The smaller the increase in the minimum wage and awards, the less it will contribute to the recovery. Any increase in the nominal rate that is below the rate of inflation, i.e. a real reduction, would offer an obstacle to the recovery.

35. Governor Lowe indicated that "the economy is going to need support from both monetary and fiscal policy".[18] Governor Lowe also said "fiscal policy will have to play a more significant role in managing the economic cycle than it has in the past". Governor Lowe said "there's not going to be much scope at all to use monetary policy" to manage the business cycle and keep inflation under control, saying: "So I think fiscal policy will have to be used, and that's going to require a change in mindset."

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[17] https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/COVID-19/COVID19/Public_Hearings of 28 May released subsequently, p.2

[18] https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/COVID-19/COVID19/Public_Hearings, p.3

36. Governor Lowe said when asked about modifications to JobKeeper stated: "It's very important that we don't withdraw the fiscal stimulus too early." He also said "my main concern is that we don't withdraw the stimulus too early."[19] He later said: "My main point here is: we've got to keep the fiscal stimulus going until recovery is assured."[20]

37. Governor Lowe also said "the economy is doing a bit better than was earlier feared", with much lower infections than initially anticipated, and with businesses which haven't had to be in hibernation for six months.[21]

38. Governor Lowe indicated that if the economy is not rising again due to the virus re-emerging or "people are just incredibly nervous to go out and spend because of their health or their jobs, then the government will need to find more ways to support people."[22]

39. After the Reserve Bank Board Meeting – Monetary Policy Decision, 2 June 2020, Governor Philip Lowe stated that the cash rate and the rate on 3 year bonds were to be kept on hold.[23]

40. Governor Lowe said: "Over the past month, infection rates have declined in many countries and there has been some easing of restrictions on activity. If this continues, a recovery in the global economy will get under way, supported by both the large fiscal packages and the significant easing in monetary policies."

41. Governor Lowe said: "Globally, conditions in financial markets have continued to improve, although conditions in some markets remain fragile. Volatility has declined and credit markets have progressively opened to more firms. Bond rates remain at historically low levels."

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[19] https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/COVID-19/COVID19/Public_Hearings, p.4

[20] https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/COVID-19/COVID19/Public_Hearings, p.7

[21] https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/COVID-19/COVID19/Public_Hearings, p.9

[22] https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/COVID-19/COVID19/Public_Hearings, p.10

[23] https://www.rba.gov.au/media-releases/2020/mr-20-15.html

42. Governor Lowe said that notwithstanding the developments due to covid-19, "it is possible that the depth of the downturn will be less than earlier expected. The rate of new infections has declined significantly and some restrictions have been eased earlier than was previously thought likely. And there are signs that hours worked stabilised in early May, after the earlier very sharp decline. There has also been a pick-up in some forms of consumer spending."

43. Governor Lowe said that "much will depend on the confidence that people and businesses have about the health situation and their own finances" and that "monetary and fiscal support is likely to be needed for some time."[24]

1.6 Commentary

44. Whilst the situation continues to evolve, there are indications that performance of the economy has been better than expected when measures were first being developed and implemented to respond to the pandemic, and that the recovery is beginning.

45. Treasury's estimated when the "three step plan" was developed to re-open the economy that 850,000 jobs would return by July when the third step was taken. As at the date of writing, most States and Territories are already at a version of Step 2 in the recovery path.

46. Today, the Finance Minister reportedly remarked that the economy was improving better than expected:

> "If anyone had told you at the end of March that we would be where we are at the beginning of June in terms of the economic context, I think people would not have believed you necessarily. People would have thought you were too optimistic. We are working to ensure that we get ourselves in the strongest possible position over the next few months."[25]

[24] https://www.rba.gov.au/media-releases/2020/mr-20-15.html

[25] Coorey, P., "Healthy businesses could lose JobKeeper payments", Australian Financial Review, 5/6/2020.

47. The Finance Minister's comment followed on from a Statement issued jointly with the Treasurer on 3 June noted that "Australia's continued success in flattening the curve means we have been able to begin reopening our economy more quickly than initially expected"[26]

48. Also on 3 June, the Treasurer's Statement accompanying the release of March Quarter National Accounts offered some cause for optimism:

> "With restrictions easing, we are seeing some encouraging signs across the economy.
>
> As the RBA Governor said last week in evidence to the Senate Committee on COVID-19 'with the national health outcomes better than earlier feared, it's entirely possible that the economic downturn will not be as severe as earlier thought.'
>
> Equity, debt and credit markets have stabilised with the ASX recovering more than 60 per cent of its fall from its high in February to its low in March.
>
> The Australian dollar has now more than fully recovered the 11 cent fall that occurred in less than two weeks from above US 66 cents on 9 March to a low of US 55 cents on 19 March, levels previously seen in October 2002.
>
> Consumer confidence has increased for nine consecutive weeks since the announcement of JobKeeper and has recovered around 95 per cent of the fall from mid-March.
>
> Business confidence rose in April to reverse around one-third of its record fall in March. However, it remains well below its 10-year average.
>
> With restrictions starting to lift in accordance with the decisions on National Cabinet it will be paramount to build confidence and to keep the momentum to consolidate these gains.
>
> Today's National Accounts show once again that in the face of a one in 100 year global pandemic the Australian economy has been remarkably resilient.
>
> We entered this economic crises and this health crisis from a position of economic strength."[27]

[26] https://ministers.treasury.gov.au/ministers/josh-frydenberg-2018/media-releases/update-economic-and-fiscal-outlook

[27] https://ministers.treasury.gov.au/ministers/josh-frydenberg-2018/media-releases/national-accounts-march-quarter-2020

2. COMMENT ON SUPPLEMENTARY SUBMISSIONS OF OTHER PARTIES

49. It is evident that, despite having several attempts now to articulate with precision the "exceptional circumstances" which could create the basis for a deferral to an increase in any minimum wage contained in a national minimum wage order or a determination to vary modern award minimum wages, the employer groups have failed to do so. The generalised assertions of impacts on business viability and future uncertainty are fatal to any claim for a deferral based on exceptional circumstances. The preferred position of employer groups is instead to lock in to a primary position that there should be no increase to any minimum wages.

50. There are some subtle differences in the manner in which that primary position is articulated. ACCI essentially continues with its position that there is a deep economic and labour market crisis which creates "uncertainty", although there are caveats to what is uncertain in its view: it *is* certain that the economy will continue to get worse and it *is* certain that "any minimum wage increase in the next 12 month period will place jobs and businesses at risk"[28]. We have responded to this line of argument in previous submissions and we would note the positive signs of recovery referred to in section 1.6 above and in our supplementary submission. ACCI seeks to bolster its call for a "cautious and restrained approach"[29] by reference to the fact that Panel lacks the capacity to revisit its decisions after a Review is completed. As we have pointed out in our previous submissions, a decision to hold wages flat (or decrease them in real terms), is not a cautious approach. ACCI's attempt to justify the employee impacts of a real wage cut on the basis that award reliant workers have built a buffer over the past 9 years of above CPI increases is as fanciful as the suggestion some months ago by the Commonwealth Attorney General that casual workers save 25% of their earnings. It is also somewhat inconsistent with the oft repeated claim by ACCI and others that low paid award reliant work is merely a stepping stone on the path to better paid work.

[28] At [12](b)

[29] At [22](d)

51. ACCI goes so far as to suggest that "most Australian businesses, particularly smaller enterprises in award reliant industries, are facing existential threat"[30], but does seek any decrease to the current level of minimum wages. Perhaps this indicates some faith in our otherwise apparently heretical proposition that incomes fuel consumer demand. In any event, if most business in award reliant industries were facing an existential threat, it would be expected that the industry breakdowns in the JobKeeper data provided in the Commonwealth's supplementary submission would look very different.

52. As we said in our prior submission, the Review is both a forward looking and a backward looking exercise. ACCI have acknowledged that the cause of the down-turn was "extensive social distancing, shut-down of non-essential services and trading restrictions required to contain the COVID-19 pandemic"[31] and that "..Labour Force data for March showed little change in employment and unemployment…due to the data being collected in the first two weeks of March"[32]. In its own view then, business as usual continued for just over 8 months of the year in Review. Similar positions are advanced by the Master Grocers Association[33] and the National Retail Association[34]. In our submission, green shoots suggest the recovery phase is beginning.

53. The Ai Group is more forthcoming in acknowledging signs of an easing of adverse conditions, explicitly describing the months ahead as "..the recovery from the Pandemic"[35]. This characterisation is supported by many contemporary data sources to which they refer in paragraphs 13-18 of their supplementary submission, including an increase in job advertisements in award dependent sectors. Ai Group's "Business reports about the COVID-19" survey, which relevantly covered the month of April where restrictions were in place for the duration of the month, clearly demonstrates the most significant impact on surveyed businesses was reduced demand, with rising input costs only being cited by between 2% and 5% of respondents. The second highest response to the question of

[30] At [29]

[31] At [67]

[32] At [69]

[33] At [7]

[34] At page 4.

[35] At page 3 and 11

what would assist business to respond to COVID-19 was the easing of restrictions (21%), behind financial assistance (28%). Whilst the outcome in the Review cannot contribute to the easing of restrictions, it can help to re-build demand, which may obviate the claimed need for financial assistance.

54. Whilst the Ai Group offers a secondary position of an increase operative after 1 January 2021, its reasons for doing so have not moved far beyond the assertion that the relevant exceptional circumstances speak for themselves – notwithstanding our identification of the insufficiency of that position at an early stage in the proceedings.

55. There is a faint suggestion in the submissions of the Ai Group, ACCI and the Australian Retailers Association that there have been capital costs associated with the change to business practices during the Pandemic. We would ask the Panel to note that these costs (up to $150,000) would likely be deductable under the enhanced instant asset write off scheme.

56. In our submission, it would be damaging to the national economy and particularly damaging to businesses offering low value/high turnover goods and services like restaurants, cafés and shops, to lock down wages. In paragraphs 35-37 of our supplementary submission, we referred to the macro-economic consequences of reducing the real incomes of consumers. Anything less than an increase that accounts for rises in prices and living costs would result in a fall in real consumer income growth and purchasing power. In circumstances where key economic need is to rebuild domestic demand for goods and services, a real wage cut is the least favourable option.

2.1 International comparisons

57. In section 4.8 of its supplementary submission, ACCI makes some observations about positive movements in minimum wages in other countries. In seeking to contextualise those movements, ACCI states that "Often significant periods of minimum wage stasis has preceded such increases, which are seen as catch up or correction for changes in prices".[36]

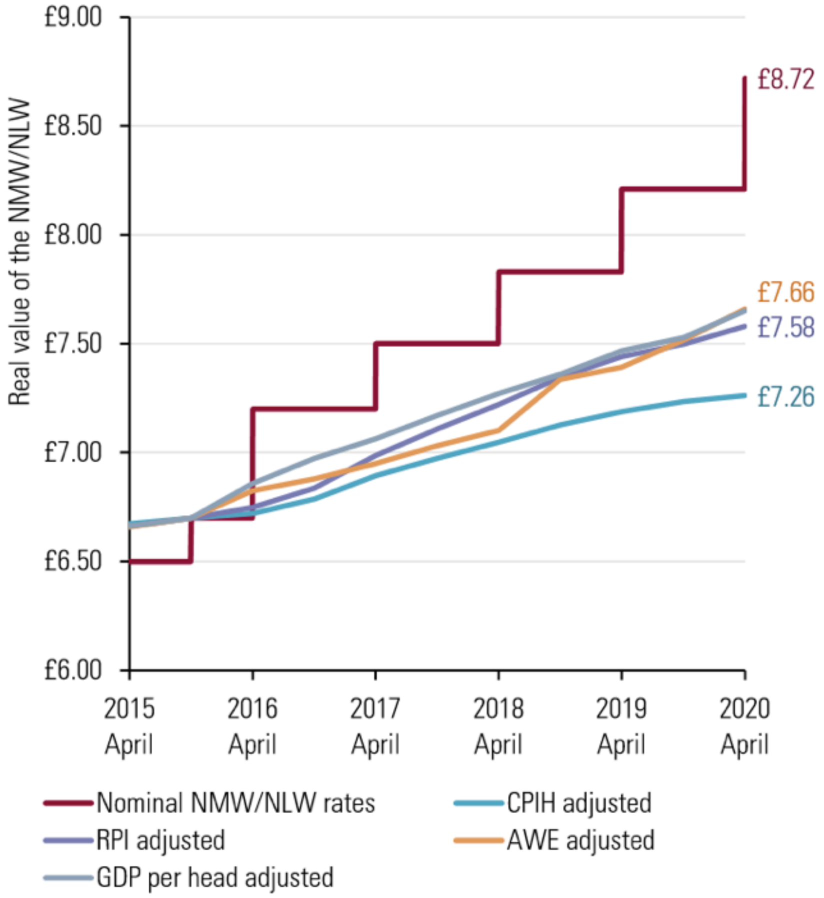
[36] At [122](d)

58. In fact, for the UK the National Living wage saw a 30 per cent nominal increase since the introduction of the NLW in 2016, according to the Low Pay Commission:

> "The NLW buys 20 per cent more today than in October 2015. The 30 per cent nominal increase in the wage floor since the introduction of the NLW in 2016 equates to a 20 per cent increase in real terms (when removing the effects of the 8 per cent increase in prices). Therefore the pre-tax and benefit income of an hour worked on the NLW could buy 20 per cent more goods and services in April 2020 than the equivalent hour worked could buy in October 2015."[37]

The movements of the National Living Wage over the period referred to are shown in Figure 7 below.

Figure 7: UK NMW/NLW compared to other measures, 2015-2020

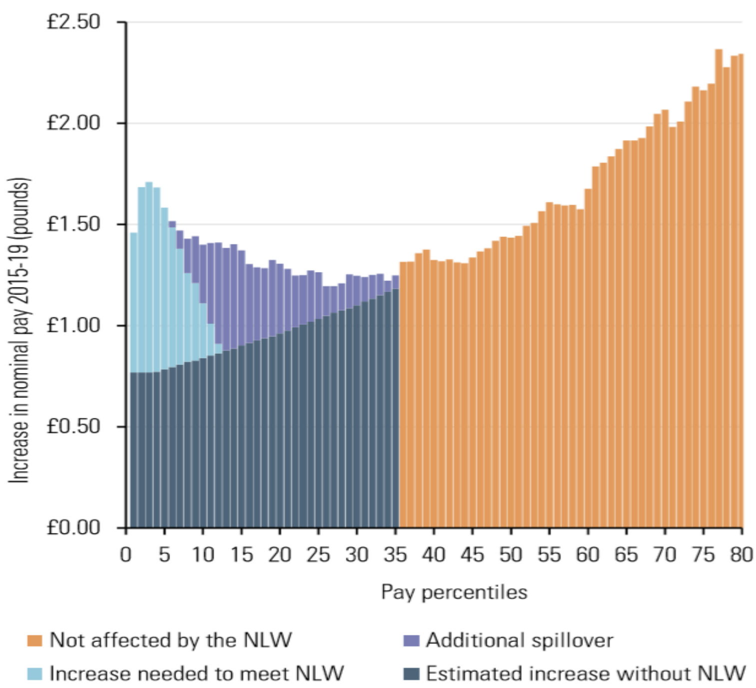


Source: Low Pay Commission 2020

[37] 'The national Minimum Wage in 2020' Low Pay Commission, 2020 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/877174/LPC_2020_uprating_report.pdf

59. ACCI has observed that the National Minimum Wage in the UK is an "..effective minimum wage, rather than the nominal rate which it which is inapplicable to most work".[38] We agree that when the National Minimum Wage is lifted in the UK, its effects are felt through many different wage levels. The Low Pay Commission estimates there have been significant spill overs from their decision and that this has led to the bottom 35 per cent of workers seeing faster pay growth than they otherwise would have.[39] This is shown in Figure 8 below. The fact that an increase in the UK minimum wage has such a widespread impact and is being increased in the current economic context notwithstanding is a factor which we consider of relevance to the current Review, although it is not clear how it assists ACCI's apparent line of argument. Certainly, to the extent that the spillovers in the UK mimic the impacts of directly raising higher skilled wage levels (as we do in Australia), the evidence certainly suggests a similarity that ACCI would prefer to ignore.

Figure 8: Estimated spillover of the UK NLW



Source: Low Pay Commission 2020

[38] At [122](g).

[39] 'The national Minimum Wage in 2020' Low Pay Commission, 2020 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/877174/LPC_2020_uprating_report.pdf

60. When ACCI discusses the recent international examples of minimum wage increases, in Canada and the U.K., it is important to note that the direction of change is an important variable here, not just the level. The direction of change in these examples is universally positive. Australia would be outside the international consensus by decreasing the incomes of the low paid in real terms.

61. We concede that those countries didn't design the wage increase as a "stimulative" measure, but they didn't forego it as a "stimulative" measure either. It was not beyond the independent Low Pay Commission in the U.K. to come to a different decision just a few weeks ago, on the 1st April, but they decided to grant a nominal 6.2% increase in the NLW none the less. Bryan Sanderson, Chair of the Low Pay Commission, noted that some the country's key workers during the crisis will benefit. He stated:

> 'Many of the nation's key workers – in, for example, the care sector, agriculture, transport and retail – are low-paid, are continuing to work in very difficult conditions and will benefit from today's increase[40].'

The Low Pay Commission also continues to emphasise that there is no strong evidence of overall negative employment effects from the NLW. This is despite a 30% nominal increase since its introduction in 2016.

62. While here in Australia the Panel has not and cannot formally set a medium-range target, there is a practice of "normal" wage increases that occur every year that arguably amounts for practical purposes to something similar, even if less precise. "Normal" in this context is an increase that is designed to make some improvement to workers' living standards. We are yet to see any empirical evidence that any of the "normal" wage increases have resulted in any negative employment effects.

[40] https://www.gov.uk/government/news/national-living-wage-increase-raises-income-of-low-paid-workers

3. COMMENT ON ANSWERS TO SUPPLEMENTARY QUESTIONS 1.1(1)-(4)

63. The Master Grocers Association and the Australian Retailers Association have not engaged with the questions in any meaningful way. The same is true of ACCI, save that they have advanced some grounds in opposition to a JobKeeper based deferral date. No employer group expresses support for that proposition, nor does the Commonwealth.

64. The Commonwealth raises a real issue about whether issuing two determinations to vary modern award minimum wages in the same award, the first with the usual operative date and the second with a later operative date tied to exceptional circumstances, is permissible. The issue the Commonwealth raises, but chooses not to fully explore, is essentially whether there is statutory purpose that each modern award be only subject to one (if any) determination varying modern award minimum wages arising from a Review and if so, whether staged variations might be impermissible as an indirect route of seeking to achieve what is directly prohibited. Whilst the issue may be worthy of analysis at some point, it is largely academic in the current Review where employers have essentially abandoned any case to properly articulate the exceptional circumstances on which a later operative date must be based.

65. The NRA suggests there is presumption in the Commission's discussion paper that "any exercise by the Expert Panel of its powers to vary minimum wages in the Review must necessarily result in an increase to minimum wages"[41]. Whilst we did not detect such a presumption, we agree with the NRA that there is nothing preventing the Panel from awarding a decrease or no increase in a Review, where this is consistent with the Panel's consideration of the merit criteria. We agree with the NRA that the Panel may issue a new National Minimum Wage Order in identical terms (save for dates) as the existing National Minimum Wage Order, where this is consistent with the Panel's consideration of the merit criteria.

66. The Ai Group's disagreement with the observations at paragraphs [38]-[44] of the Commission's discussion paper would be assisted by some concrete examples of what

[41] At page 1.

types formulations would be permitted and which would not. We have no difficulty with the point that wage "rates" can be expressed as a calculation, such as percentage, and indeed it is the usual course for the wages of junior employees, apprentices and trainees to be expressed in this way in modern awards. The real question is if the order merely expresses a statement to the effect that "it might be *x* or it might *y*", any rate is disclosed at all. We would agree with position expressed in the paper that it is "doubtful" that this is permissible, and - whether it strictly is or it isn't - it is very difficult to reconcile with the obligations referred to in paragraph [41] of the discussion paper. The reliance by Ai Group on *AWU v. Oji Foodservice* in support of a construction of the obligation to publish in s.292 is misplaced, as neither that case nor the section it was concerned with had anything to say about the proper expression of rates of pay in any instrument (let alone a determination or order issued by the Panel in a Review).

67. The Ai Group also contests the basis upon which differential wage increases can be determined. We see nothing inappropriate about the Panel developing jurisprudence about the application of the Act where differential outcomes are sought. As is evident from what is set out at paragraphs [45]-[51], the proper course which the 2011-12 decision followed was to construe the tribunals powers having regard to the legislative context. The shortcoming in previous decisions, in our respectful submission, was not in the identification of a legislative preference for consistent treatment, but in a failure to differentiate between the function in Part 2-3 to vary "terms about minimum wages" and the function in Part 2-6 to vary "modern award minimum wages", as we detailed in our previous submission. The real complaint from the Ai Group seems to be that economic incapacity under previous legislative context was assessed against a concrete proposition developed by the Commission, whereas the current system places employers in a position which they see as bidding against themselves: it is the employers who need to articulate what it is they cannot afford. Their response – "we cannot afford a cent" – needs to be assessed with these dynamics in mind.

ADDRESS
ACTU
365 Queen Street
Melbourne VIC 3000

PHONE
1300 486 466

WEB
actu.org.au

Australian Unions