

Supplementary Submission to the Annual Wage Review 2020-21

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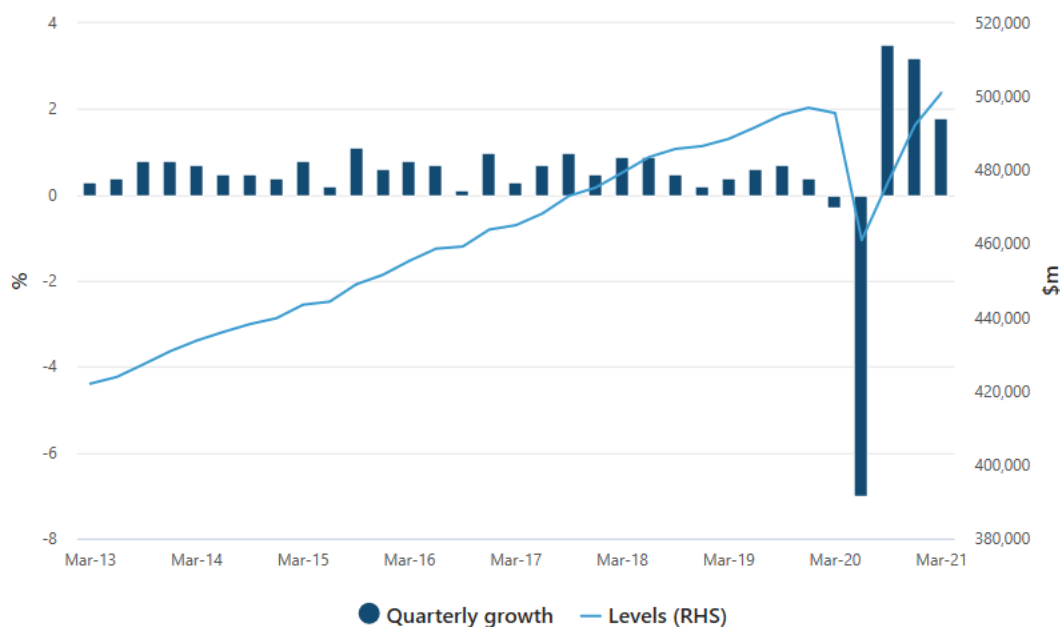
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1. INFORMATION RELEASED SINCE 19 MAY

1.1 National accounts

1. The ABS released the National Accounts for the March quarter 2021 on 2 June 2021.¹ Chain volume GDP rose 1.8% in the March quarter 2021 over the December quarter 2020, for a year's result of 1.1% increase from the March quarter 2020 to the March quarter 2021. Figure 1 reproduces the ABS Graph presenting chain volume quarterly growth in GDP and quarterly levels of GDP. The growth over the last three quarters is impressive to say the least and likely indicates ongoing recovery in GDP.

Figure 1: Gross domestic product, chain volume measures, seasonally adjusted



Source: <https://www.abs.gov.au/statistics/economy/national-accounts/australian-national-accounts-national-income-expenditure-and-product/mar-2021#data-download>

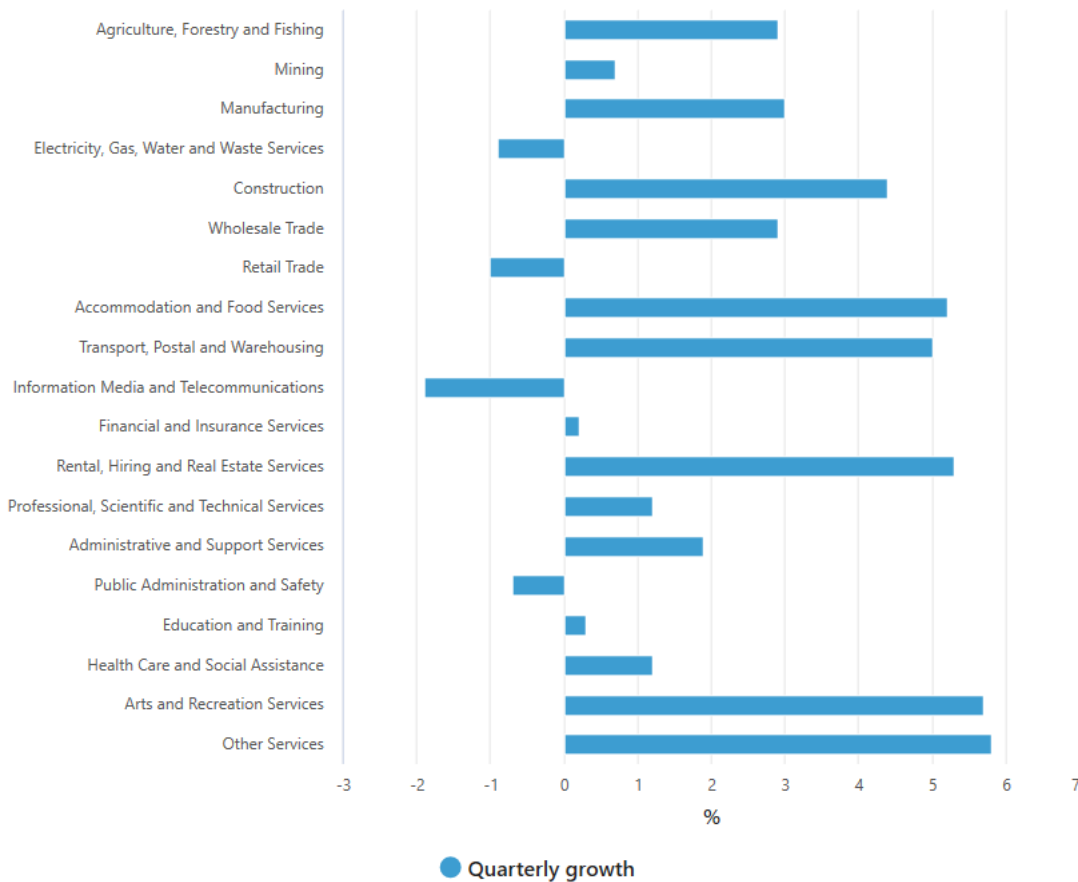
2. The ABS Graph reproduced in Figure 2 shows the pattern of growth in Gross Value Added across industries for the March quarter 2021 reflecting the path of recovery of the economy. ABS said that GVA rose 1.5% in the March quarter 2021, with increases in 15 out of 19 industries. Industries

¹ <https://www.abs.gov.au/statistics/economy/national-accounts/australian-national-accounts-national-income-expenditure-and-product/mar-2021> released 2 June 2021

initially heavily impacted by the pandemic continued to rebound, including Transport postal and warehousing, Accommodation and food services and Arts and recreation.

3. Within the award reliant industries, in in chain volume terms over the full year from March quarter 2020 to March quarter 2021 Retail trade picked up 3.6% from the March quarter 2020 to the March quarter 2021 (fell 1.0% in the March quarter 2021), Accommodation and food services was just lower at 0.1% (increased 5.2% in the March quarter 2021), Administrative and support was 10.0% lower (increased 1.9% in the March quarter 2021), Health care and social assistance increased 4.0% (increased 1.2% in the March quarter 2021) and Other services increased 1.7% (5.8% in the March quarter 2021).

Figure 2: Quarterly Gross Value Added, chain volume measures, seasonally adjusted, March quarter 2021



Source: <https://www.abs.gov.au/statistics/economy/national-accounts/australian-national-accounts-national-income-expenditure-and-product/mar-2021#key-statistics>

4. ABS commentary on the private investment measurement noted that in chain volume terms it rose 5.3% in the March 2021 quarter to be 3.6% higher throughout the year, the first through the year rise since June quarter 2018. Business investment was driven by an 11.6% rise in machinery and equipment, the strongest increase since December quarter 2009.
5. The ABS commentary also said that household final consumption expenditure rose 1.2% in the March quarter 2021 in chain volume terms. It recovered to a level that was 1.5% below the pre pandemic levels of December quarter 2019. In the March quarter 2021 consumption of goods was 4.3% higher than in the March quarter 2020, and consumption of services was 2.6% less.
6. The household savings ratio continued its decline from its height of 22.0% in September quarter 2020 to 11.6% in the March quarter 2021, although remaining elevated from its pre pandemic level in the December quarter 2019 of 5.4%.
7. Quarterly profits in March quarter 2021 remained above pre pandemic levels despite the withdrawal of government business support as shown in Figure 5. Over the year, the quarterly total compensation of employees in real terms increased 1.8% from the March quarter 2020 to the March quarter 2021, whereas the quarterly gross operating surplus, total corporations, in real terms, increased 7.9%, more than four times as much. This strongly indicates that a decent increase in the minimum wage and awards is very feasible.
8. The annual total figures for total wages and profits in real terms also indicate that annual profits have benefited disproportionately compared with annual total wages. Total real wages for the year to March 2021 increased 1.1% compared with 3.0% for the year to March 2020. Total real annual profits increased 10.9% for the year to March 2021, compared with 5.9% for the year to March 2020.²

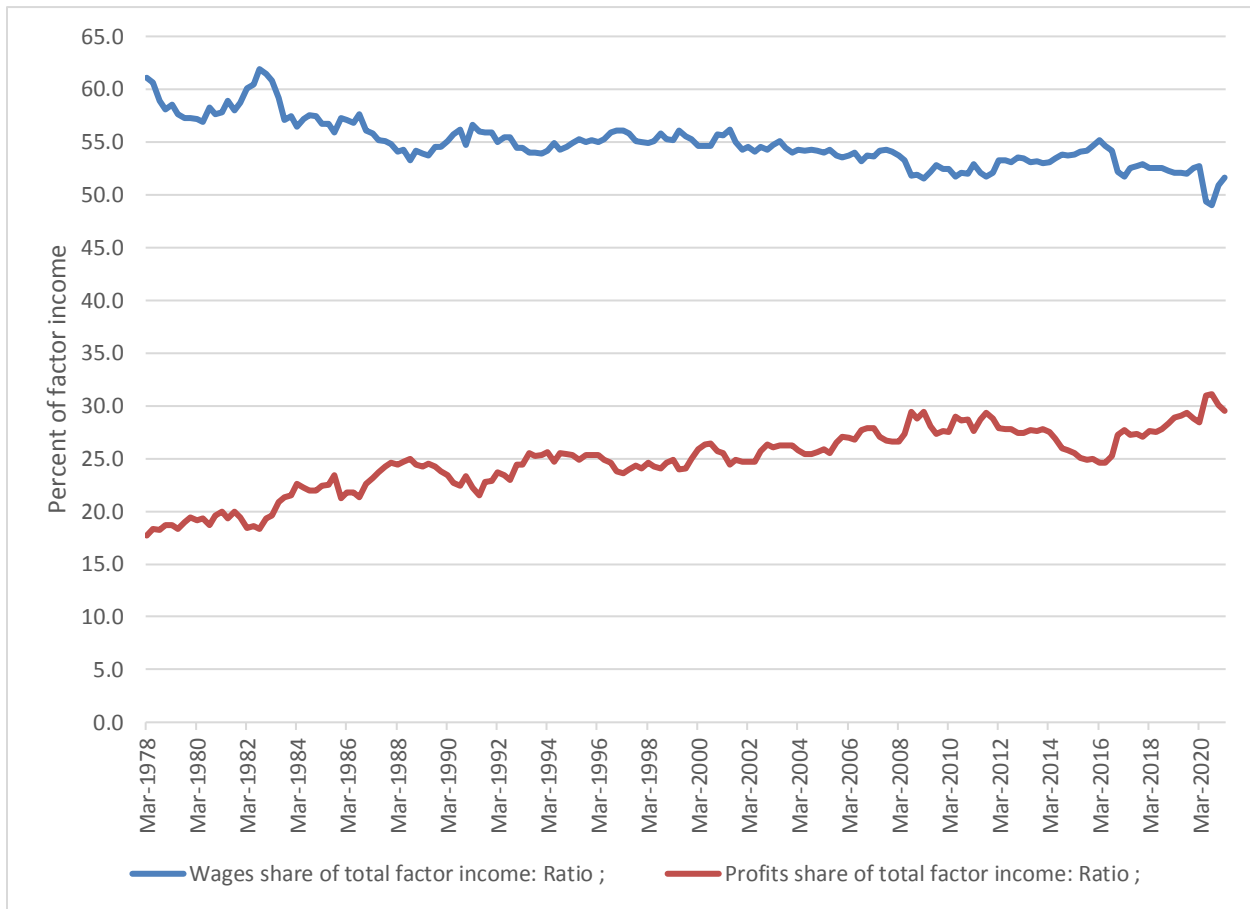
² ABS 5206007, 6401, ACTU calculations

9. Figure 3 shows that the wages share and the profits share of quarterly income at the March quarter 2021 appear to be in line with the trend decline in share for wages and increase in share of profits over the last five years since the March quarter 2016, and further reflecting a trend stretching back several decades.

10. After a fall in the share of wages from 52.7% at the March quarter 2020 to 49.0% at the September quarter 2020, the wages share of income was back to 51.6% at March quarter 2021. The wages share at the March quarter 2021 was still lower than any wages share since March quarter 1964 up to the June quarter 2020.

11. The profits share of income was 28.4% at the March quarter 2020 and increased to 31.1% in the September quarter 2020 before coming down to 29.5% at the March quarter 2021. This was the highest profit share of the published series prior to June quarter 2020.

Figure 3: Wages share and profits share of total factor income, per cent



Source: <https://www.abs.gov.au/statistics/economy/national-accounts/australian-national-accounts-national-income-expenditure-and-product/mar-2021> , ABS 52060024

12. Average compensation per employee in real terms fell by 2.7% from the June quarter 2020 to the March quarter 2021, as lower paid employees disproportionately came back into work and increased hours. This is shown in Figure 4. There is no reason to expect compensation per employee to start picking up due to increases in the wage rate without a decent increase in the minimum wage and awards.

Figure 4: Average compensation per employee, real, March 2021 dollars

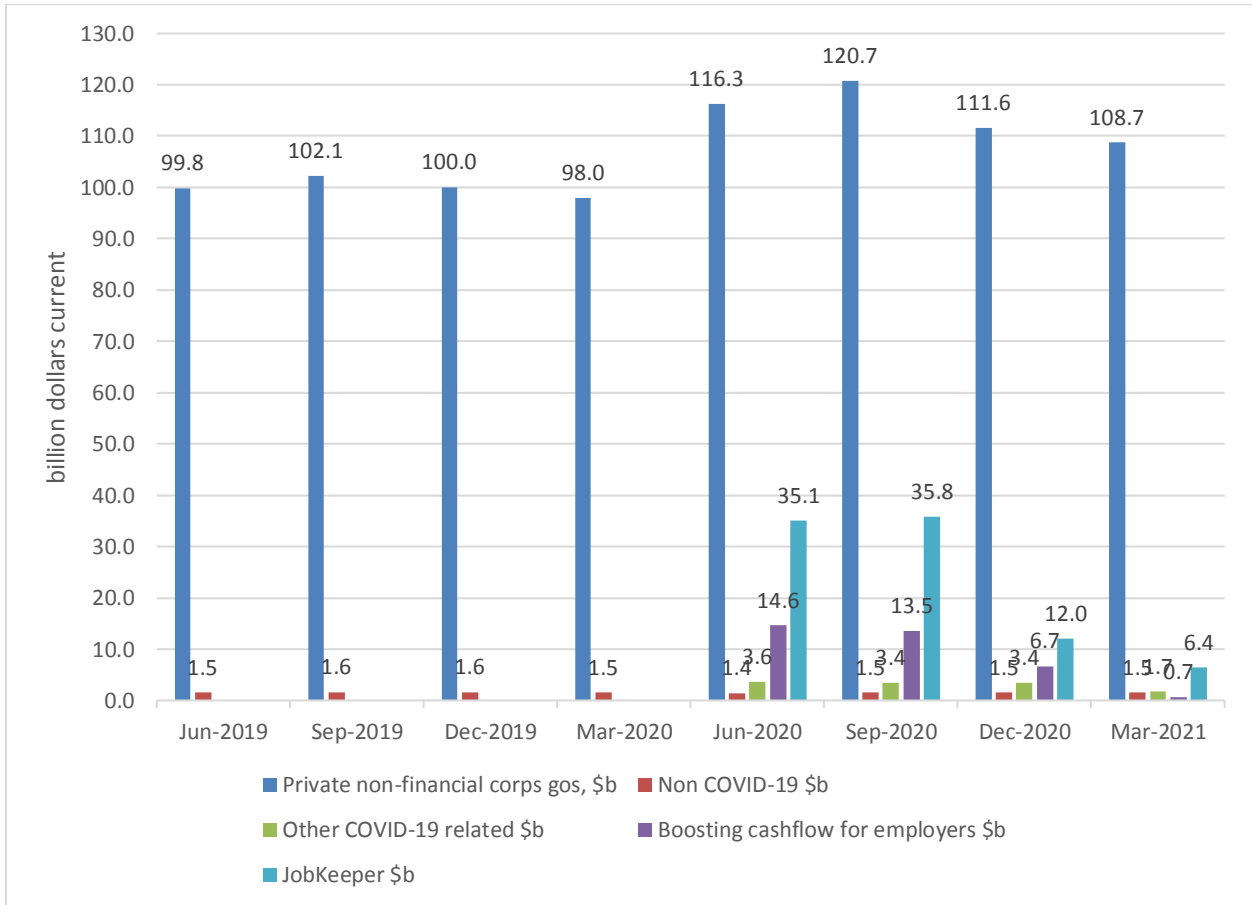


Source: ABS 5206024, 640101, ACTU calculations

13. The ABS article ‘Government support for business’ provides data on government support for business in response to COVID-19. This is compared with profits for private non financial corporations from Income from GDP in the ABS National Accounts release ³ in Figure 5.

³ <https://www.abs.gov.au/articles/government-support-business-march-quarter-2021> released 2 June 2021, ABS 5205007, with the majority share of financial corporations excluded from JobKeeper.

Figure 5: Gross operating surplus, private non financial corporations, and government support for business, quarterly, billion dollars current



Source: <https://www.abs.gov.au/articles/government-support-business-march-quarter-2021> , ABS 5206007

14. Assuming that the profits increase from the June quarter 2020 onwards is approximately relative to the December quarter 2019, about \$57 billion dollars extra is forthcoming in the year to March 2021 compared with the year to March 2020. This compares to COVID related government support of \$136.9 billion dollars, including \$89.3 billion dollars' worth of JobKeeper.

15. COVID related government support for business amounts to 45.8% of profits in the June quarter 2020, 43.6% of profits in the September quarter 2020, 19.8% of profits in the December quarter 2020 and 8.1% of profits in the March quarter 2021. It is clear that profits in the March quarter 2021 have maintained a level well above 2019 quarters despite the withdrawal of support payments.

1.2 Labour market performance

16. ABS released *Labour Force Australia* for the month of April 2021 on 20 May. The data are indicative of a rapid recovery in the labour market from the impact of the pandemic onset at March 2020. Whilst changes in the labour force data from March 2021 to April 2021 do not indicate a clear overall negative impact on the labour market from the withdrawal of JobKeeper, this does not diminish the hardship of the individual workers who experienced transitions in their employment status over the relevant period.
17. The unemployment rate decreased to 5.5% for April 2021 from 5.7% in March 2021, seasonally adjusted, or 33,600 fewer unemployed. There were 89,100 fewer unemployed in April 2021 compared with April 2020, a fall of 0.9 percentage points, and April 2021 was 0.2 percentage points higher than March 2020. Underemployment also fell 0.2 percentage points to 7.8% - the lowest in 7 years - between March 2021 and April 2021, and was 5.9 percentage points lower than April 2020 and 1.0 percentage points lower than March 2020. Underutilization was 13.3% at April 2021. This meant that underutilization fell 0.4 percentage points between March 2021 and April 2021 and at April 2021 was 6.8 percentage points lower than April 2020 and 0.8 percentage points lower than at March 2020.
18. The youth unemployment rate also decreased 1.1 percentage points to 10.6% between March 2021 and April 2021. This was 3.4 percentage points lower than April 2020 and 1.0 percentage points lower than March 2020. These labour force data indicate that the labour market is recovering, especially when the lack of population growth is taken into account.
19. Employment fell slightly, by 0.2% or 30,600 between March 2021 and April 2021, and was 0.4% higher than March 2020. Employment was 5.1% higher in April 2021 than in April 2020, and 0.4% higher than March 2020. Monthly hours fell by 0.7% from March 2021 to April 2021, but were up by 12.5% since April 2020, and by 1.8% since March 2020, seasonally adjusted. ⁴

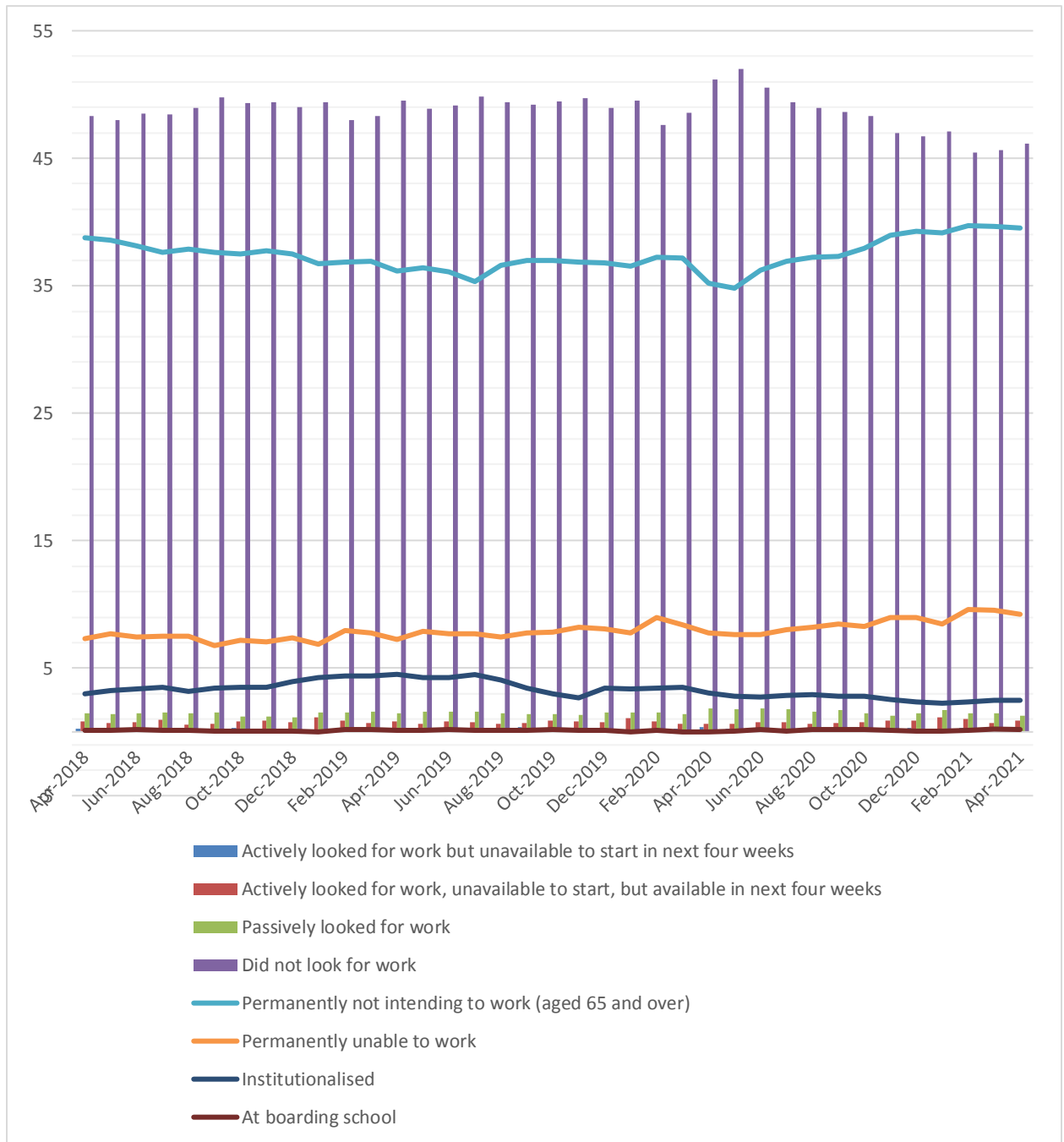
⁴ <https://www.abs.gov.au/statistics/labour/employment-and-unemployment/labour-force-australia/latest-release> 20 May 2021

20. The participation rate fell slightly between March 2021 and April 2021, by 0.3 percentage points, and increased by 2.4 percentage points over April 2020, and is 0.4 percentage points higher than March 2020, seasonally adjusted. The employment to population ratio decreased by 0.2 percentage points to 62.3% at April 2021 from March 2021. The employment to population ratio was up 2.8 percentage points at April 2021 from April 2020 and is less than 0.1 percentage points below March 2020, seasonally adjusted.

21. ABS released the Detailed Labour Force for April 2021 on 27 May 2021.⁵ This provides quarterly industry sector and other data to February 2021 and some detailed monthly data current to April of 2021. Some encouraging signs for further employment growth are seen notwithstanding the recent small decline in the participation rate, in that share of persons not in the labour force bearing particular characteristics appears to have changed, even allowing for some volatility in what is the original data. This can be seen in Figure 6 below.

⁵ <https://www.abs.gov.au/statistics/labour/employment-and-unemployment/labour-force-australia-detailed/latest-release#industry-occupation-and-sector> released 27 May

Figure 6: Share (%) of persons not in the labour force by characteristic, Apr 2018 - Apr 2021



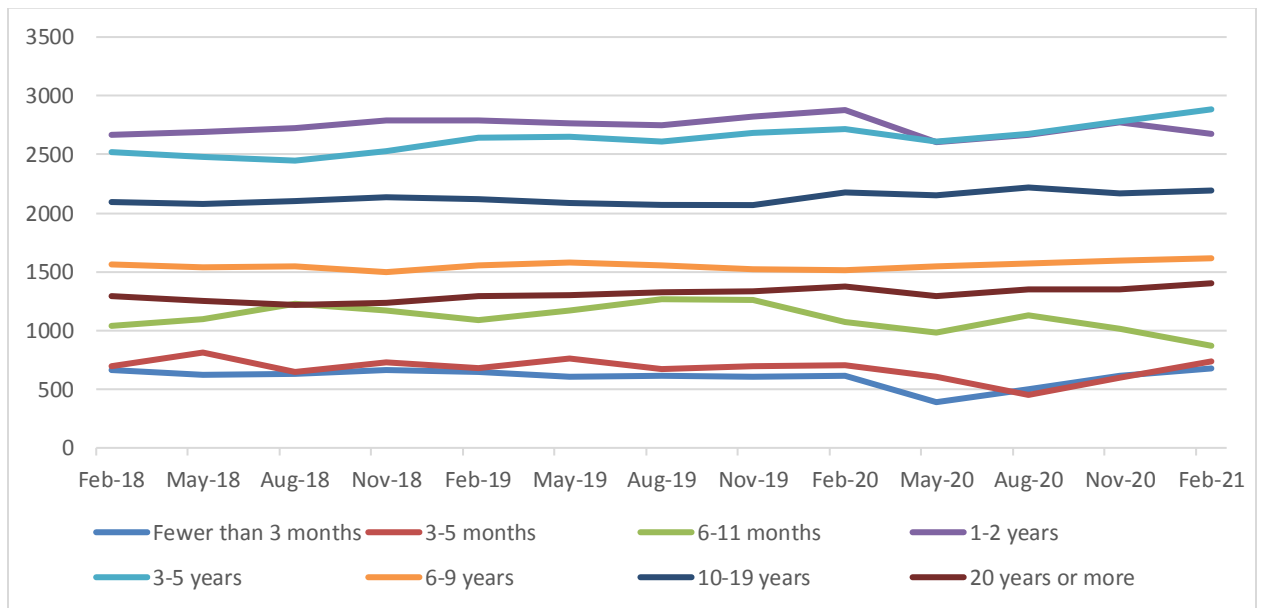
Source: ABS 6291.055.001, ACTU calculations

22. The share of persons not in the labour force who did not look for work, sometimes attributed to a “discouraged jobseeker effect”, remains the largest single category but is at very low levels currently compared to the earlier period. There is also some suggestion of older jobseekers vacating the labour force since the depth of the downturn or alternately younger persons shifting

into the labour force (the latter being more consistent with the reduction in youth unemployment). The small rise in persons permanently unable to work could potentially indicate welfare impacts of the pandemic.

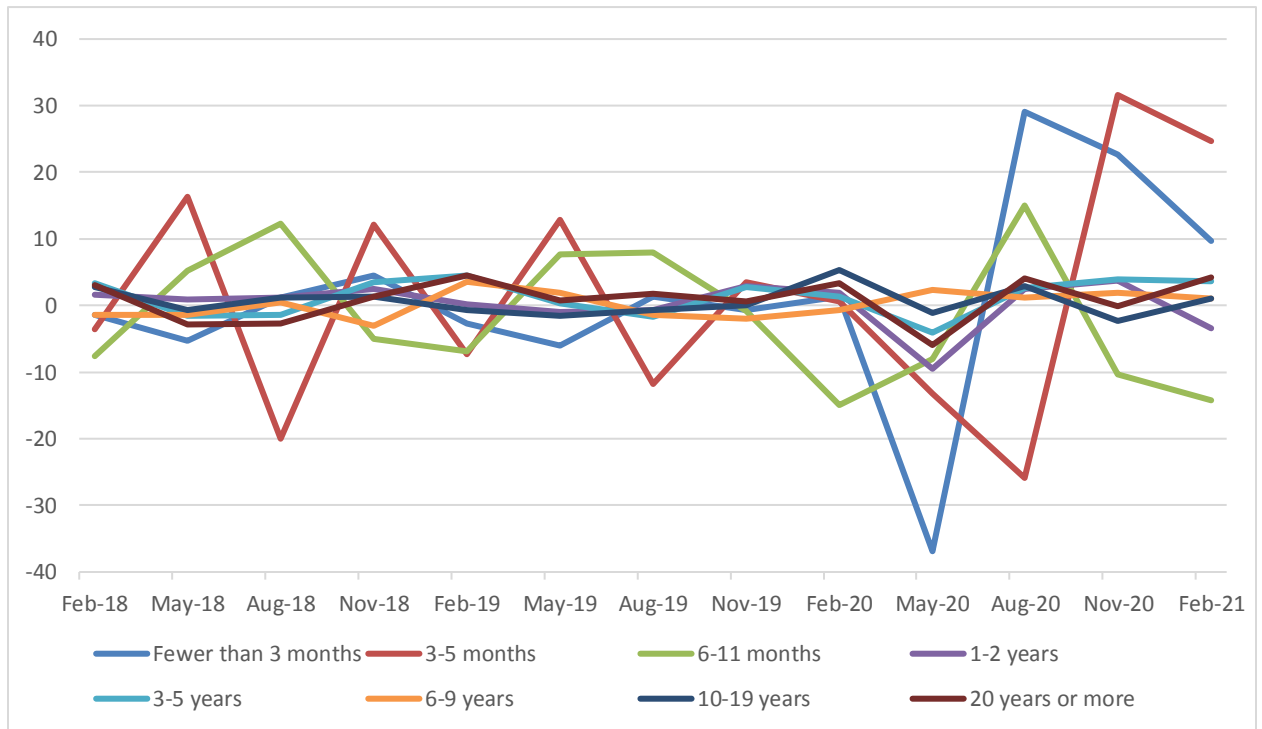
23. The pandemic downturn and recovery phases are seen in Figure 7 and Figure 8 below not only in the strength in new jobs, but also in that the bulk of the job losses in the first half of last year tended to be on a “last on, first off” basis, although some volatility may be due to the data being an original only series.

Figure 7: Employment ('000) by time in job, Feb 18 - Feb 21



Source: ABS 6291.055.001

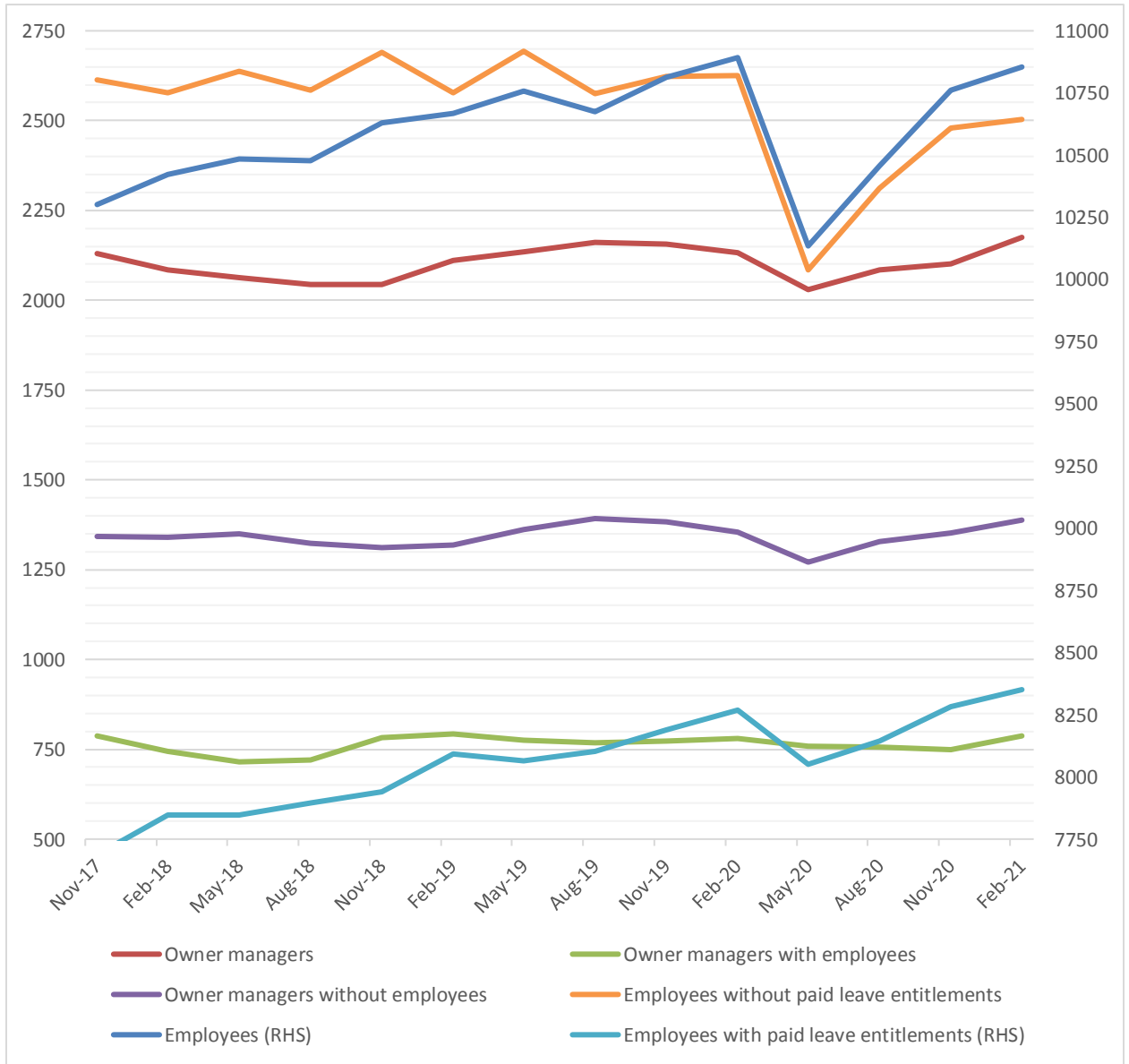
Figure 8: Employment growth (%) by time in job, Feb 18 - Feb 21



Source: ABS 6291.055.001, ACTU calculations

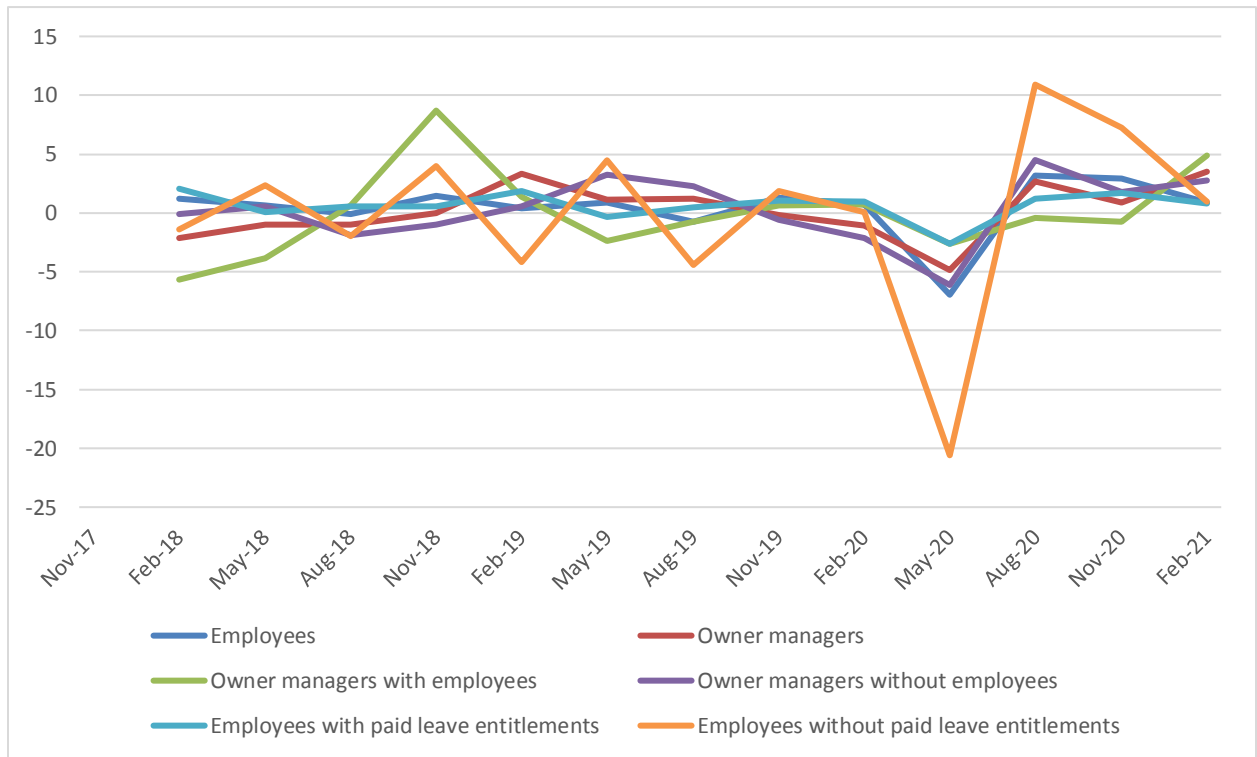
24. The detailed original data also allows some examination of the impacts of the downturn and recovery on different categories of workers, including employees (who may be directly affected by the Panel’s decisions) and owner managers of non employing businesses (who are not directly affected), as shown in Figure 9 and Figure 10 below.

Figure 9: Employment ('000s) by status in employment, Feb 2018 - Feb 2021



Source: ABS 6291.055.001

Figure 10: Employment growth (%) by status in employment, Feb 2018-Feb 2021



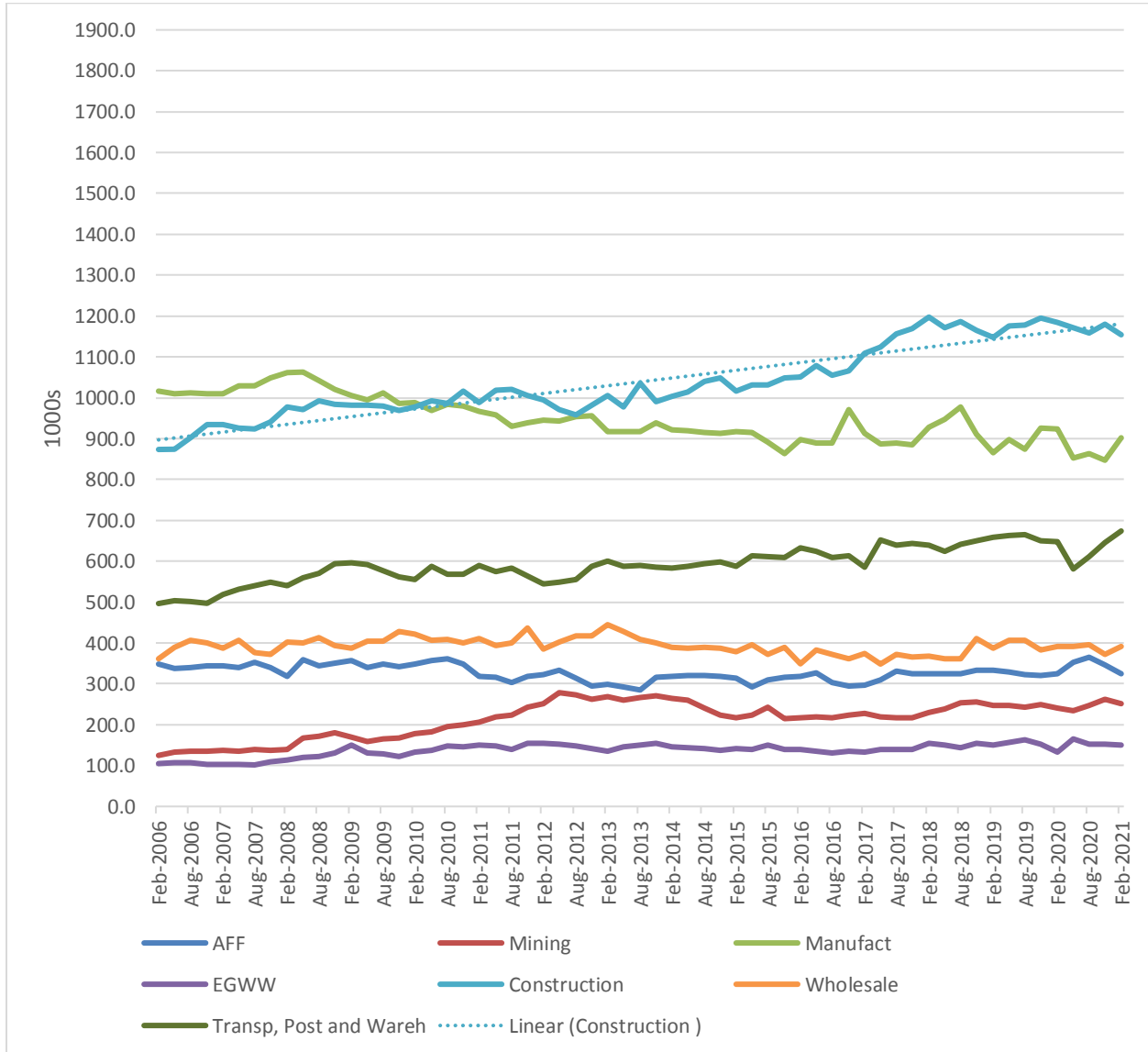
Source: ABS 6291.055.001, ACTU calculations

25. Whilst it is clear that the deepest depths of the pandemic last year saw decline in all employment statuses, the decline for employees without paid leave entitlements was greatest in both number and rate. As at February 2021 all categories were growing at or above normal levels over the comparison period. There was a delayed recovery for owner managers with employees, but as at February 2021 that category was growing the fastest, suggesting growth in the number of employing businesses. It is possible that some owner managers shifted categories from being in an employing business to being in a non-employing business at or leading into the depth of downturn. Nonetheless, the figures suggest that businesses owner managers of non-employing businesses were more likely to have found themselves without work during the depth of the downturn than business owner managers of employing businesses.

26. Figure 11 and Figure 12 (on the same scale) based on seasonally adjusted data, indicate that employment numbers in most industry sectors have recovered to levels seen to be consistent with trends before the pandemic, that is prior to February 2020. The exception is Accommodation and food services, which we explore further in section 1.4 below. There is no discernible pattern of

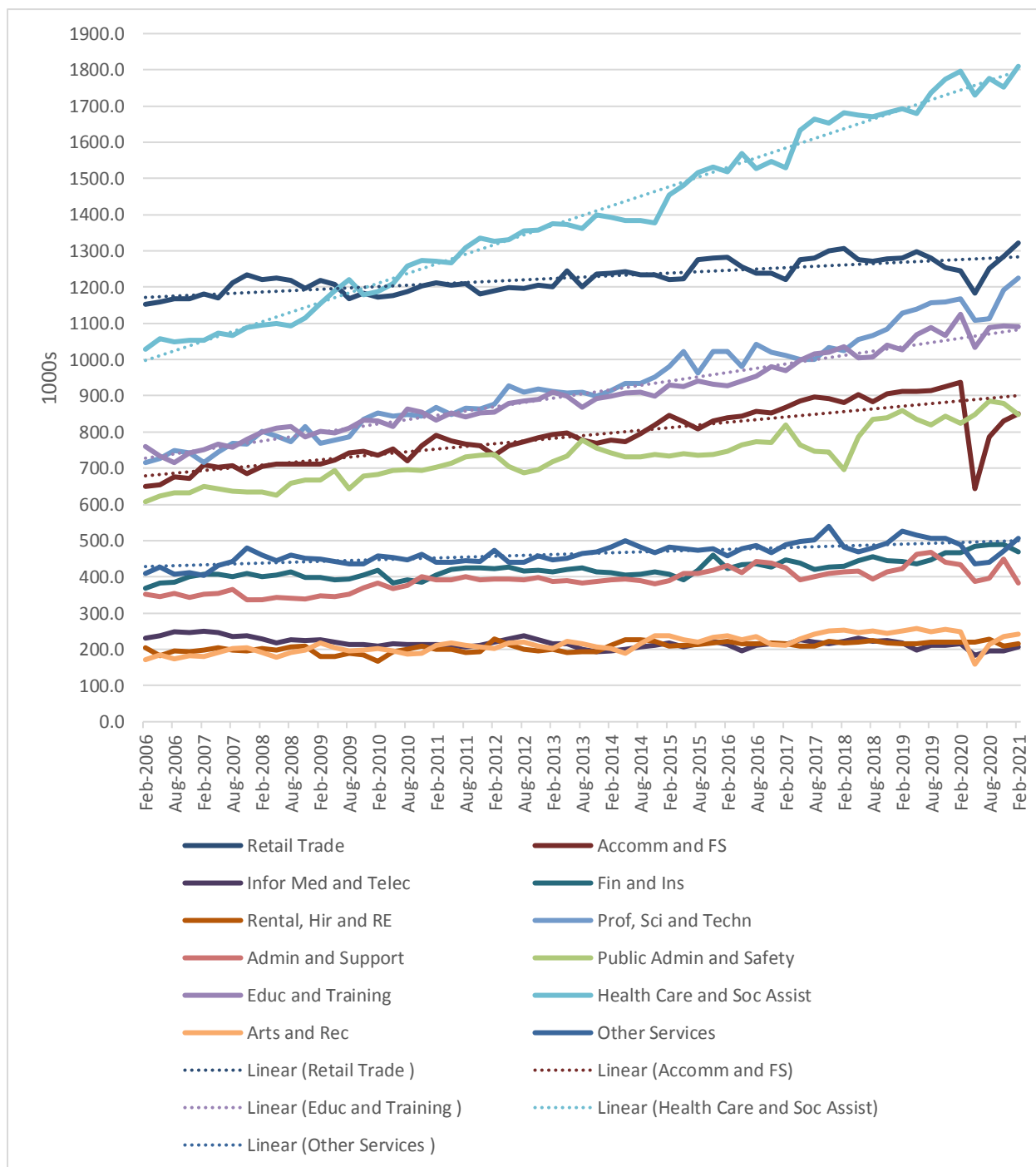
employment growth in relation to the groups or clusters that were assigned in the AWR of 2019-2020 and the data offers no grounds for supporting an exceptional approach.

Figure 11 Employment in material industry sectors, seasonally adjusted, quarterly, 1000s



Source: <https://www.abs.gov.au/statistics/labour/employment-and-unemployment/labour-force-australia-detailed/latest-release#industry-occupation-and-sector> released 27 May

Figure 12 Employment in service industry sectors, seasonally adjusted, quarterly, 1000s

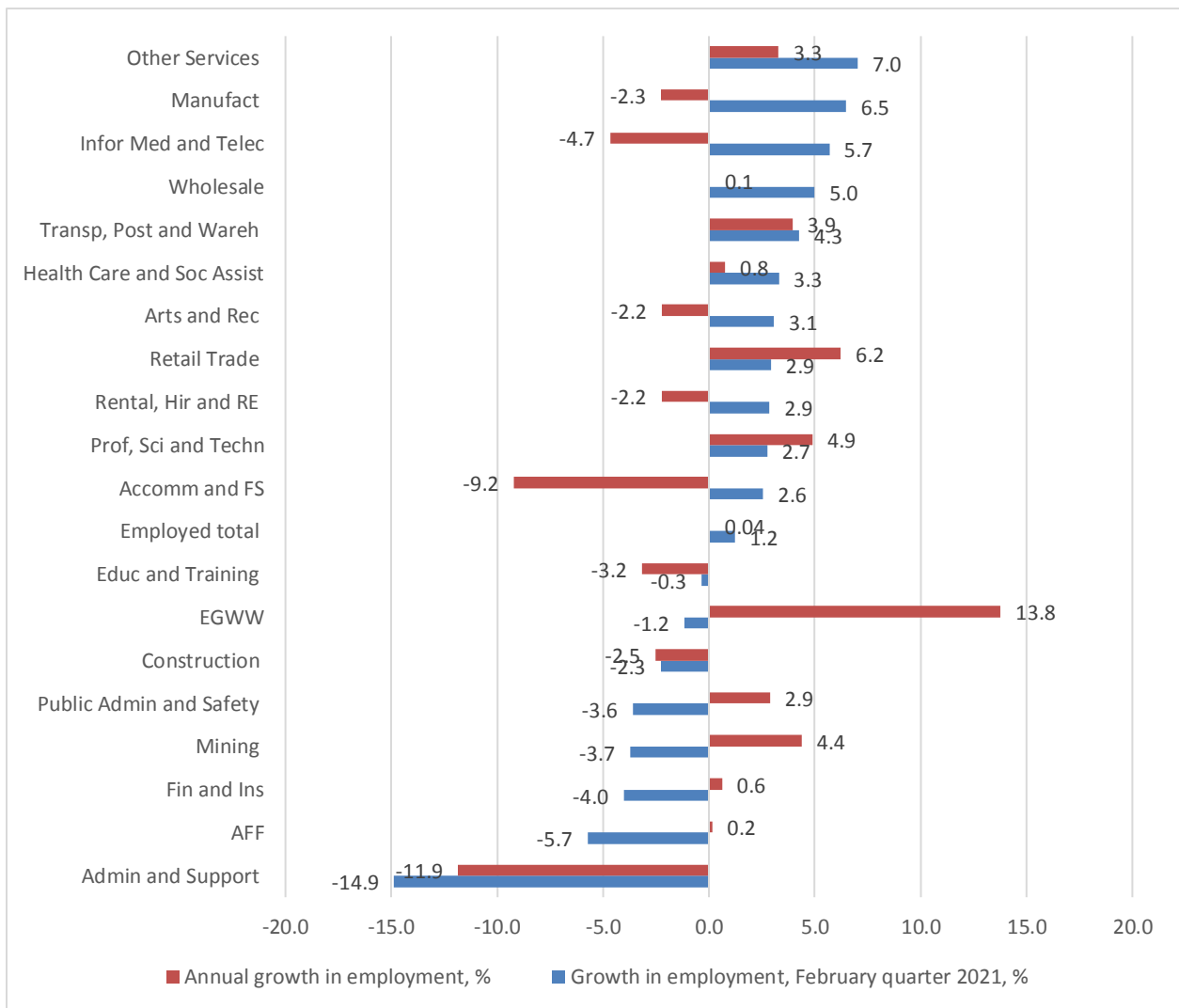


Source: <https://www.abs.gov.au/statistics/labour/employment-and-unemployment/labour-force-australia-detailed/latest-release#industry-occupation-and-sector> released 27 May

27. The growth in employment across industry sectors should be seen in the context of total employment growth of close to zero over the year to February 2021, and estimated population growth of around zero from 2020 onwards due to the collapse in immigration.⁶ Based on growth in employment numbers in recent years, we would expect something like at least 200,000 more people to be employed in 2020 than in 2019. The almost zero result actually observed for the year to February 2021 is primarily due to the loss in immigration. Figure 13 shows the annual and quarterly growth rates of employment across industry sectors to February 2021, seasonally adjusted, ranked by the February quarter.

⁶ <https://www.abs.gov.au/statistics/people/population/national-state-and-territory-population/sep-2020>

Figure 13 Annual and quarterly growth in employment to February 2021, seasonally adjusted, %

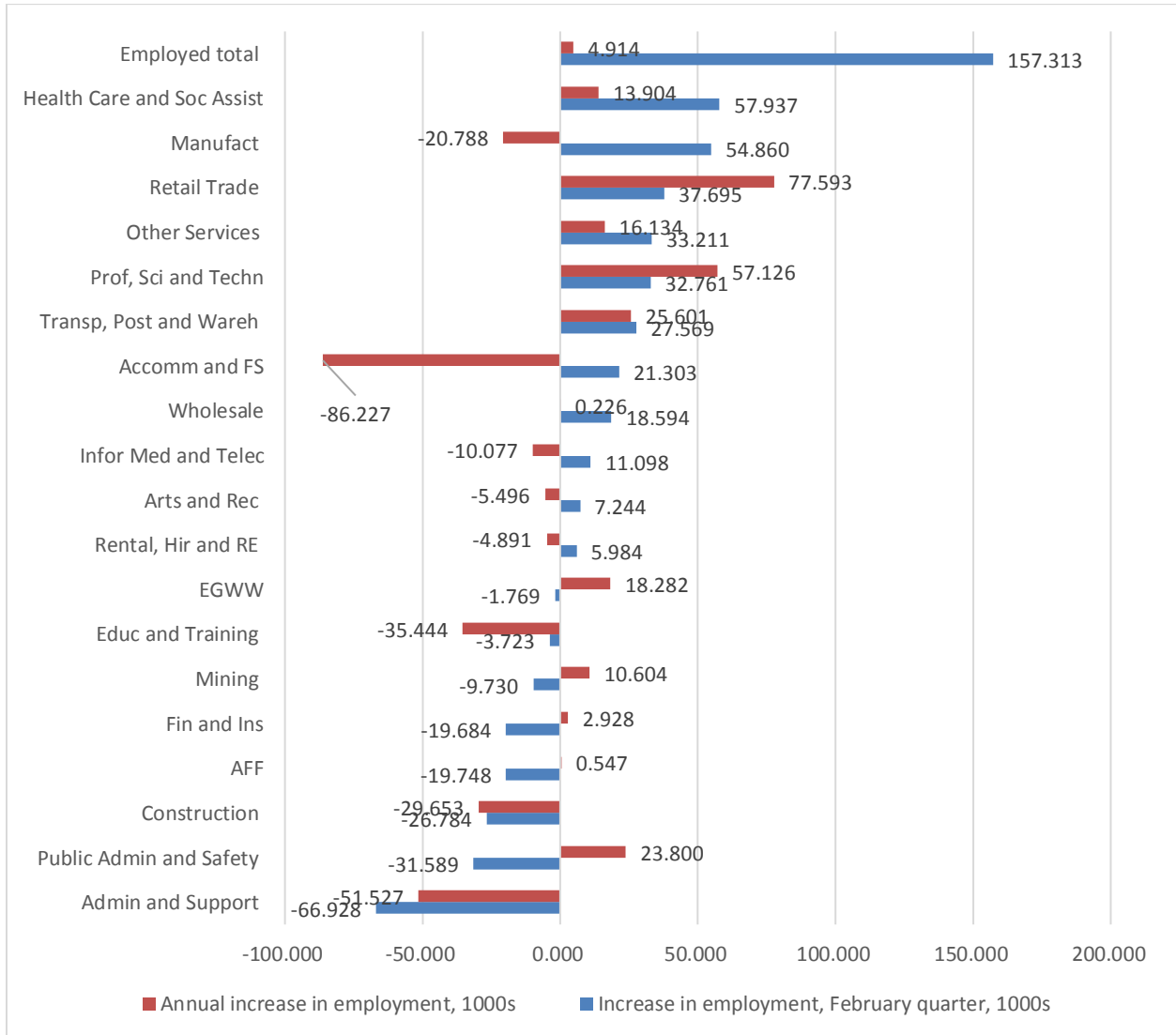


Source: <https://www.abs.gov.au/statistics/labour/employment-and-unemployment/labour-force-australia-detailed/latest-release#industry-occupation-and-sector> released 27 May

28. Figure 14 below shows that over the year to February 2021, the falls in employment in Accommodation and food services of 86,000, Administrative and support of 51,000, and 35,000 in Education and training, plus Construction (29,000) just match increases in employment in Retail of 78,000, Professional, Scientific and Technical of 57,000, Transport postal and warehousing of 25,000, and Public administration and safety of 24,000.⁷

⁷ <https://www.abs.gov.au/statistics/people/population/national-state-and-territory-population/sep-2020> released 27 May 2021, seasonally adjusted, little different from original.

Figure 14: Annual and February quarter increase in employed numbers, 1000s, year ending February 2021

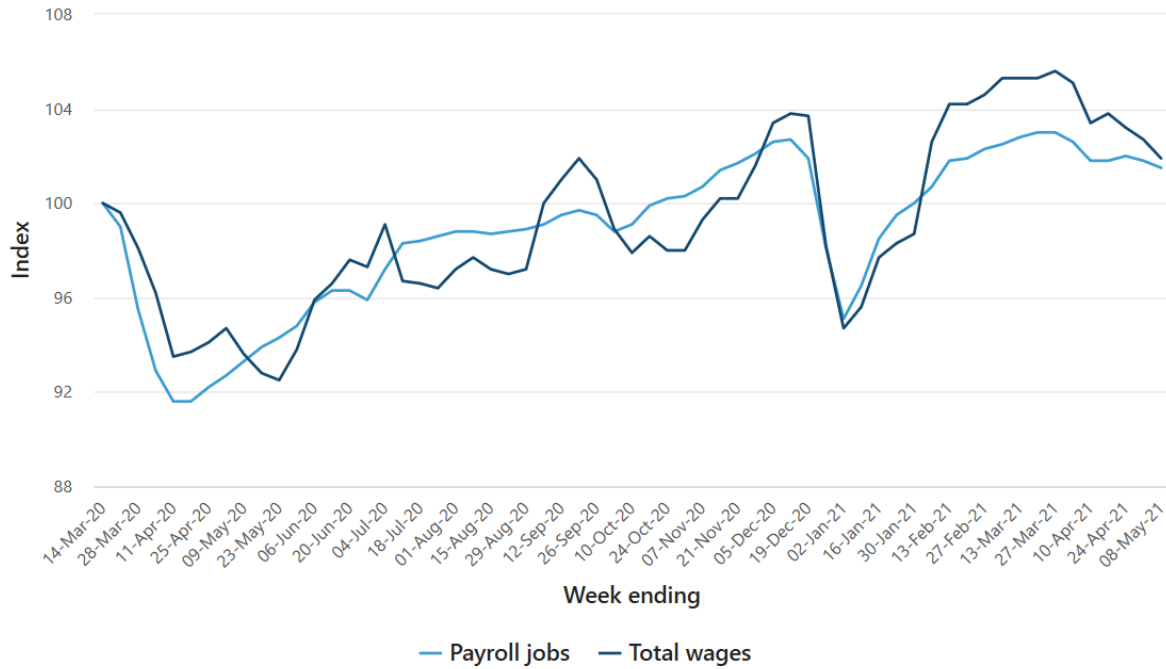


Source: <https://www.abs.gov.au/statistics/labour/employment-and-unemployment/labour-force-australia-detailed/latest-release#industry-occupation-and-sector> released 27 May

29. The yearly comparison period shown in Figure 13 and Figure 14 of course balances the losses and gains of the entire period. The more recent quarterly figures show clear improvement in outcomes in many industries, including many that had seen declines over the year. The total net increase in employment from the November quarter 2020 to the February quarter 2021 was 157,300.

30. On the 25th May 2021 the ABS released the Weekly Payroll Jobs and Wages in Australia for the reference period of the 8 May 2021, enabling year on year comparisons to be made current to May - albeit with the caveat that the data is not seasonally adjusted and is subject to revision. The ABS press statement which accompanied the release of the data reported that Bjorn Jarvis, head of Labour Statistics at the ABS, said: "In early May, payroll jobs were 1.5 per cent above pre-pandemic levels and 1.5 per cent lower than the end of March 2021. The end of JobKeeper, seasonality in the labour market around Easter and short-term restrictions in some states may influence payroll job levels in the weeks between the end of March and 8 May 2021." Across the states and territories, payroll jobs also remain above pre-pandemic levels, ranging from 4.4 per cent above in the Northern Territory to 0.7 per cent above in Queensland.
31. We can see in Figure 15 below an overall rising trend in the number of payroll jobs and total wages since May 2020, with dips being accounted for by seasonality in labour market around holiday periods. There is no doubt that there has been considerable strength in the labour market over the last 12 months.

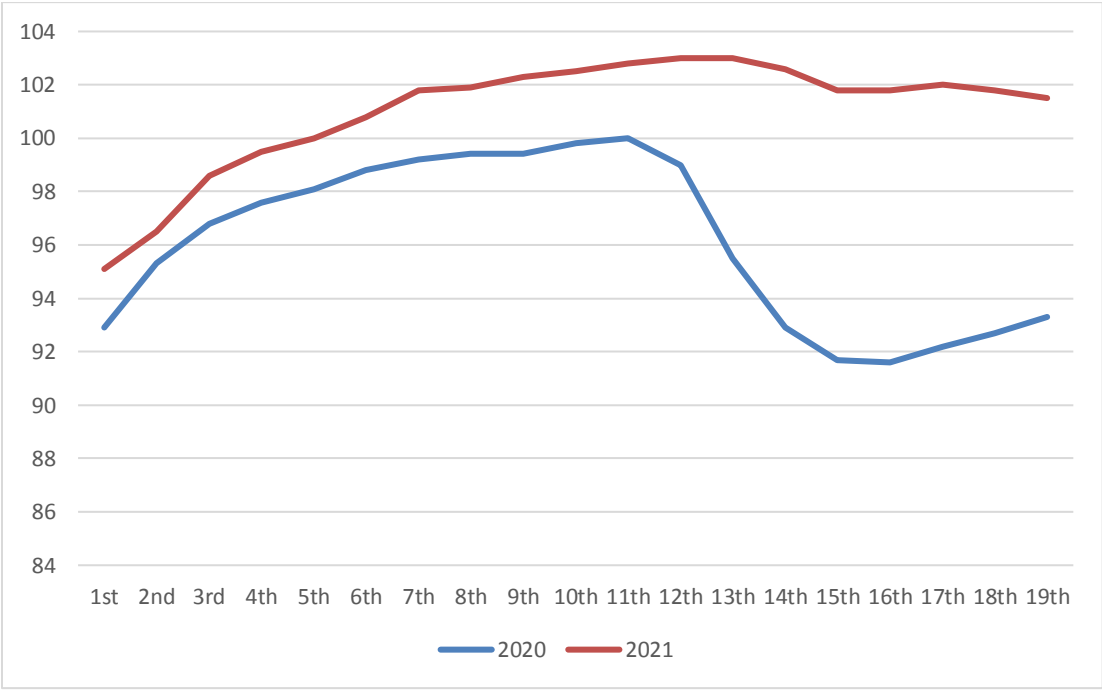
Figure 15: Payroll jobs and total wages, indexed to the week ending 14 March 2020



Source: [ABS Weekly payroll jobs and wages in Australia](#)

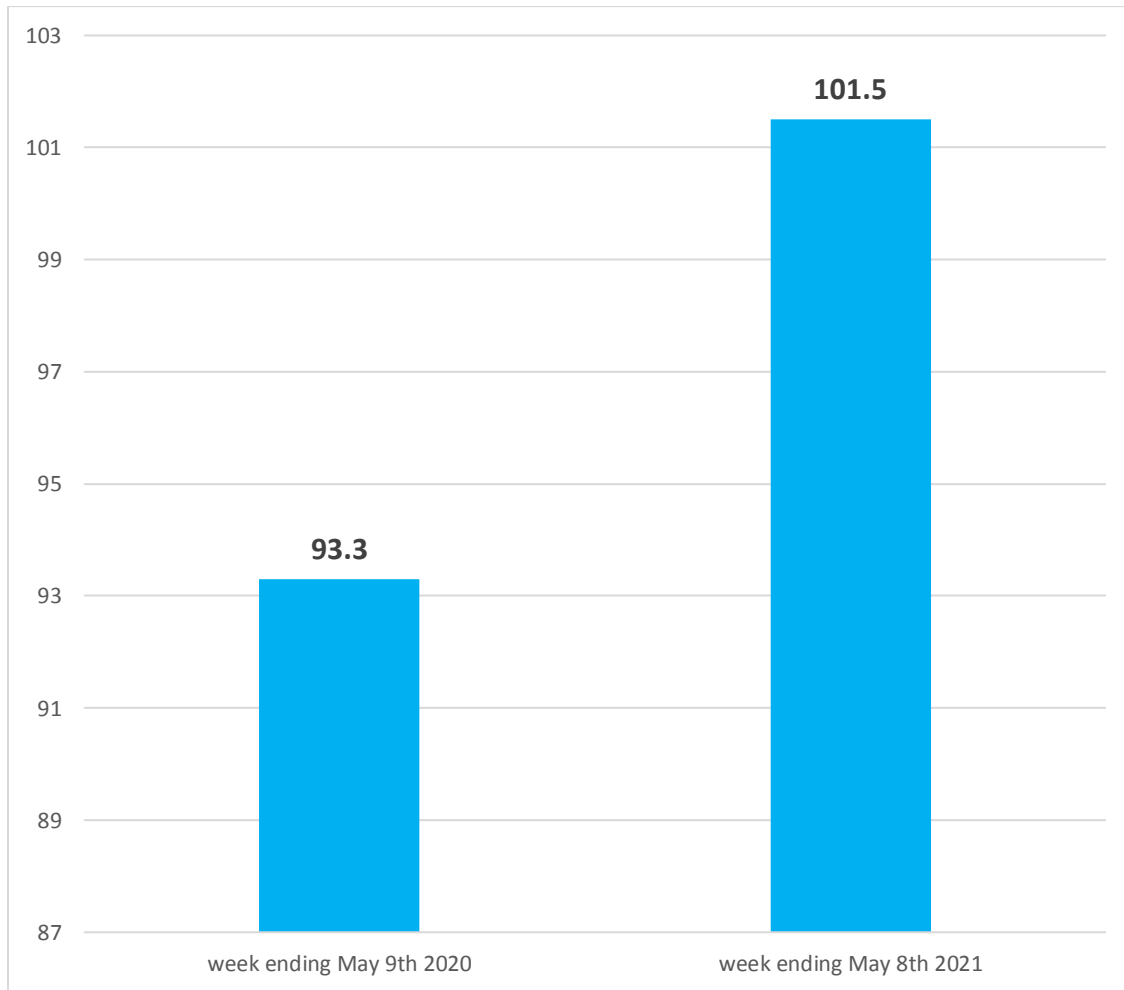
32. The number of payroll jobs is considerably better compared to last year. There were 8.2% more jobs in early May than there was the same time a year ago. This can be seen clearly in Figure 16 and Figure 17 below.

Figure 16: The first 19 weeks of this year reveal the difference to last year, Index of payroll jobs (14 March 2020=100)



Source: [ABS Weekly payroll jobs and wages in Australia](#)

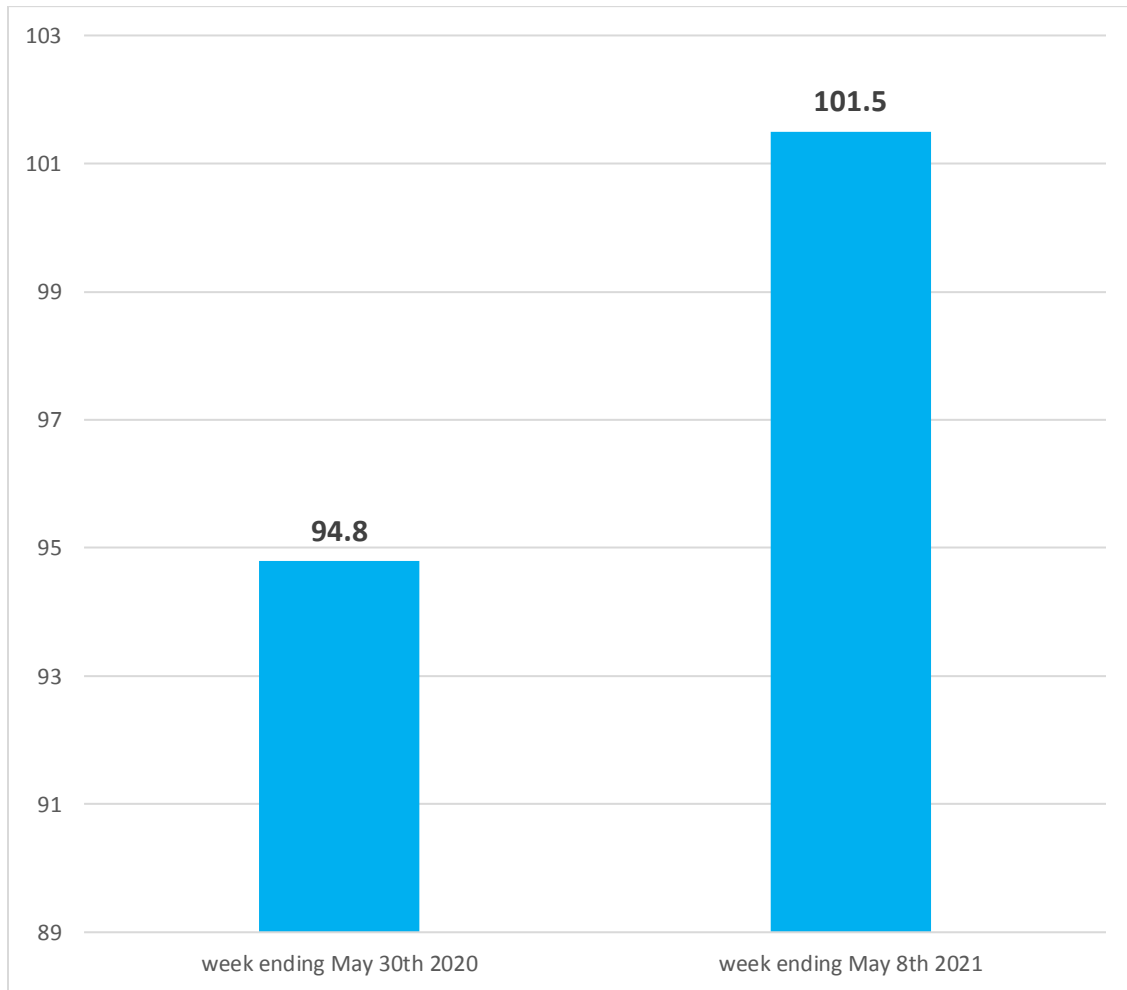
Figure 17: There are 8.2% more payroll jobs in early May than there was at the same time a year ago, Index of payroll jobs (14 March 2020=100)



Source: [ABS Weekly payroll jobs and wages in Australia](#)

33. If we look at the number of payroll jobs since the 30th May 2020, which was the end date for the data series taken into account when the determination of clusters and “groups” of awards effected by exceptional circumstances occurred in last year’s Review, we can see there has still been an increase in jobs of 6.7%.

Figure 18: There are 6.7% more payroll jobs relative to the 30th May 2020 compared to week ending 8th May 2021, Index of payroll jobs (14 March 2020=100)



Source: [ABS Weekly payroll jobs and wages in Australia](#)

34. If we look by industry between 30 May 2020 and 8 May 2021 the change in the number of payroll jobs in every industry sector bar Transport, Postal and Warehousing is positive.

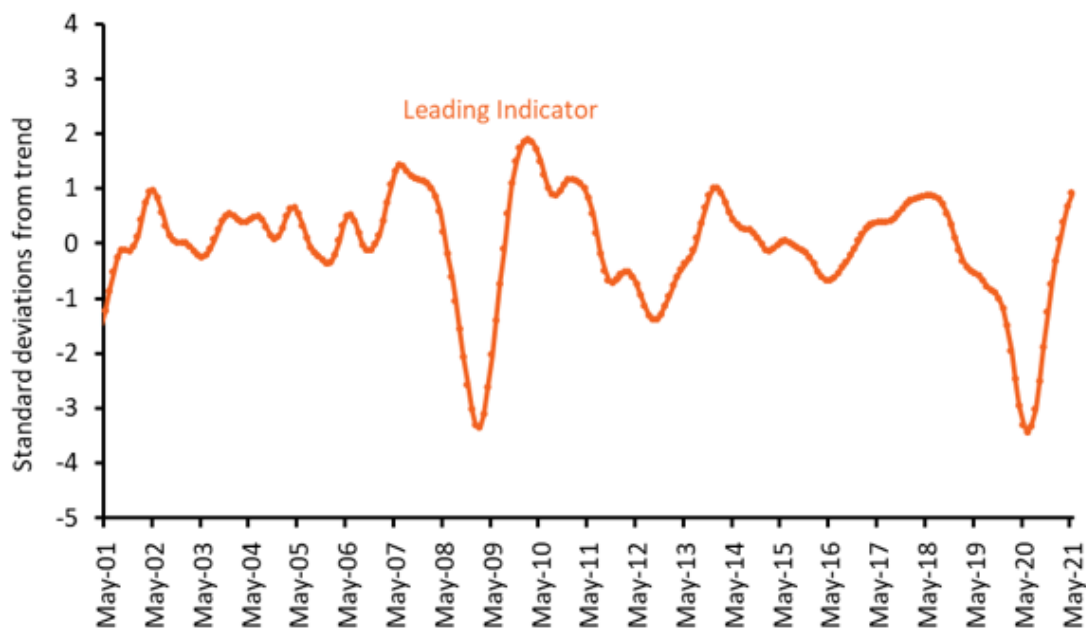
Table 1: Change in payroll jobs, Index of payroll jobs (14 March 2020=100)

Industry	Change in payroll jobs between 14 March and 30 May	Change between 14 Mar 2020 and 8 May 2021	Change in payroll jobs between indexes for 30 May 2020 and 8 May 2021
Arts and Recreation Services	-26.30%	-2.30%	24.00%
Accommodation and Food Services	-29.10%	-10.70%	18.40%
Public Administration and Safety	-4.30%	11.00%	15.30%
Administrative and Support Services	-10.10%	2.30%	12.40%
Other Services	-9.70%	-0.80%	8.90%
Health Care and Social Assistance	-4.70%	3.90%	8.60%
Rental, Hiring and Real Estate Services	-10.10%	-1.60%	8.50%
Financial and Insurance Services	0.50%	7.20%	6.70%
Mining	-5.80%	0.40%	6.20%
Agriculture, Forestry and Fishing	-9.50%	-3.60%	5.90%
Retail Trade	-6.30%	-1.10%	5.20%
Construction	-5.80%	-1.20%	4.60%
Education and Training	-4.70%	-0.10%	4.60%
Professional, Scientific and Technical Services	-4.40%	-1.10%	3.30%
Electricity, Gas, Water and Waste Services	0.40%	2.70%	2.30%
Information Media and Telecommunications	-10.50%	-8.60%	1.90%
Wholesale Trade	-4.10%	-3.10%	1.00%
Manufacturing	-4.00%	-3.20%	0.80%
Transport, Postal and Warehousing	-4.80%	-7.50%	-2.70%

Source: [ABS Weekly payroll jobs and wages in Australia](#)

35. Vacancy data from the Department of Employment, Skills, and Employment likewise remains positive. Its Monthly Leading Indicator of Employment for May 2021 was released on 19 May 2021 and showed a further rise, the 11th in as many months. This is shown in Figure 19 below. The commentary accompanying the release of the data said: “There was a strongly confirmed turning point in the Indicator in June 2020—indicating that cyclical employment is likely to grow above its long-term annual trend rate in the second half of 2021.”⁸

Figure 19 MLIOE chart: Levels of the Leading Indicator of Employment



Source: <https://www.dese.gov.au/employment-research-and-statistics/resources/monthly-leading-indicator-employment-may-2021>

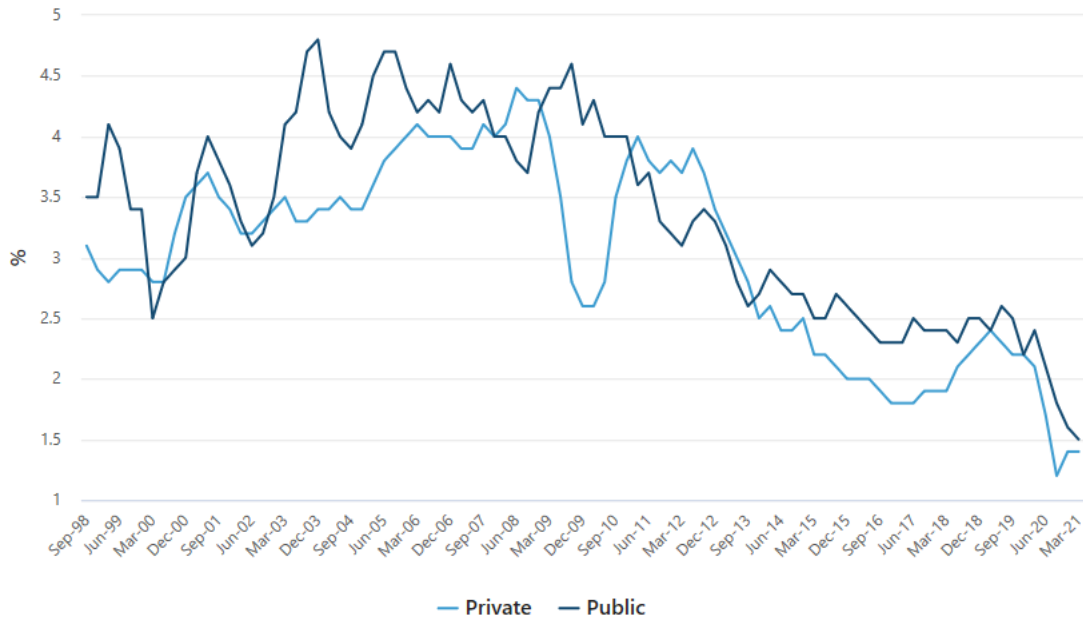
36. Turning to wages, ABS released the WPI for the March quarter 2021 on 19 May 2021.⁹ The WPI rose 0.6% in the March quarter 2021 and 1.5% from the March quarter 2020 to the March quarter 2021, seasonally adjusted. For the private sector, the WPI rose 1.4% over the year to March

⁸ <https://www.dese.gov.au/employment-research-and-statistics/resources/monthly-leading-indicator-employment-may-2021>
The MLIOE is an average of five components: the NAB Forward Orders Index, the Westpac-Melbourne Institute Leading Index of Economic Activity, the US Yield Difference, the Westpac-Melbourne Institute Consumer Sentiment Index, and NBSC Purchasing Managers Index for Manufacturing Output in China.

⁹ <https://www.abs.gov.au/statistics/economy/price-indexes-and-inflation/wage-price-index-australia/latest-release> 19 May

quarter 2021, indicating a particular weakness in private sector wage growth during the pandemic. Figure 20 from the ABS shows the flattening out in annual WPI growth at the March quarter 2021.

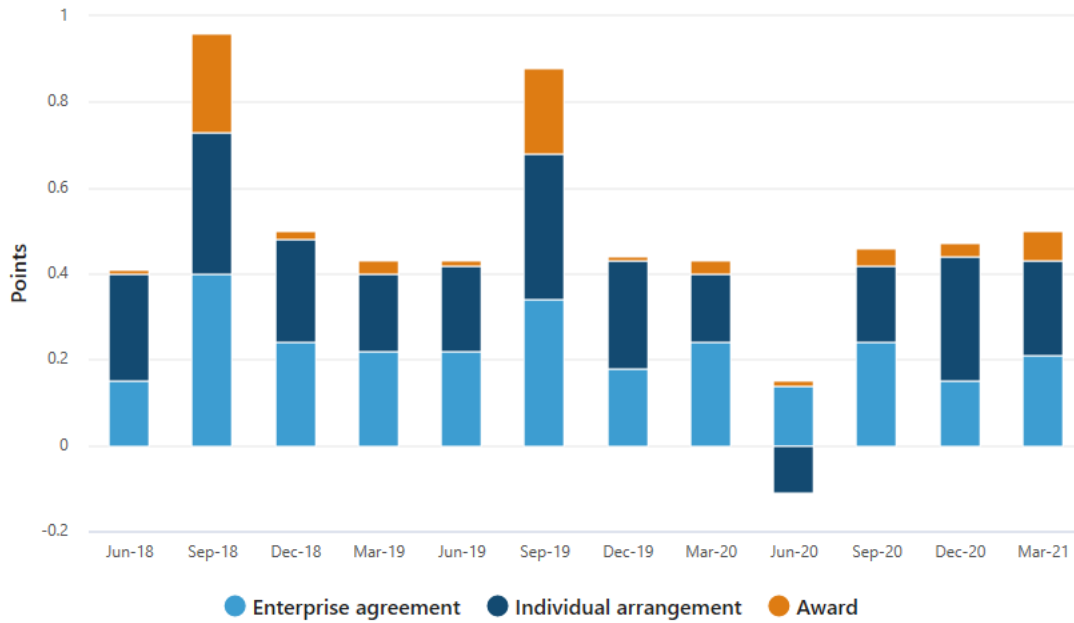
Figure 20 WPI ABS chart: Annual changes, seasonally adjusted, 1997 to 2021



Source: <https://www.abs.gov.au/statistics/economy/price-indexes-and-inflation/wage-price-index-australia/latest-release>

37. Figure 21 below from the ABS shows the massive impact on the WPI of the lower increase in the NMW and awards in the AWR coupled with delayed timings of various award increases in the AWR of 2019-20. This is starkly shown in the September quarter 2020 increase of 0.04 percentage points in WPI compared with 0.2 in the September quarter 2019 and 0.23 in the September quarter 2018. It can be seen that the higher quarterly award WPI increases for the December quarter 2020 and the March quarter 2021 compared with corresponding quarters in the previous two years do not make up for the delays in award payments. The annual increase to the March quarter 2021 of 0.15 percentage points in WPI from awards payments is much lower than the corresponding annual increases of 0.25 at the March quarter 2020 and 0.29 at the March quarter 2019. This is sure to impact negatively on spending, meanwhile there is an absence of any concrete evidence of employers deciding to retain or increase employment because of the reduced wage increase. Nor can changes in employment in those sectors be attributed to the delay in awards increases. The delays have merely served to inflict further hardship on workers reliant on the relevant awards.

Figure 21 ABS Chart: Contributions to wage price index, by method of setting pay, original

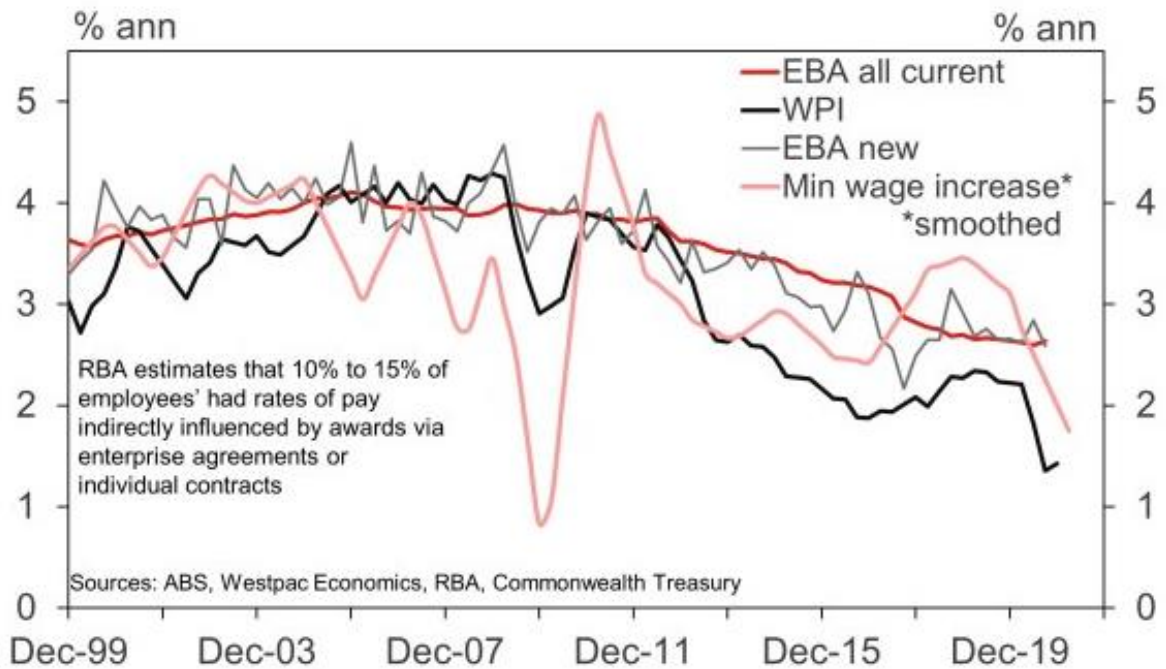


Source: ABS, [Wage Price Index Australia](#)

38. Westpac analysts also attributed the March quarter WPI result of 0.6% to in part to the phased implementation of the AWR decision which increased the March quarter 2021 contribution of award increases due to 'Group 3'.¹⁰ The Westpac analysis 'Deeper insights on Australian wages' of 31 May 2021 gives WPI by methods of setting pay presented in Figure 22.

¹⁰ <https://westpac.westpac.com.au/Article/48193> 31 May 2021

Figure 22: Wage growth by bargaining method



Source: <https://westpaciq.westpac.com.au/Article/48193>

39. Figure 22 shows how closely the movement in WPI growth has tracked the movement in the growth of the NMW and awards in recent years, implying that WPI growth might have been even less without the increases granted in the AWR.

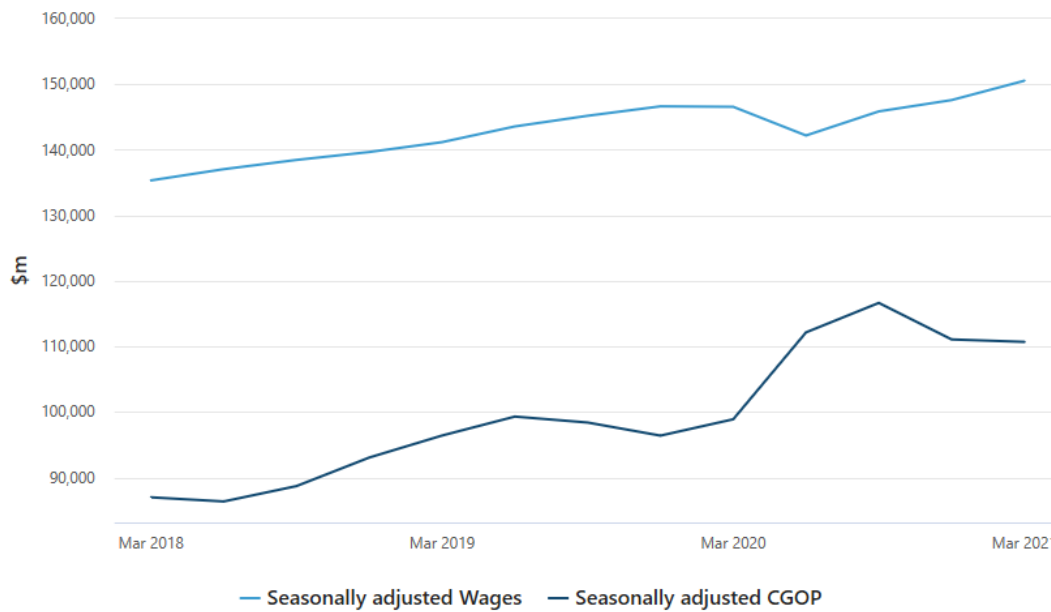
1.3 Business conditions

40. ABS released *Business Indicators* for March 2021 on 1 June 2021 which included quarterly chain volume estimates.¹¹ Quarterly gross operating profits for the March quarter 2021 in current terms seasonally adjusted fell 0.3% from the December quarter 2020, but this was in the context of a rise of 11.9% from the March quarter 2020 to the March quarter 2021. By contrast wages and salaries current terms rose 2.0% in the March quarter 2021 but only 2.7% from March quarter 2020 to March quarter 2021 seasonally adjusted.

¹¹ <https://www.abs.gov.au/statistics/economy/business-indicators/business-indicators-australia/latest-release> released 1 June 2021

41. The fall in gross operating profits of 4.7% in the December quarter 2020 cannot be regarded as exceptional. The fall reflects the volatility in the profits data, with quarterly profits falls in seven quarters in the previous five years, including -2% in the December quarter 2019, -0.9% in the September quarter 2019, -4.7% in the June quarter 2017, -6.3% in March quarter 2016 and -3.9% in the December quarter 2015.¹²
42. Profits have benefited hugely in the year 2020 and move in reverse of wages. This is shown in the ABS chart reproduced in Figure 23.

Figure 23: Total company gross operating profits and total wages and salaries, quarterly, current prices, million dollars

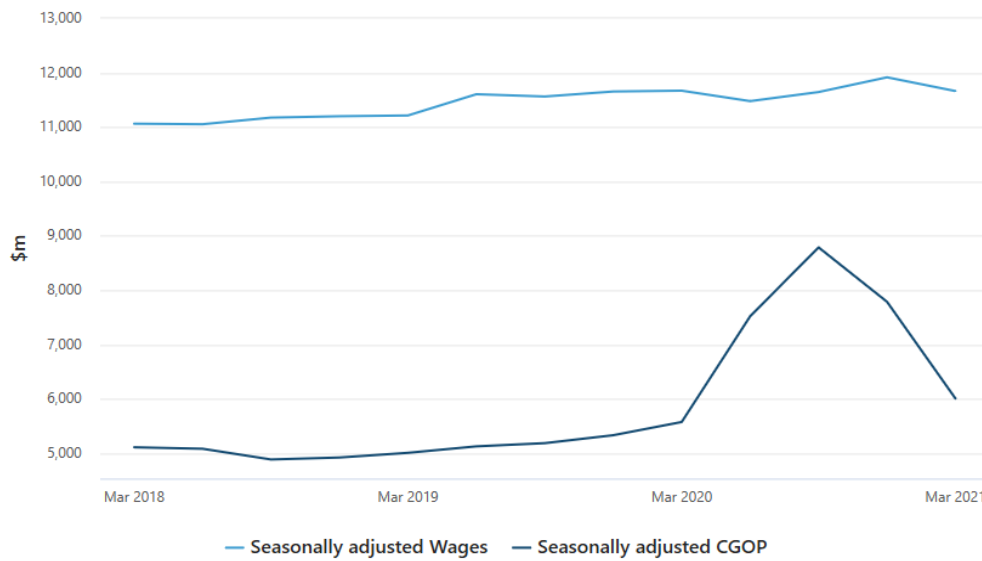


Source: <https://www.abs.gov.au/statistics/economy/business-indicators/business-indicators-australia/latest-release>

43. Figure 24, Figure 25, Figure 26 and Figure 27 reproduce the ABS charts for the more award reliant industry sectors. Profits are not provided in Business Indicators for Health care and social assistance.

¹² <https://www.abs.gov.au/statistics/economy/business-indicators/business-indicators-australia/latest-release> released 1 June 2021

Figure 24: ABS chart: Retail trade, company gross operating profits and total wages and salaries, quarterly, current prices, million dollars



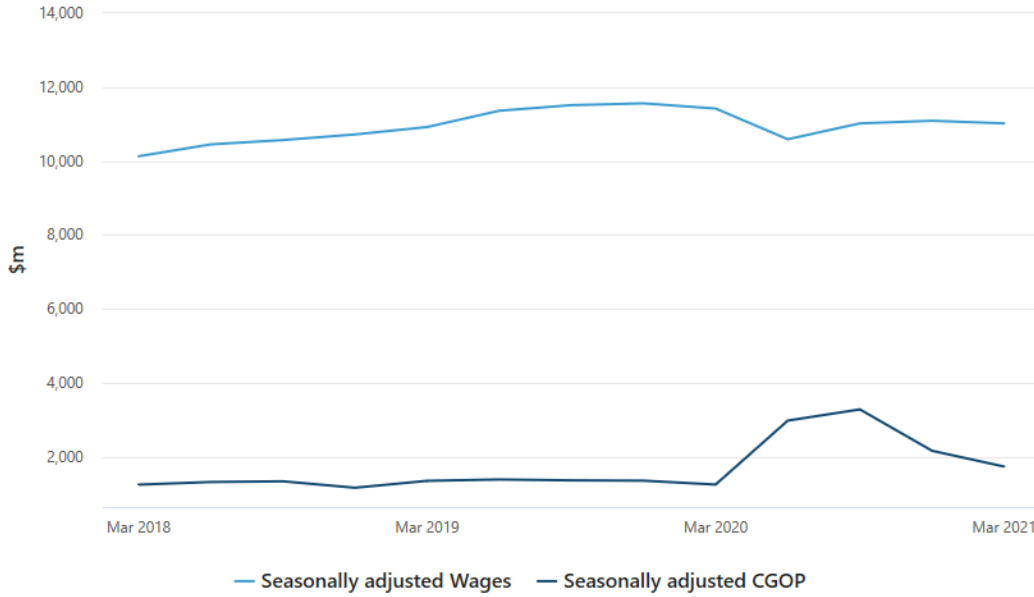
Source: <https://www.abs.gov.au/statistics/economy/business-indicators/business-indicators-australia/latest-release>

Figure 25: ABS chart: Accommodation and food services, company gross operating profits and total wages and salaries, quarterly, current prices, million dollars



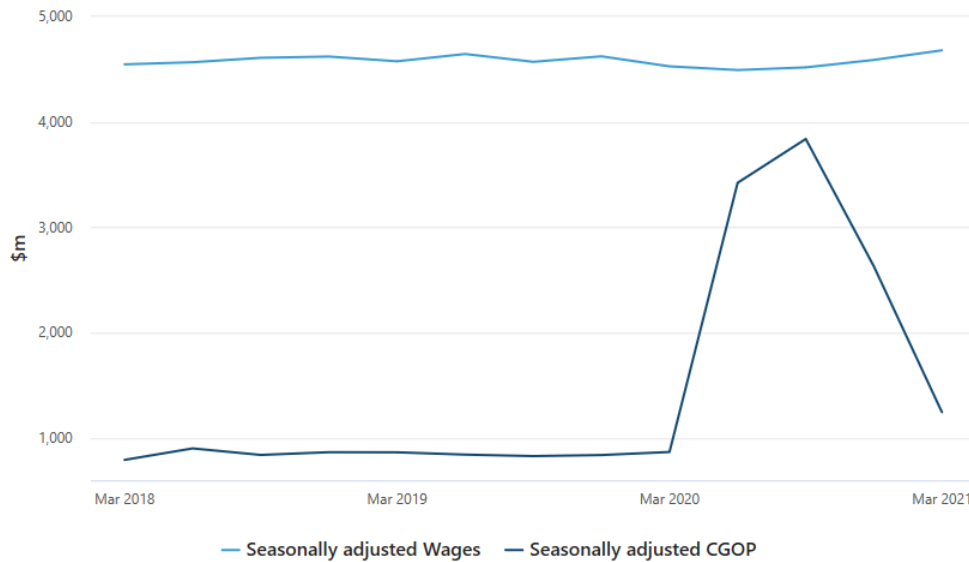
Source: <https://www.abs.gov.au/statistics/economy/business-indicators/business-indicators-australia/latest-release>

Figure 26: ABS chart: Administrative and support services, company gross operating profits and total wages and salaries, quarterly, current prices, million dollars



Source: <https://www.abs.gov.au/statistics/economy/business-indicators/business-indicators-australia/latest-release>

Figure 27 ABS chart: Other services, company gross operating profits and total wages and salaries, quarterly, current prices, million dollars



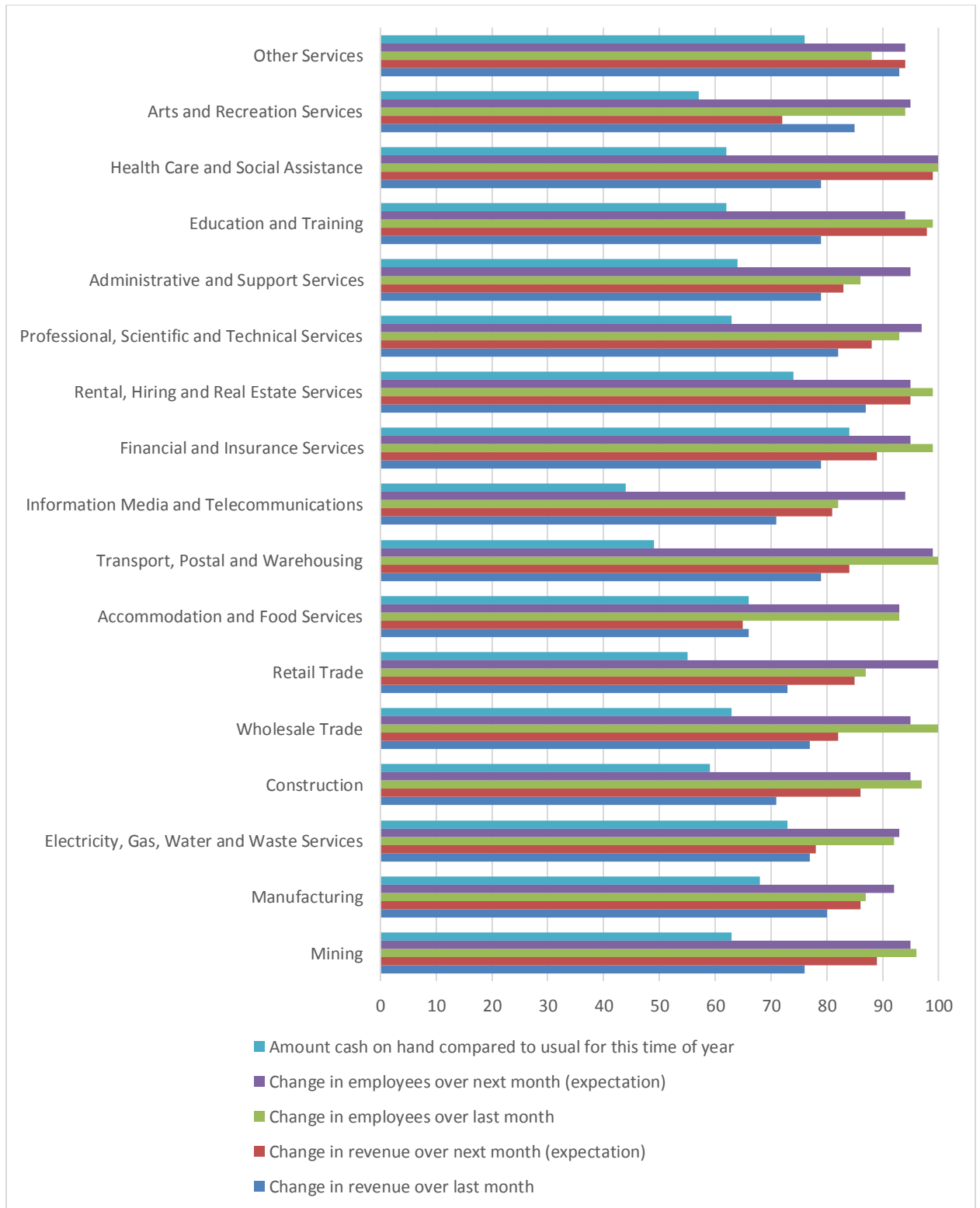
Source: <https://www.abs.gov.au/statistics/economy/business-indicators/business-indicators-australia/latest-release>

44. These sectors show the abnormal profits obtained in the year 2020. As noted in section 1.1 above, profits data reflect the receipt of COVID-19 related government subsidies from June quarter 2020, with a reduction in the March 2021 quarter compared with the previous three quarters.¹³ Nonetheless, the sectors shown are clearly better off at the end of the series than when the rise to the peak began. In our view, minimum wage and award increases would not present obstacles to business and would be readily absorbed as they have been in previous years.

45. ABS released the results of its Business Conditions and Sentiments Survey for May on 27 May of 2021. It showed that that over that month, the majority of business in all industries had reported conditions had either increased (improved) or stayed the same over a number of key measures, as shown in Figure 28 below.

¹³ <https://www.abs.gov.au/statistics/economy/business-indicators/business-indicators-australia/latest-release> released 1 June 2021

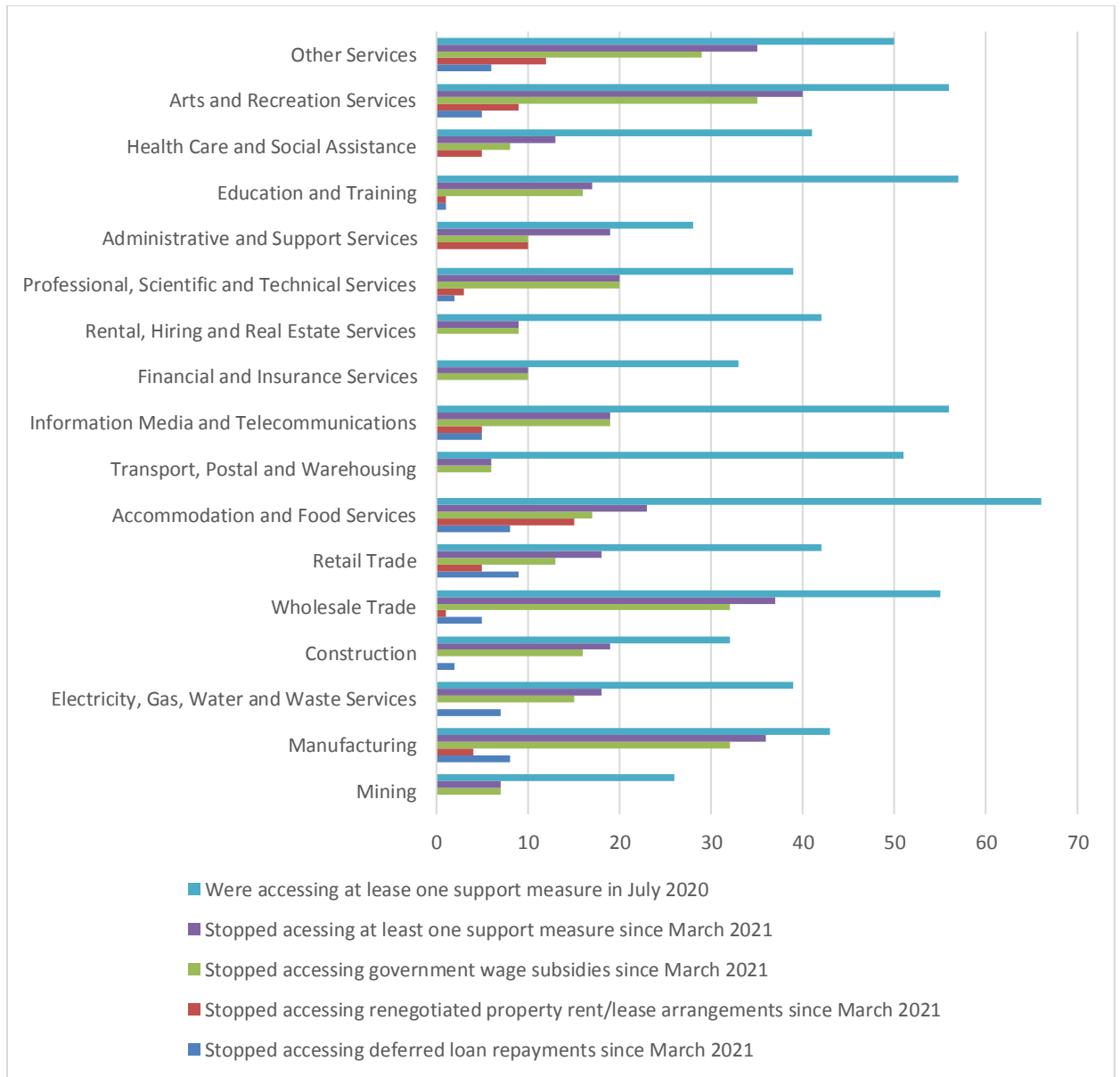
Figure 28: Percentage of businesses reporting conditions had improved (increased) or stayed the same, by industry, May 2021



Source: ABS Business conditions and sentiments

46. The business conditions and sentiments survey also relevantly provides some insights concerning the withdrawal of government support measures and in particular JobKeeper. Figure 29 below shows an industry breakdown of the percentage of businesses that ceased accessing support measures *since* March 2021 (hence were accessing it before that time), along with the percentage of those who were accessing support measures when the survey last assessed this in July of 2020. Unlike the May 2021, the July 2020 survey did not offer the same breakdown as to which particular support measures were being relied on at that time. Nonetheless, it can reasonably be inferred that a significant share of businesses had transitioned off support measures, including JobKeeper, *prior to* the end of March 2021. This is consistent with commentary provided by Treasury referred to in our earlier submissions and suggests business recovery. The extent of recovery in accommodation and food services is particularly notable.

Figure 29: Percentage of businesses utilising / withdrawing from support measures, July 2020 - May 2021, by industry

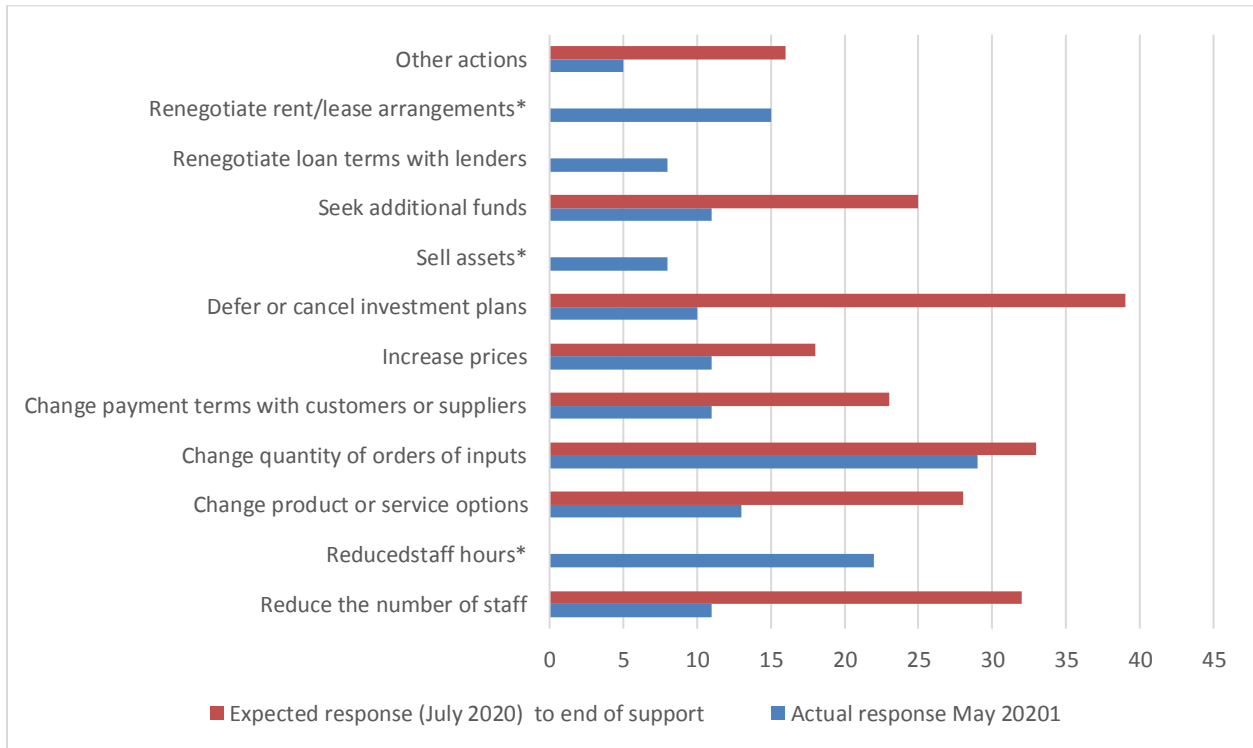


Source: ABS Business conditions and sentiments March 2021, ABS Business Impacts of COVID 19 July 2020

47. The Business conditions and sentiments survey does not provide industry level data about the impact of ceasing to access support measures. However, the macro level data suggests businesses were more likely to experience a small impact (40%) or no impact (20%) (together, 60%) than a great impact (23%). In terms of how affected businesses responded to those impacts, it is again possible to plot predictions from July 2020 about the “actions businesses expect to take when support measures are no longer available” against the measured responses for business that did in fact

stop accessing support measures in March 2021, although industry level data for the latter is not available. This is shown in Figure 30 below. It can be seen than the expectations in July 2020 were overly pessimistic, particularly with respect to the need to reduce staff or defer or cancel investment plans.

Figure 30: Businesses that received support: Percentage of businesses reporting expected (July 2020 and actual (May 2021) responses to end of support measures.



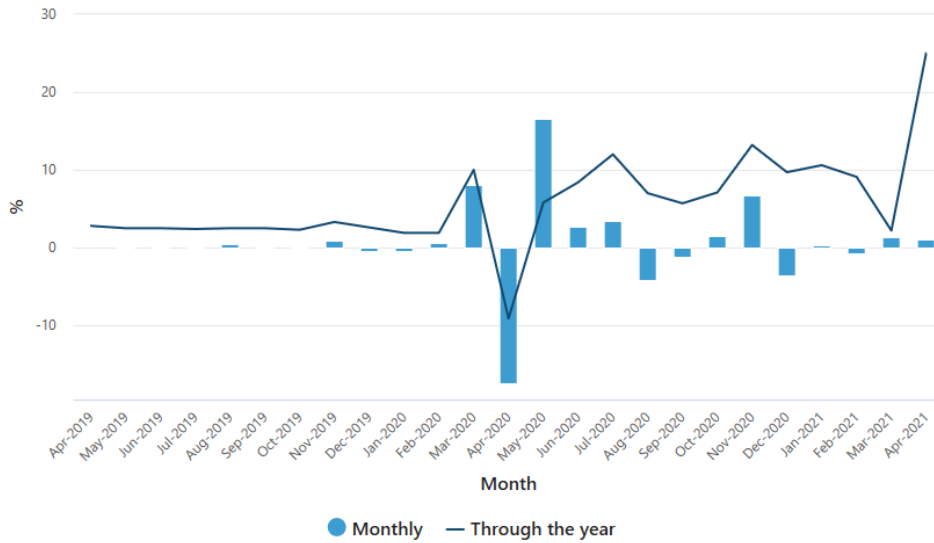
Source: ABS Business conditions and sentiments March 2021, ABS Business Impacts of COVID 19 July 2020. Note: items marked * were not measured in the July 2020 survey.

1.4 Retail performance

48. ABS released monthly Retail trade for April 2021 on 3 June 2021.¹⁴ Total retail turnover increased 1.1%, and was 25% higher than April 2020 in current prices seasonally adjusted. ABS Graphs are reproduced in Figure 31 and Figure 32.

¹⁴ <https://www.abs.gov.au/statistics/industry/retail-and-wholesale-trade/retail-trade-australia/apr-2021> released 3 June 2021

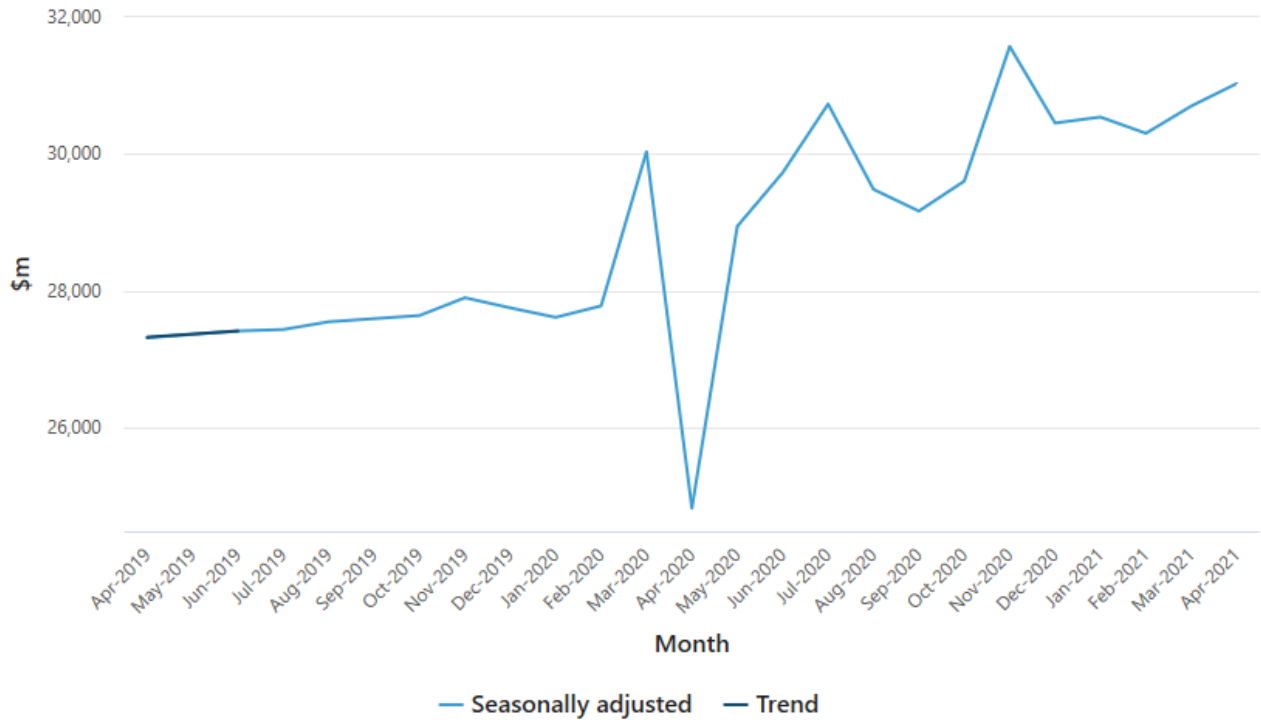
Figure 31: Monthly turnover, current prices – seasonally adjusted estimate



Source: <https://www.abs.gov.au/statistics/industry/retail-and-wholesale-trade/retail-trade-australia/apr-2021#key-statistics>

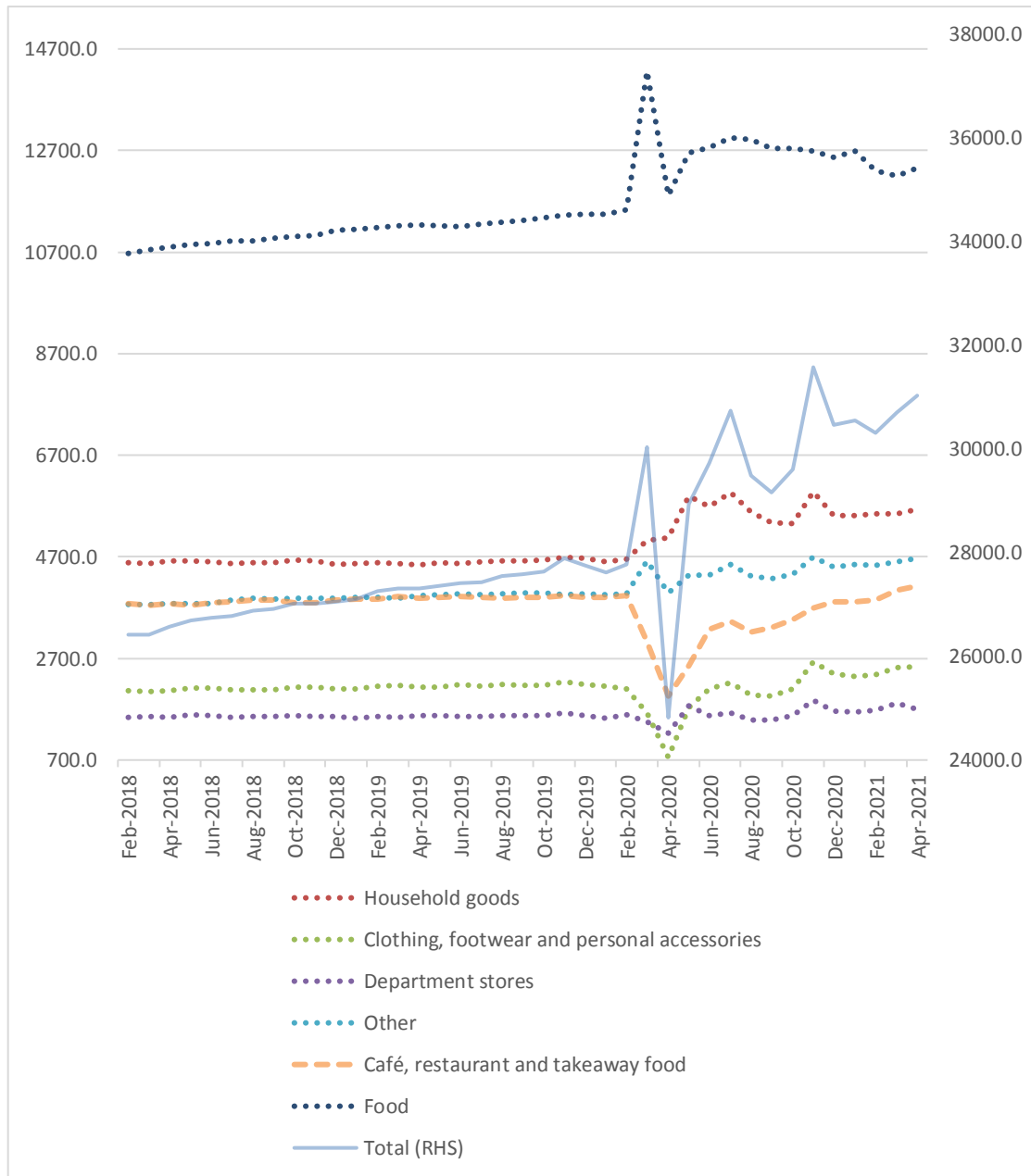
49. Figure 32 shows that since May 2020 the level of retail sales spending has remained well above the level up to February 2020. Spending was higher than pre pandemic from April or May 2020 in all retail sectors except Cafes restaurants and takeaway food where sales took until March 2021 to recover to the pre pandemic level, as shown in Figure 33.

Figure 32: Total level, current prices – seasonally adjusted and trend estimates



Source: <https://www.abs.gov.au/statistics/industry/retail-and-wholesale-trade/retail-trade-australia/apr-2021#key-statistics>

Figure 33: Retail turnover (total, \$m), by industry group, seasonally adjusted, Feb 18 - May 21

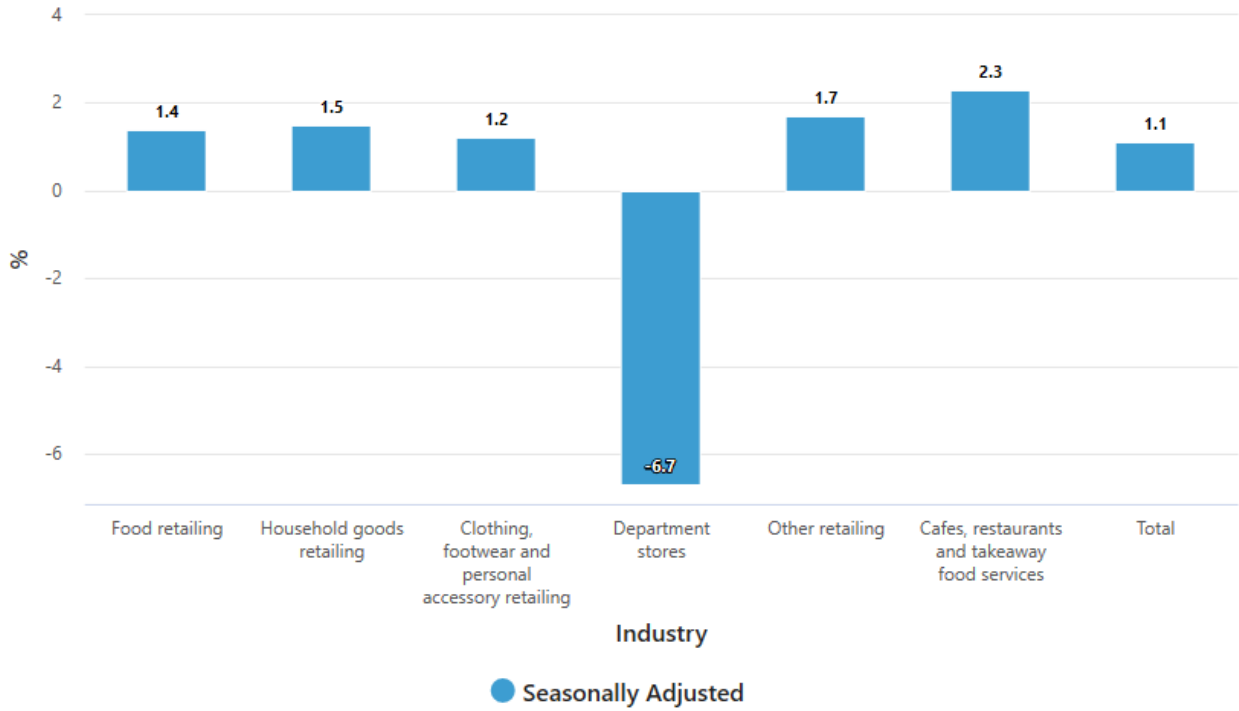


Source: ABS 8501.0

50. Additionally, it can be seen in Figure 33 that three of the groups (Food, Household Goods and Other) do not appear to have experienced downturns associated with the onset of pandemic restrictions. The most recent observations of the movements between March and April are shown in Figure 34. The only decline was seen in the department stores industry. We suggest that this decline may in part relate to less foot traffic in centres where department stores are located, not

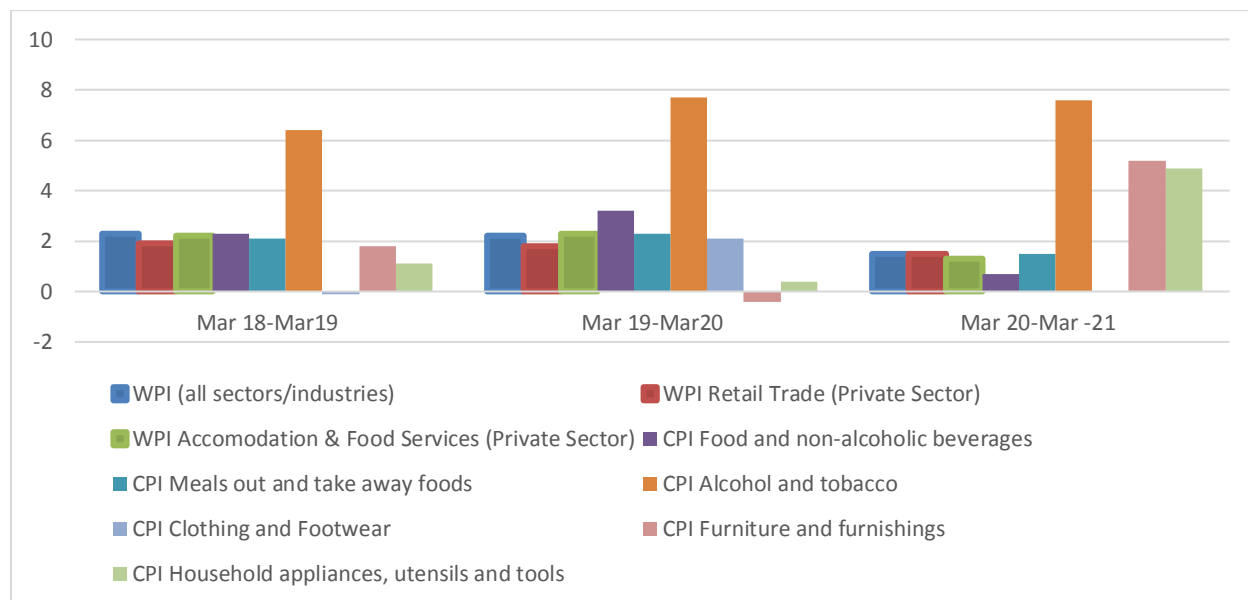
only because of remote working but also because of the higher than usual taking of leave around easter and school holidays at this time (refer section 1.5 below).

Figure 34: Monthly turnover, current prices, by industry - seasonally adjusted estimate



Source: <https://www.abs.gov.au/statistics/industry/retail-and-wholesale-trade/retail-trade-australia/apr-2021>

Figure 35: Wages and Prices in retail trade and related sectors, change (%) over the year to March

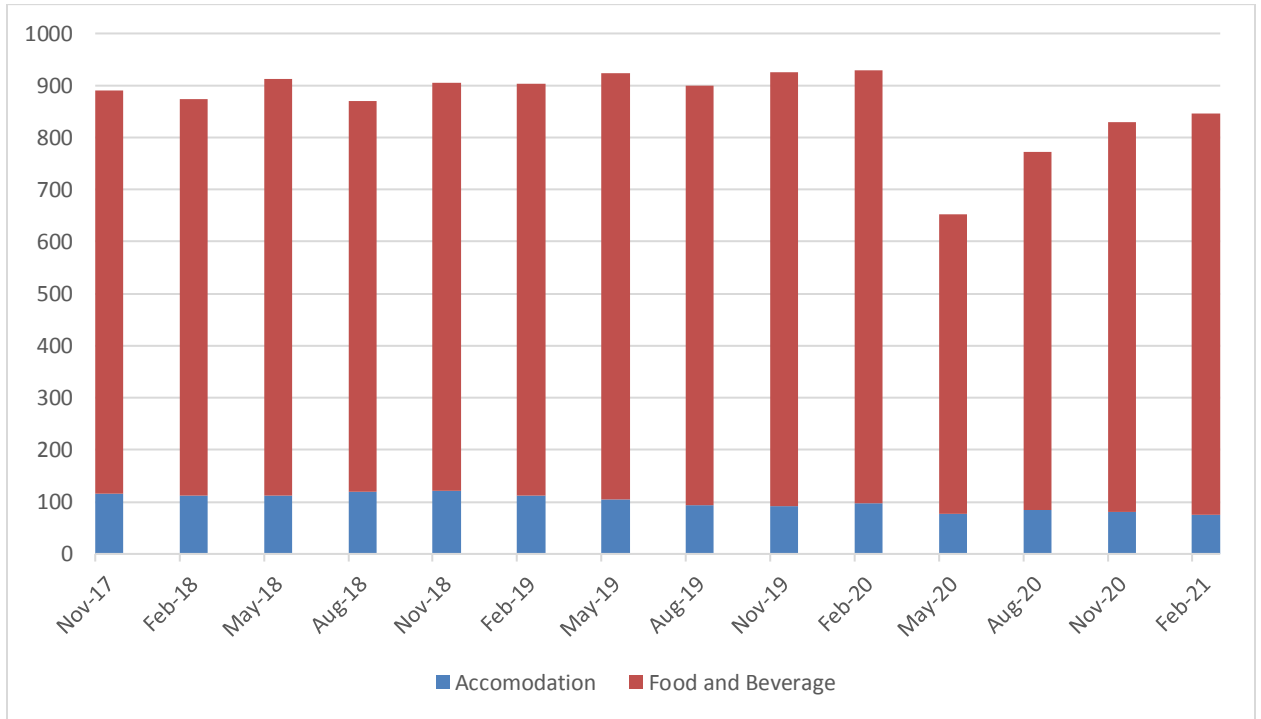


Source: ABS 6345.0 (WPI for total hourly rates excluding bonuses); ABS 6401

51. The ABS Retail Turnover series covers business in both the retail trade and accommodation and food services industries. Figure 35 above shows that the movements in wages over the *year* to March for these sectors generally have been less than the movement in turnover over the last *month*. Further, whilst retail is generally assumed to derive profit from high turnover on low margins, some retail trade sectors associated with household items have seen price rises far in excess of wages as well as growing turnover seemingly unaffected by pandemic (Figure 33). At the same time, in other retail trade sectors such as restaurants, cafés and take away food, the lead which wages have over prices is marginal at best while turnover has increased rapidly (Figure 33) over the same period. In any event, in no case could it credibly be said that wage rises have outpaced gains in turnover. The positive forecasts for consumption referred to in our previous submission are likely to continue to support growing retail trade performance.

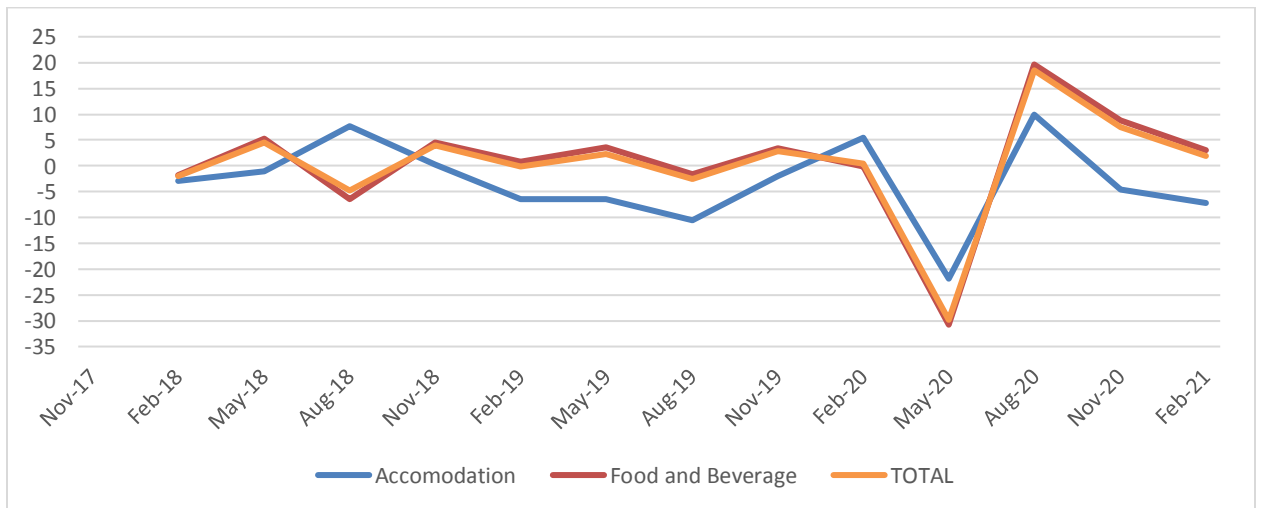
52. The detailed labour force data provide some further insights into the operation of the industry sectors covered by the ABS retail trade data series. The Accommodation and food services industry is comprised of two major sub-groups: Accommodation and Food and beverage services. Figure 36 and Figure 37 below show the levels and growth in employment in those sub-groups over the last 3 years, based on original data.

Figure 36: Accommodation and Food Services - Employment ('000s) by subgroup, Feb 2018 - Feb 2021



Source: ABS 6291.0.55.001

Figure 37: Accommodation and Food Services - Employment growth (%) by subgroup, Feb 2018 - Feb 2021



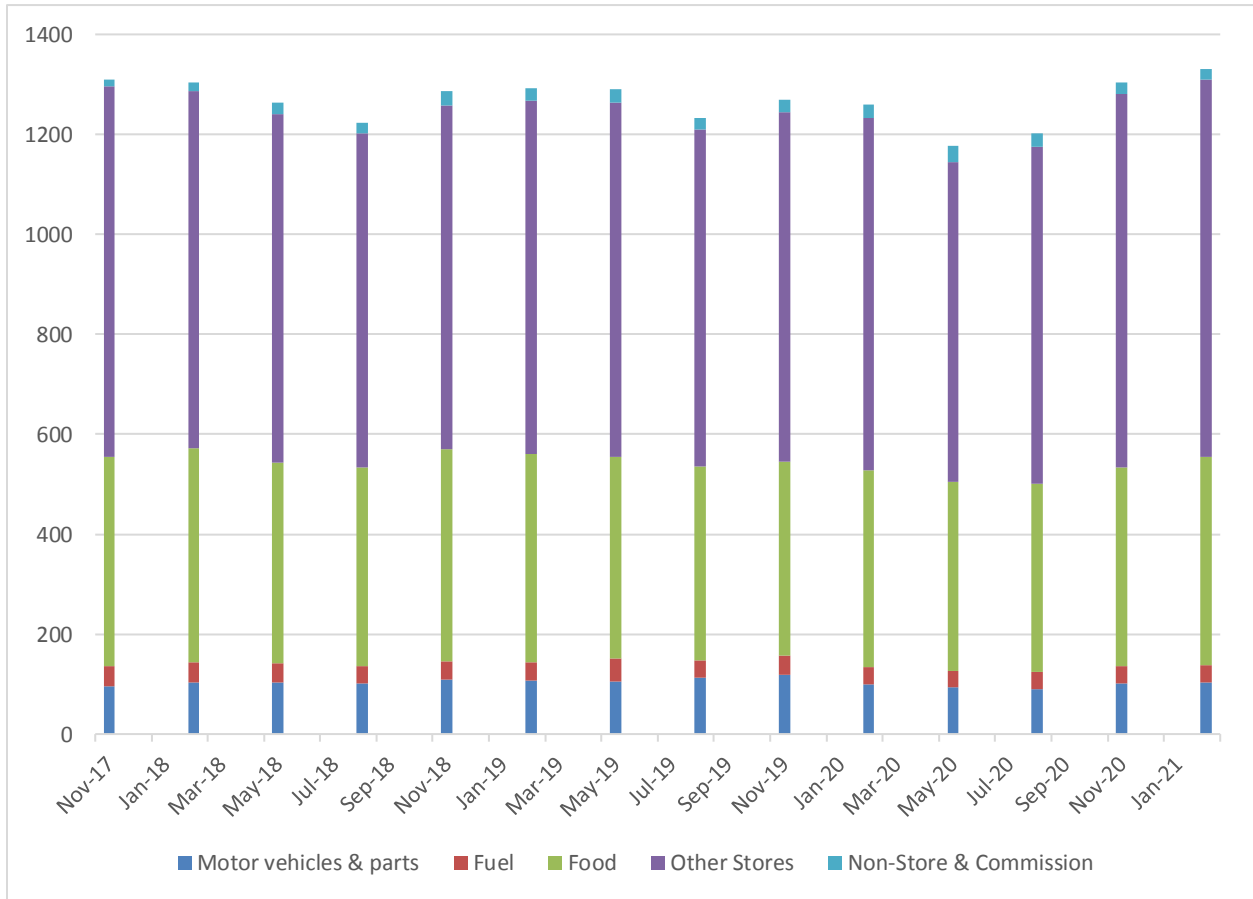
Source: ABS 6291.0.55.001, ACTU calculations

53. It can be seen that the food and beverage sub-group makes up the vast majority of employment in the industry overall. This is also the sub-group that is measured, albeit partially, in the retail turnover series, whereas the accommodation sub-group is not. Numbers of employees in the food and beverage sub-group were still down on their pre-pandemic levels as at February 2021 in this original data, but were growing at reasonably high levels over the period shown, particularly for February quarter figures. However, negative growth continues in the accommodation sector post the rebound in August of 2020. Periods of negative growth in the accommodation sector can also be seen pre-dating the pandemic, possibly related to the rise of technology platforms for short term rentals, although the pandemic related downturn is strong and obvious and clearly heavily influenced by the prolonged closure of international borders, which will not be impacted one way or the other by the Panel's decision in this Review. Around 28% of the jobs lost in the sector since February 2020 were in the accommodation sub group. Overall, as seen in Figure 11, seasonally adjusted employment in the Accommodation and food services sector was at 851,000 in February 2021 and predicted to rise to 971,800 by November of 2025.¹⁵

54. Employment and employment growth in the retail trade sector sub-groups is shown in Figure 38 and Figure 39 below.

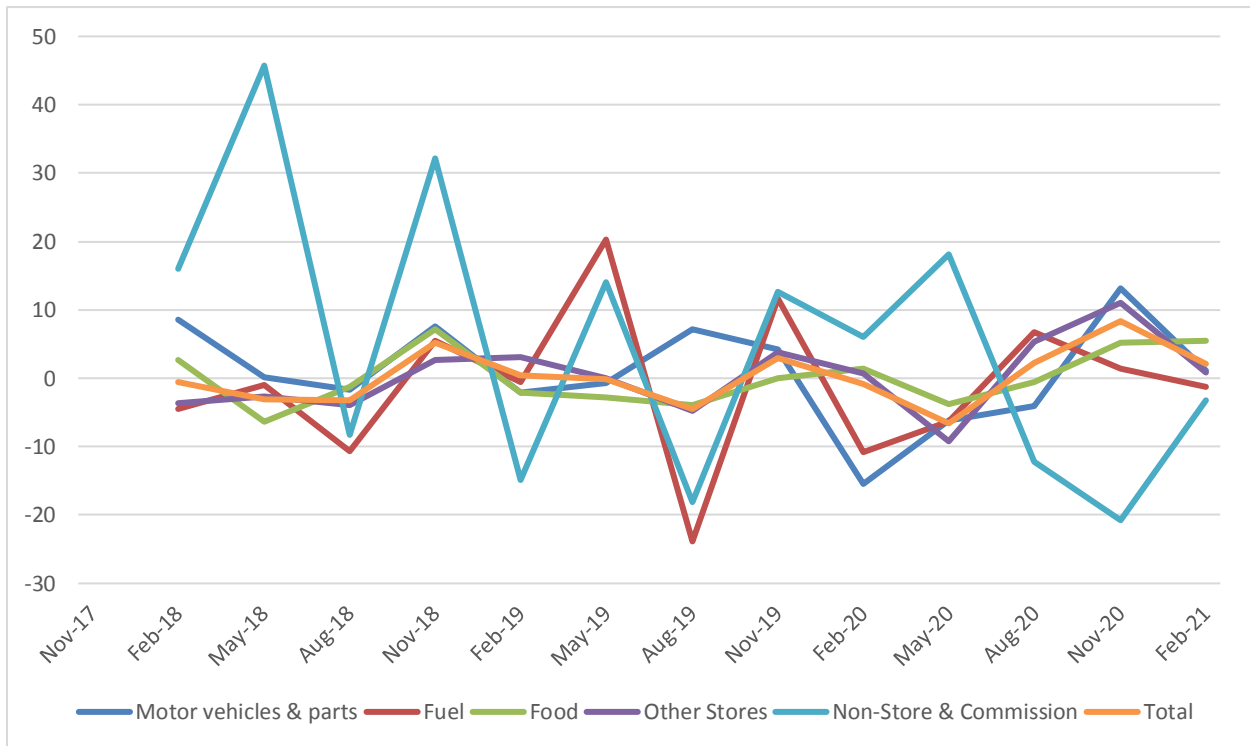
¹⁵ Australian Government [Labour Market Information Portal](#)

Figure 38: Retail trade – Employment ('000s) by sub-group, Feb 2018 – Feb 2021



Source: ABS 6291.0.55.001

Figure 39: Retail trade - Employment growth (%) by sub-group, Feb 2018-Feb 2021



Source: ABS 6291.0.55.001, ACTU calculations

55. It can be seen that the food retailing and other store retailing categories are the largest employers. Food retail has the strongest employment growth as at February 2021 compared to other categories and also compared to its own growth levels over the comparison period. All categories apart from fuel and non store & commission retail, which are the most volatile in any event, remained in growth in February 2021. Overall, as seen in Figure 11, seasonally adjusted employment in the Retail trade sector was at 1,322,000 in February 2021 and is predicted to rise to 1,340,200 by November of 2025.¹⁶

1.5 Forecasts and observations

56. The Minutes of the RBA Board Meeting on the Monetary Policy of 4 May were released on 18 May 2021. They noted that “Wage and price inflation were at much lower levels than over the preceding decade, and, because of inertia in wage- and price-setting practices, it was possible that price pressures could be slow to build even if spare capacity were absorbed more quickly than

¹⁶ Australian Government [Labour Market Information Portal](#)

expected.”¹⁷ The RBA Minutes indicated that the trajectory of the economy would be strongly dependent on household consumption spending. As we have noted previously, consumption levels are assisted by greater disposable incomes provided by wage increases.

57. The Statement by Philip Lowe, Governor of the RBA on the Monetary Policy Decision of 1 June 2021 said that the economic recovery in Australia was stronger than earlier expected and was forecast to continue, and progress in reducing unemployment had been faster than expected.¹⁸ The RBA forecast is for GDP to grow 4 ¾ % over this year and 3 ½ % over 2022. The RBA expected CPI to be above 3% in the June quarter because of the reversal of some covid related price reductions. “Housing prices have strengthened further, with prices rising in all major markets.” ... “Given the environment of rising housing prices and low interest rates, the Bank will be monitoring trends in housing borrowing carefully and it is important that lending standards are maintained.”¹⁹

58. Also on 1 June 2021, Treasury Secretary Dr Kennedy made a statement to the Senate Economics Legislation Committee (Estimates) which referenced the strength of the economic recovery, the equivocal evidence regarding the labour market impacts of withdrawing JobKeeper and forthcoming price increases in the face of weak wage growth. Dr Kennedy said that the economic recovery “has been stronger than from any major downturn in recent history”²⁰ due to management of the pandemic and that “fiscal policy has been more effective than we may have expected in maintaining economic and social relationships and in supporting the recovery.” He said: “After contracting by 2.5 per cent in 2020, we now expect the economy to grow by 5¼ per cent in 2021. This compares with last year’s Budget, where we forecast a fall of 3¾ per cent in 2020, and growth of 4¼ per cent in 2021.” Dr Kennedy said:

“Another factor supporting the outlook for growth is improved investment expectations. This reflects the large pipeline of public investment still to be rolled out, strengthened expectations by non-mining firms for near-term capital expenditure, supported by the Government’s business tax incentives, and a strong pipeline of dwelling investment.”²¹

¹⁷ <https://www.rba.gov.au/monetary-policy/rba-board-minutes/2021/2021-05-04.html> released 18 May

¹⁸ <https://www.rba.gov.au/media-releases/2021/mr-21-09.html> 1 June 2021

¹⁹ <https://www.rba.gov.au/media-releases/2021/mr-21-09.html> 1 June 2021

²⁰ <https://treasury.gov.au/speech/opening-statement-economics-legislation-committee-0> 1 June 2021

²¹ <https://treasury.gov.au/speech/opening-statement-economics-legislation-committee-0> 1 June 2021

59. In relation to JobKeeper, Dr Kennedy said that many individuals are finding jobs after the end of the scheme due to the strength of the broader labour market. Dr Kennedy said:

“The Australian Bureau of Statistics has indicated that the end of the JobKeeper wage subsidy did not have a discernible impact on employment between March and April and that changes could reflect usual month-to-month variation in the labour market and some larger than usual seasonal changes around Easter and school holidays.”²²

Dr Kennedy said that single touch payroll data suggest that about 56,000 workers lost employment in the four weeks after the end of JobKeeper. He added that “it’s worth remembering that around 400,000 people move into and out of employment in a normal month and that we would expect many of those who lost employment at the end of JobKeeper to regain employment in coming weeks.”²³

60. Relevant to living expenses, Dr Kennedy said that “we are likely to see a temporary rise in prices due to the unwinding of childcare and other subsidies and the recovery in the economy. By contrast short term wage expectations remain low.” Dr Kennedy referred to the downward re-estimation of the NAIU to between 4 ½% and 5% in its Treasury paper which means that unemployment would have to be lower than previously thought to see a substantial pick up in wages. Lower inflationary expectations had also led to lower nominal wage growth. Productivity would need to improve through international technology transfer or “driven by domestic reform that improves the allocation of resources within Australia.” Treasury forecast a pick-up in wages from 2022-23 when they expect unemployment to fall within the Treasury’s estimated band for the NAIU.²⁴

61. The OECD in the last week released their flagship publication the 2021 OECD Economic Outlook. According to the latest edition of the OECD Economic Outlook, global economic growth is now expected to be 5.8% this year, a sharp upwards revision from the December 2020 Economic Outlook projection of 4.2% for 2021 with world GDP growth expected to be 4.4% next year.

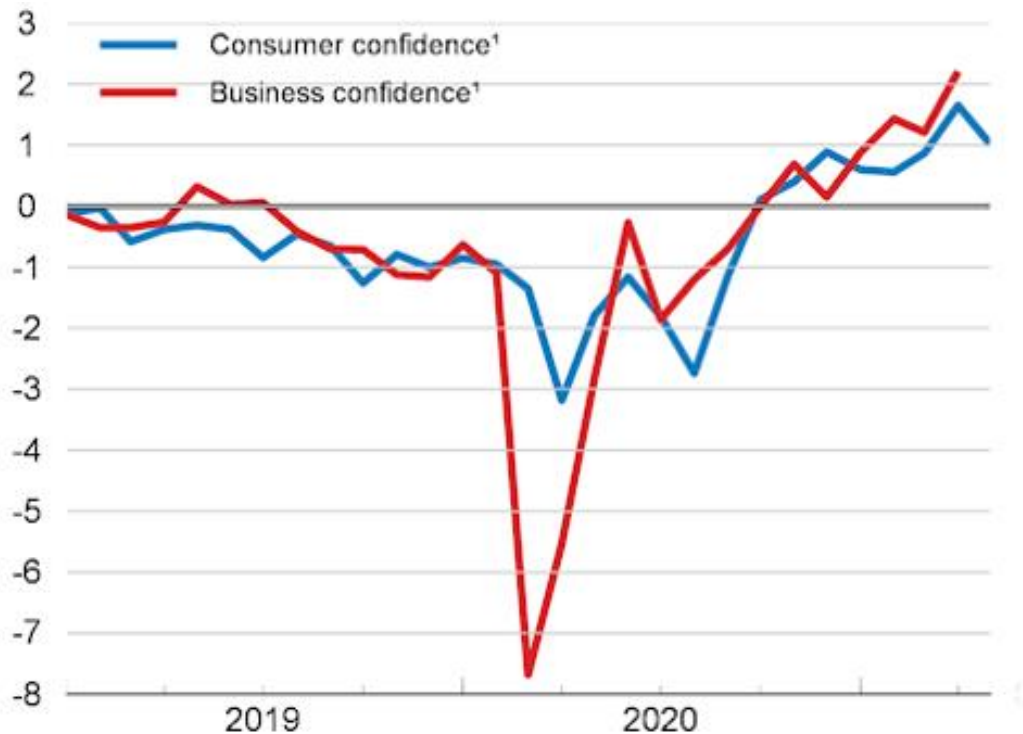
²² <https://treasury.gov.au/speech/opening-statement-economics-legislation-committee-0> 1 June 2021

²³ <https://treasury.gov.au/speech/opening-statement-economics-legislation-committee-0> 1 June 2021

²⁴ <https://treasury.gov.au/speech/opening-statement-economics-legislation-committee-0> 1 June 2021

62. In Australia GDP is projected to grow by a staggering 5.1% in 2021 (another sharp upwards revision) and 3.4% in 2022, with the OECD noting that confidence is high, labour demand is strong and the unemployment rate will fall further. Total hours worked have returned to pre-pandemic levels and the unemployment rate has eased to 5½ per cent. Job vacancies surged in early 2021, including in the hospitality sector.

Figure 40: OECD says Australia’s business and consumer confidence has recovered



Source: OECD Economic Outlook, 2021

1.8 Victorian lockdown

63. Victoria entered a lockdown related to COVID-19 transmission on 28 May 2021, with restrictions at a level which relevantly prevented persons from attending workplaces outside of essential industries, restricted non-essential retail trade to delivery or to ‘click and collect’ within 5km and restricted hospitality venues to take away and delivery services only. Entertainment venues and hair/beauty establishments were closed, schools were closed (other than for children of essential workers) and persons were only permitted to leave home for essential work, health care, exercise (with 5 km from home), to purchase essential goods or to receive a vaccination. Whilst the

lockdown was initially scheduled to run for one week, it was extended to 2 weeks on 2 June . The second week of the lockdown involved an easing of restrictions outside of greater Melbourne, so as to permit leaving home for any reasons (other than to travel to Melbourne), the re-opening of schools, the re-opening of retail, the reopening of hair/beauty services (subject to masks being worn and density limits), the reopening of hospitality (subject to density limits) to seated service, the reopening of workplaces where work cannot be performed from home at 50% capacity (or 20 persons, whichever is greater) . Minimal easing in Melbourne in the second week involved the re-opening of schools to years 11 and 12, and the extension of the 5km limit to 10km.

64. The transmission which led to the outbreak necessitating a lockdown has been traced to a leak from hotel quarantine in South Australia. In our view, the lockdown in Victoria is presently not dissimilar in scale to those experienced elsewhere in Australia for the same reasons and is within the range of events that can be expected to continue to occur periodically until widespread vaccination has occurred. These lockdowns have not de-railed the economic recovery seen since mid last year and, in our view, do not undermine the positive forecasts issued prior to the Victorian lockdown being instituted.

65. Within three days of the lockdown, the government of Victoria announced a raft of business support measures, including *Business Cost Assistance* grants of \$2500 to business forced to close which cannot operate remotely and *Licensed Hospitality Venue* grants of \$3,500 to venues with liquor licences and food certificates. A further announcement on 2 June raised the level of the *Business Cost Assistance* grants to \$5,000 for Melbourne based recipients and regional business that remain unable to open. The announcement also doubled the level of the *Licensed Hospitality Venue* grants to \$7,000 for Melbourne based businesses. Both schemes are application based and applications are already open. \$20 million in targeted support measures for the events industry were also announced, although details of eligibility and payment levels were not available at the time of writing.²⁵

66. There were no direct worker support measures announced by the Victorian Government. As noted in our previous submissions, in the absence of JobKeeper many workers are subject to being

²⁵ [Announcement 30 May 2021](#), [Announcement 2 June 2021](#), [Business Victoria website](#)

stood down without pay, while many casual workers will also go without work. We have also shown in our prior submissions that many highly award dependent industries subject to restrictions, such as hospitality, are highly casualised and dependent on international students who have no social safety net. It is therefore unsurprising to us that by 2 June, the Foodbank relief centre in Melbourne reported its highest daily attendance, following on from the centre running out of fresh food on the fourth day of the lockdown. Foodbank has reported a 50% increase in demand from international students seeking food from its relief centre since the lockdown commenced and other charities are also reporting increased demand for meals.²⁶

67. On 3 June, the Federal Government announced that it will make payments available to individuals (employees or working owner managers) with less than \$10,000 in liquid assets as part of a new federal scheme. Those eligible must work or reside in a declared Commonwealth hotspot and unable to work and earn an income as a result of restrictions that last for more than one week. It will be a two tier payment of up to \$500 per week for those who lost 20 hours or more of work and \$325 for week for those who lost less than 20 hours of work. It will not be available in conjunction with any other Commonwealth income support or businesses support and employees would need to have exhausted applicable leave entitlements (other than annual leave) in order to claim the payment. Details of the payment were still emerging at the time of writing and applications for the payment do not open until 8 June.²⁷

1.7 Financial Stress

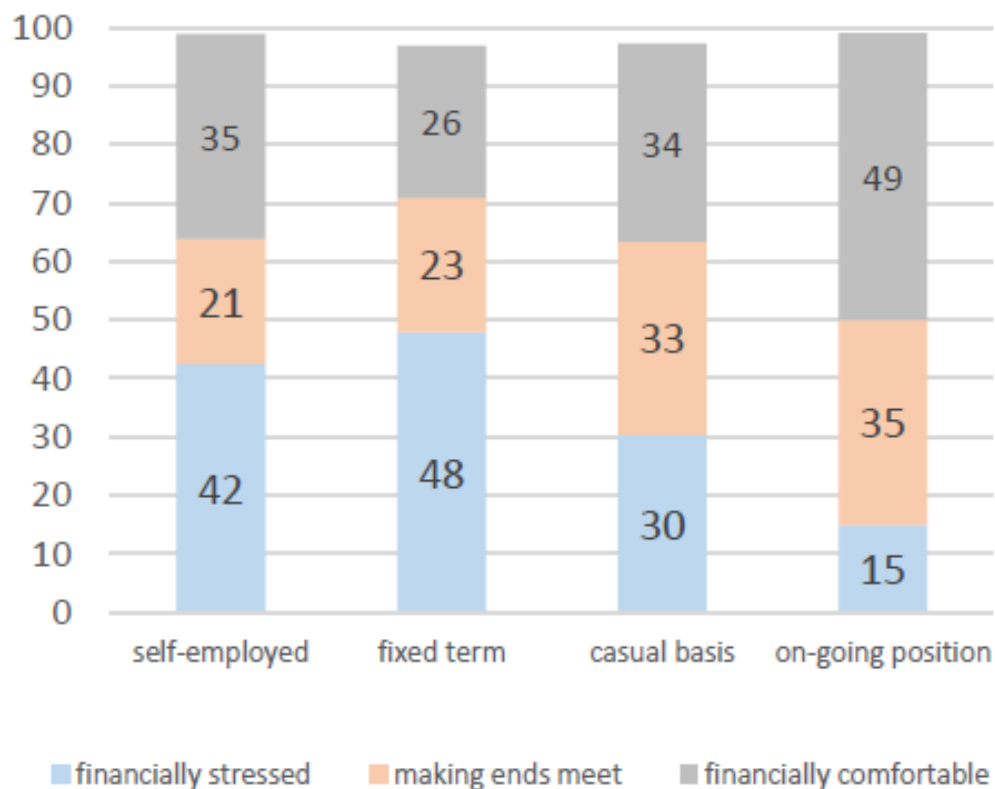
68. The Melbourne Institute released results from its *Taking the Pulse of the Nation Survey* for Wave 32 (10-14 May). The results indicate that about one in three Australians report being in financial stress in terms of having difficulties paying for essential goods and services. The survey shows that, amongst the employed, some groups have higher than average proportions reporting financial stress suggesting that policies are needed to support these vulnerable groups.

69. Employees on fixed-term contracts are most vulnerable to experiencing financial stress (48 per cent), followed by the self-employed at 42 per cent experiencing financial stress.

²⁶ [“Students struggle to survive”](#), The Age 3/6/2021

²⁷ [Prime Minister’s Announcement](#) 3 June, [Services Australia Website](#), [“Greater Melbourne workers affected by COVID lockdown eligible for government payments”](#), Australian Broadcasting Corporation, 3 June.

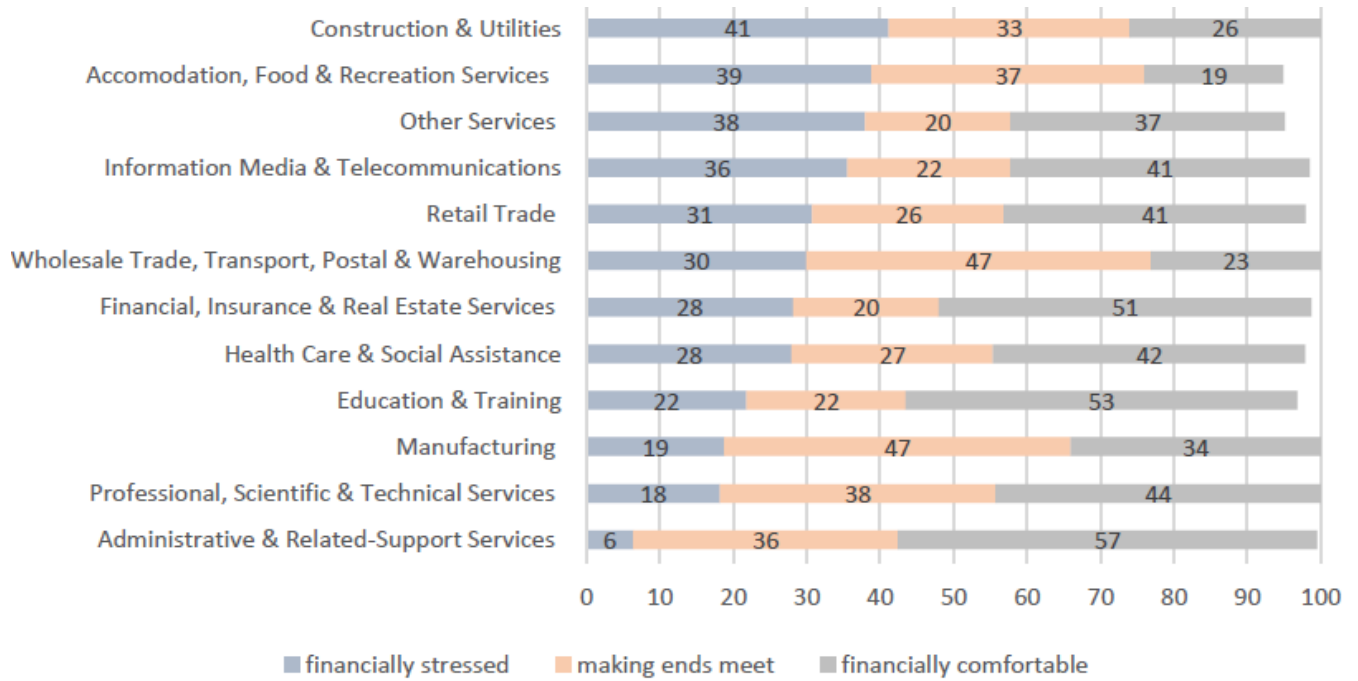
Figure 41: Financial Stress by employment type (proportion %)



Source: Melbourne Institute's Taking the Pulse of the Nation Survey 2021 Survey Results, Wave 32 (10-14 May)

70. Employees in the hospitality are more likely to experience financial stress compared to other sectors. The experience of financial stress varies across industries but the survey shows that 39 per cent of employees working in the accommodation, food & recreation services sector report being financially stressed.

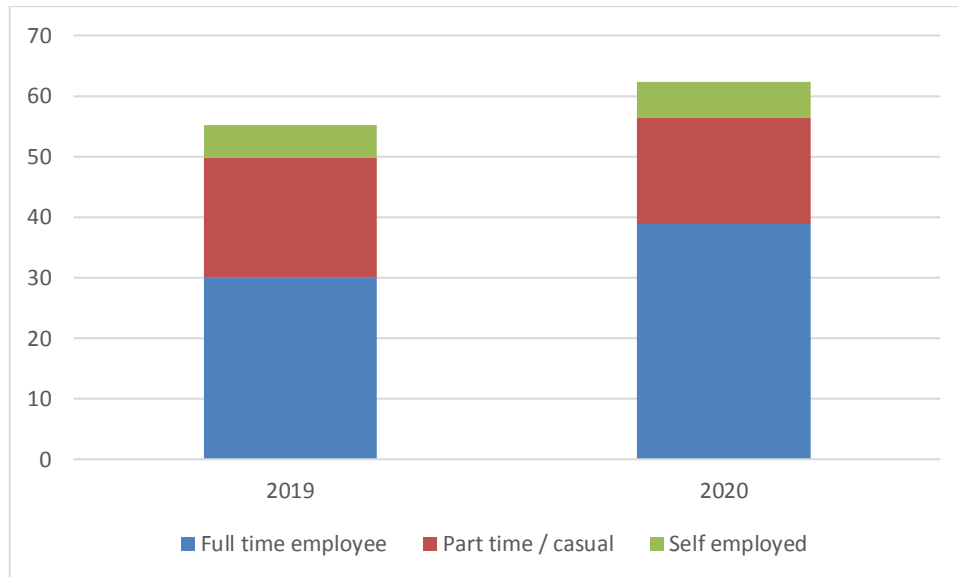
Figure 42: Financial Stress by Industry Groups (proportions %)



Source: Melbourne Institute’s Taking the Pulse of the Nation Survey 2021 Survey Results, Wave 32 (10-14 May)

71. Further to our previous submissions, FoodBank Australia has provided us with additional analysis behind their FoodBank Hunger Report 2021 concerning the proportion of Australians that are food insecure and are employed. This shows that 62.3% of food insecure Australians in 2020 were employed (full time, part time or self employed). This has risen significantly since 2019 (7.14% percentage points) when 55.16% of food insecure Australians were employed. In 2019 almost 30% of food insecure Australians were employed full time (permanent or contract) – again this rose significantly to 38.9% in 2020.

Figure 43: Percentage of Food insecure Australians that are employed 2019-2020, by employment category



Source: FoodBank Australia

72. Further evidence regarding financial impacts on workers is available from Porter and Bowman (2021)²⁸, who found that low-income workers showed a 21% decline in their ability to meet Commitments from the pre-COVID period to the September quarter 2020. “However the ability to Meet Commitments actually improved for people in low-income households that relied on working age income support payments.”²⁹

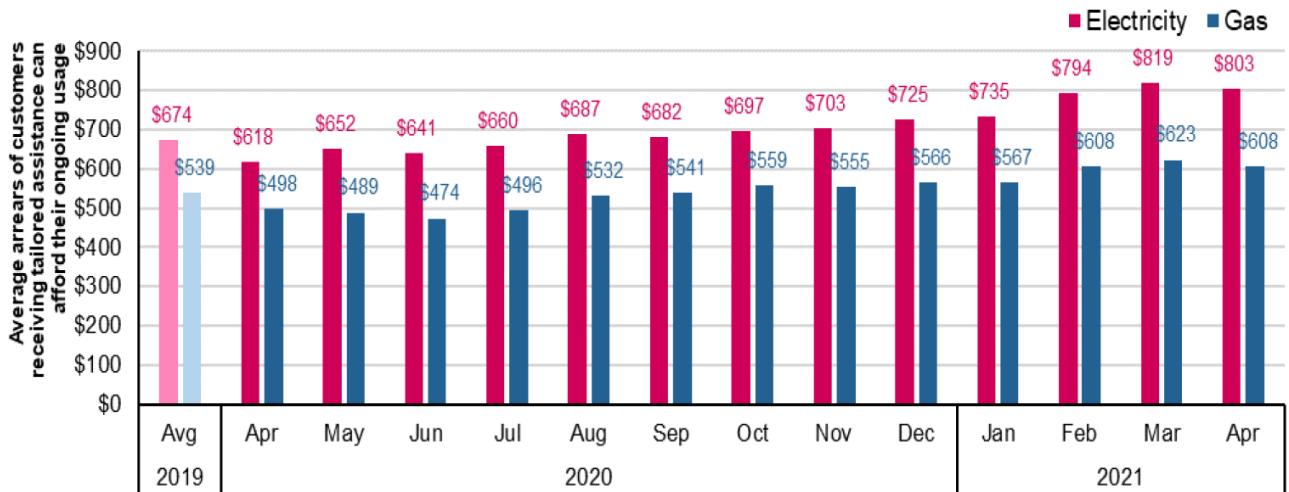
73. The Essential Services Commission completed a review of 12 months of data showing the impact of the pandemic on energy hardship for Victorian households, and released their finding on 19 May 2021. The 12-month snapshot of coronavirus data shows average debt (arrears) for households on payment plans who *can* pay for ongoing energy use as well as for those who *cannot* pay for ongoing usage.

²⁸ Porter, E & Bowman, D 2021, “[Shocks and safety nets: financial wellbeing during the COVID-19 crisis](#)”, Brotherhood of St. Laurence, Fitzroy, Vic.

²⁹ <https://www.bsl.org.au/research/publications/shocks-and-safety-nets/> last updated 24 May 2021, p.5

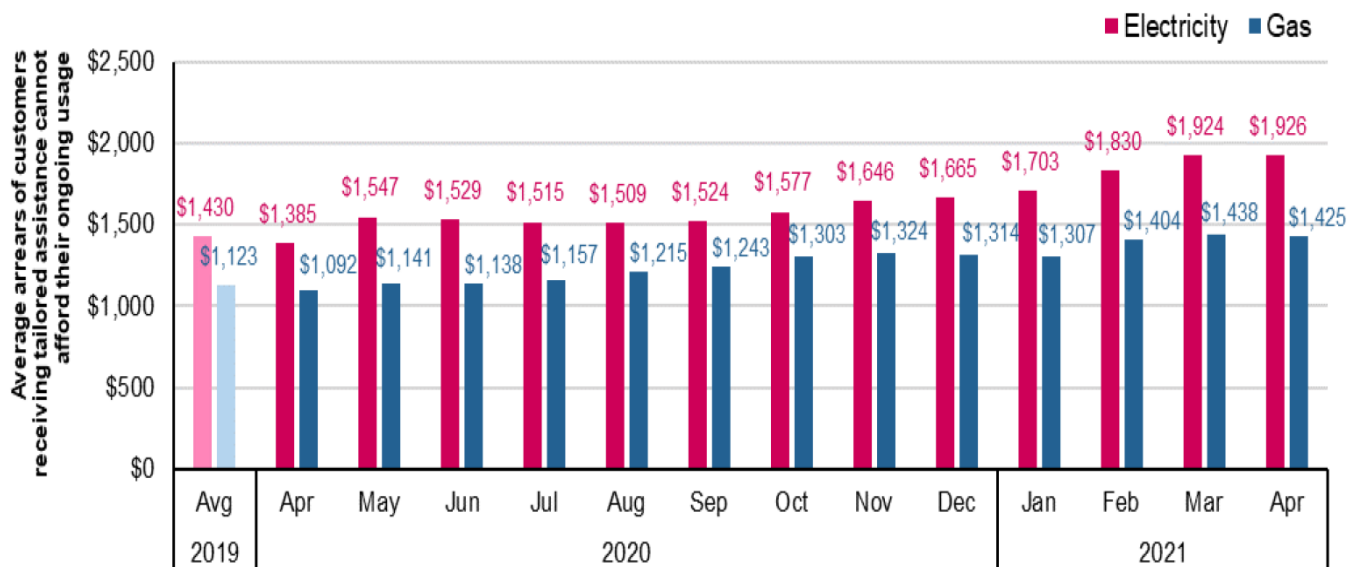
74. Figure 44 below relates to households on payment plans who can pay for ongoing energy use. It can be seen that arrears increased by 19 per cent for electricity and 13 per cent for gas (\$674-\$803 – \$539-\$608) respectively). Customer arrears have increased almost every month over the past year. Average customer arrears reached its highest level in March 2021 at \$819 for electricity and \$623 for gas. This is a 21 per cent and 15 per cent higher than 2019 averages, respectively.

Figure 44: Average arrears for residential customers receiving tailored assistance, who can pay for their on-going use



75. Figure 45 below rates to households on payment plans who *cannot* pay for ongoing use. Average arrears for this group increased by 35 per cent for electricity and 27 per cent for gas (\$1,430-\$1,926 – \$1,123-\$1,425 respectively). Significant increases occurred in 2021 reaching its peak in April at \$1,926 for electricity and \$1,438 for gas customers in March. This is 35 per cent and 27 per cent higher than 2019 monthly averages, respectively.

Figure 45: Average arrears for residential customers receiving tailored assistance, who cannot pay for their on-going use



Source: Essential Services Commission

76. The financial stress measures referred to above relate to sub populations: The Melbourne institute data and the Foodbank data relates to employed persons, the observations we refer to from Porter & Bowman refer to low income workers and the Essential Services Commission data relates to persons who are already subject to payment plan aimed to assist them in meeting their gas and electricity payments. These populations therefore differ from the population used to produce the 'Australian Consumer Financial Wellbeing Report' produced by the Commonwealth Bank and the Melbourne Institute and made available on the Fair Work Commission website on 26 May 2021. The population used for the Australian Consumer Financial Wellbeing Report' is Commonwealth Bank customers, therefore it captures persons on a range of incomes who may draw those incomes from multiple sources, including property, investments, profit distributions from their own businesses as well as wages and government transfers.

77. The methodology used to produce the 'Australian Consumer Financial Wellbeing report' is to apply the Melbourne Institute's Observed Financial Well Being Scale³⁰ to the banking data held by the Commonwealth Bank. It does not involve interactions with individuals, it is a purely algorithmic exercise informed only by the customer data held by the Commonwealth Bank, which may not provide a full picture of a person's financial status. The user guide for the Melbourne Institute's Observed Financial Well Being Scale indicates that, among other things:

- a. The methodology does not sum net cash balances across all accounts but instead will "aggregate the cash balance on accounts separately, so if a customer has a \$1,000 savings balance and -\$500 (owing) balance in another account, we still measure their cash balance as \$1,000"³¹;
- b. Where loans have re-draw facilities, the amount available for redraw is treated as a saving³² ;
- c. Credit card accounts are not treated as being in arrears unless the *minimum payment* has not been made by 5 days after the due date³³.

78. The Australian Consumer Financial Wellbeing Report is candid in labelling the improvement in financial wellbeing measured over March 2020-March 2021 as "unexpected", noting that its findings "...may be supported by factors including targeted and swift government fiscal policy intervention, expansionary monetary policy, widespread loan deferrals, emergency access to superannuation and changes to consumer spending patterns amid lockdowns and economic uncertainty".³⁴ In our view, the influx of transfers to persons whose usual position was welfare dependence as well as the savings accruing to working from home professionals (who may have also had other income sources) likely influenced the overall findings in terms of the change in position between March 2020 and March 2021. The fact that the measured improvement in financial wellbeing was the greatest in Victoria over this period, prolonged lockdown notwithstanding, tends to illustrate this. Nonetheless, the ultimate financial wellbeing score at March 2021 of 47.7% of the bank's customers being found to be either "just coping" or "having

³⁰ Details of the scale are provided in the user guide available online:

https://fbe.unimelb.edu.au/_data/assets/pdf_file/0005/3481799/How-to-create-the-Observed-Financial-Wellbeing-Scale.pdf

³¹ *Ibid.* at page 2.

³² *Ibid.* at page 4.

³³ *Ibid.* at page 5.

³⁴ At page 4.

trouble” is not in our view an indication of low level of financial stress either generally or among employees who are reliant on minimum wages.

2. PROPOSAL BY THE AUSTRALIAN RETAILERS ASSOCIATION

80. The Australian Retailers Association ('ARA') advanced a proposal in its reply material that the Panel make no decision about minimum wages in the awards the ARA was interested in until November 2021. We opposed that proposal for reasons given at paragraph 78 of our Post Budget Submission.

81. During the hearing on 19 May, the ARA put an alternative position that decision making about the minimum wages to apply in the awards it had an interest in could be delayed as it had sought by a two-step process. The first step in the process would involve the Panel awarding no increase in this Review to the minimum wages in the awards the ARA was interested in. The second step involved the Fair Work Commission initiating a process under section 157 at a later stage to consider the variation of the minimum wages in those awards. The ARA did not indicate that it would itself be inclined to make an application to vary, or that it would support an increase to wages in those awards during the proposed second step in the process.

82. Whilst we accept that proceedings under section 157 of the Act can result in variations to modern award minimum wages, the availability of such proceedings provides no basis for the Panel to decide not to vary modern award minimum wages in a Review, whether those wages reside in the particular modern awards which the ARA has an interest in or in others. In our submission, the alternative proposal by the ARA should be rejected for the following reasons:

- a. The Panel is compelled by section 285 to conduct and complete an Annual Wage Review in each financial year, and its discretion to vary modern award minimum wages in such a Review is guided by the modern awards objective and the minimum wages objective. It would be a jurisdictional error for the Panel to take the "first step" proposed by the ARA of freezing wages in particular awards not on the basis of those statutory considerations but rather on the basis that (a) the "second step" is available to a differently constituted Tribunal and/or (b) that the other Tribunal would be forensically assisted by the Panel arming it with grounds to conclude that it was necessary to make a variation outside of the Review in order to meet the statutory objectives³⁵.

³⁵ S. 157(2)(b)

- b. The “first step” in the ARA’s proposal is a decision in this Review to make no adjustment to modern award minimum wages in particular awards. This is a substantive decision with real world impacts. It cannot be regarded as merely procedural or inconsequential.
- c. As alluded by Justice Ross during the hearing, the ARA proposal raises for consideration whether what is being sought would impermissibly circumvent statutory provisions to do indirectly what is prohibited to be done directly.³⁶ We consider this arises in two ways: firstly by artificially extending the time to undertake a “review” of minimum wages in the awards which the ARA is interested in contrary to section 285; and, secondly, by attempting to give effect to a deferral of increases to minimum wages in those awards other than by the demonstration of “exceptional circumstances” which “justify” that outcome in accordance with section 286(2).
- d. The “second step” proposed by the ARA would in any event be ineffective in adjusting wages in a manner responsive only to the presently unavailable economic data the ARA seeks the Fair Work Commission to consider. A work value assessment would be necessary, because a variation to modern award minimum wages under section 157 can only ensue if a variation is justified by work value reasons. If a variation is so justified, the Commission must also be satisfied that it is necessary to make a variation outside of the annual wage review, in order to meet the modern awards objective and the minimum wages objective.³⁷

³⁶ At PN141. See generally *Deakin v. Webb* [1904] HCA 57, *Bank of NSW v. The Commonwealth* [1948] HCA 7 at [45]-[46], *Caltex Oil v. Best* [1990] HCA 53, *CFMEU v. QLD Bulk Handling* [2012] FWA 7551, *Fitzgerald v. Woolworths* [2017] FWCFB 2797 at [54].

³⁷ [2021] FWCFB 2051 at [217]-[221], [660].

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