



Reply Submission to the Annual Wage Review 2026

ACTU Submission, 1 May 2026

ACTU D. No 31/2026

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1. INTRODUCTION & OVERVIEW

1. This ACTU Reply Submission responds to employer initial submissions in the 2025-26 Annual Wage Review and addresses new economic data released in the intervening period. It supports the ACTU's claim for a meaningful increase to minimum and award wages, and responds to some of the arguments advanced by employer organisations, many of which are perennial and have little or no new evidence presented in support of them. In the interests of space, the ACTU has not commented on all arguments raised in the reply submissions. A lack of comment on arguments not addressed in this reply submission does not imply endorsement of those positions.
2. Employer organisations have put forward claims to this Review for award minimum wage rises ranging between 2.75 and 3.5 per cent. Considering current levels of inflation, these would result in a real pay cut for award-reliant employees. There is no reasonable argument under the Modern Award Objective or the Minimum Wage Objective for such a harsh outcome, especially for low paid employees.
3. The Submission examines recent inflation and labour market outcomes, including the effects of the spike in oil prices arising from the US-Israeli attack on Iran. While headline inflation has risen due to fuel and electricity prices, underlying inflation has remained broadly stable, although both measures are above the RBA's target band. Recent data point to continued resilience in the labour market, with labour underutilisation remaining low; participation remaining solid; and a strengthening in employment and job vacancy outcomes, noting that recent labour market outcomes do not yet reflect the impact of the energy shock.
4. The Submission responds in detail to employer claims concerning productivity, labour market conditions, business performance, and the risk of dis-employment. It contends that a narrow focus on aggregate productivity measures by employers obscures relevant sectoral trends and disregards the considerations of the Panel in the 2024-25 Annual Wage Review decision, which remain relevant to these proceedings. It further submits that recent wage increases determined by the Commission have not driven the uptick in inflation and have not resulted in any dis-employment effects.
5. The ACTU also addresses submissions concerning relative living standards and the needs of the low paid, including claims that real wage "catch-up" has been achieved or that income adequacy is better addressed through the tax-transfer system. It submits that real award wages have not been sustainably restored, particularly once accumulated losses and forward-looking inflation are taken into account.
6. The Submission responds to employer opposition to the potential phase-out of C13 rates in the 2026 Review and submits that moving minimum adult rates for ongoing employment to at least the C12 level would promote fairness, coherence across the award system, and the needs of low-paid workers.
7. The Submission also addresses issues of gender equality, including the gender pay gap, women's workforce participation and recent gender-based undervaluation proceedings raised in employer group submissions.
8. Finally, the Submission responds to COSBOA's proposal for a delayed operative date under s 286 of the FW Act. It submits that no exceptional circumstances arise that would justify delaying any wage increase in this Review.

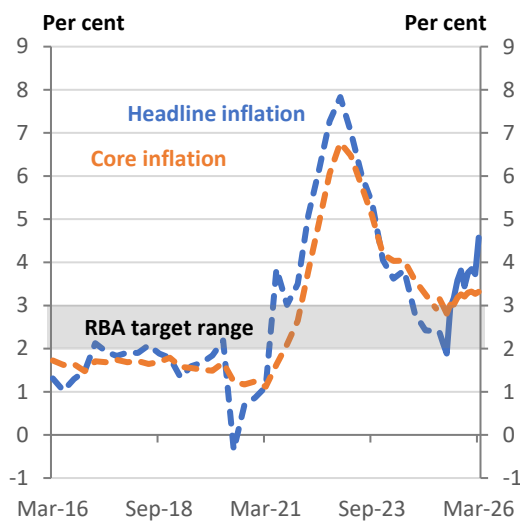
2. NEW DATA

2.1 Inflation

9. Inflation remains the most significant challenge in the Australian economy since the 2024-25 Review. Headline inflation rose 4.6 per cent over the year to March 2026, up from 3.7 per cent in February, a reflection of the first round impacts of the oil crisis arising from the closure of the Strait of Hormuz. On a quarterly basis, headline inflation rose 4.1 per cent in the year to the March quarter 2026, up from a 3.6 per cent annual increase in December 2025.

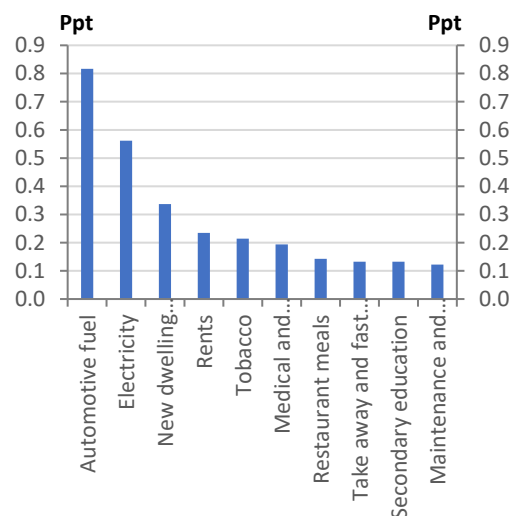
10. The main driver of the rise in inflation was the increase in petrol costs. Automotive fuel rose 32.8 per cent between February and March 2026 and was 24.2 per cent higher over the year to March. Further, Automotive fuel contributed 1.0 percentage points to monthly growth in headline inflation, accounting for almost all of the total monthly rise of 1.1 per cent in March. Automotive fuel also contributed 0.8 percentage to annual growth in headline inflation in March 2026.
11. The roll-off of the Federal and State Government electricity rebates continues to be an important factor driving inflation, with Electricity contributing 0.6 percentage points to annual growth in headline inflation. While electricity prices did not rise in the month of March 2026, the effect of the rebates led to an annual increase of 25.4 per cent in Electricity.
12. Beyond the notable increase in headline inflation, underlying inflation appears to be stable, if a little high. Trimmed mean inflation rose 0.3 per cent in the March month and was 3.3 per cent higher over the year, a broadly similar outcome seen in each month since October 2025. The more reliable quarterly measure of core inflation rose 3.5 per cent over the year to the March quarter 2026, a slight increase on the 3.4 per cent annual growth in December 2025, but not showing meaningful signs of acceleration. Though core inflation is higher than the RBA's target band, the inflation pulse is not accelerating and is some distance away from the run-up in growth in the months before the peak in December 2022.
13. Further, market services inflation eased a little in March. Market services was unchanged on a monthly basis and rose 3.1 per cent in the year to March 2026, easing slightly from the 3.5 per cent annual increase in February 2026.

Figure 1: Headline and core inflation growth



Source: ABS Consumer Price Index, Australia & ACTU calculations

Figure 2: Major contributors to headline inflation



14. The March inflation outcomes reinforce the need for a solid increase in award and minimum wages to protect the living standards of Australia's lowest paid workers. The most significant risk in the economy now is the pass-through of higher fuel and energy costs into prices, and Australian workers should not bear the cost of adjustment from the fallout of a foreign war. This Review should strive to restore the real wages of award and minimum wage workers to prevent real income losses and disadvantage for the lowest paid workers becoming further entrenched in the wage system.

2.2 Labour market

15. The March 2026 Labour force data showed a continuation of the resilience in the labour market that has been present for the past few Annual Wage Reviews. The unemployment rate and underemployment rate both remained low and steady, with the participation rate holding around elevated levels, notwithstanding some changes in specific cohorts. The data indicated a mild strengthening of employment outcomes as the pick-up in momentum in the economy in the latter half of 2025 flowed through to the labour market. However, these outcomes reflect the pre-energy price shock situation, with the currently uncertain impact of the US-Israeli attack on Iran yet to be reflected in published data.
16. The unemployment rate in March was unchanged from February at 4.3 per cent, holding around where it has since June 2025, notwithstanding a small dip in December 2025 and January 2026. Over the quarter, the unemployment rate averaged 4.2 per cent, a small improvement on the 4.3 per cent average for the September and December quarters in 2025. The underemployment rate was similarly unchanged at 5.9 per cent in March, holding at the same level across the first three months of 2026 and not much different from where it was across most of 2025. On a quarterly basis, the underemployment rate averaged 5.9 per cent in March 2026, similar to the quarterly averages seen across 2025.
17. On a monthly basis, the participation rate eased slightly to 66.8 per cent, down from 66.9 per cent in February but up on the 66.7 per cent seen between November 2025 and January 2026. On a quarterly basis, the participation rate was unchanged at 66.8 per cent in March 2026, a little down from the end of 2024 and start of 2025, but only marginally. As outlined below, this is mainly a reflection of retirement choices made by older workers and not a sign of a general underlying weakness in the labour market.
18. In fact, the quarterly employment outcomes suggest a mild strengthening of the labour market. Across the March quarter, there was a reasonable gain in employment, with the gain of around 96,000 jobs on net being well up from the around 35,400 jobs added in the December quarter and just shy of double the average increase in the 10 years before the pandemic of around 51,000 jobs added per quarter. The mild strengthening is also reflected in the uptick in annual employment growth, with rose 1.5 per cent over the year to March 2026, up from 1.1 per cent in the year to December 2025. These joint outcomes likely reflect the pass-through to employment of the improvement in economic momentum in the latter half of 2025, which appeared to be carrying into early 2026 through stronger hiring outcomes and increased job vacancies (see paragraph 33 below).

Figure 3: Quarterly level change in employment

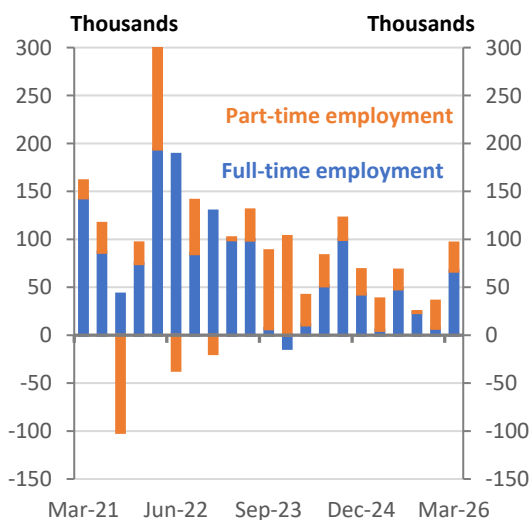
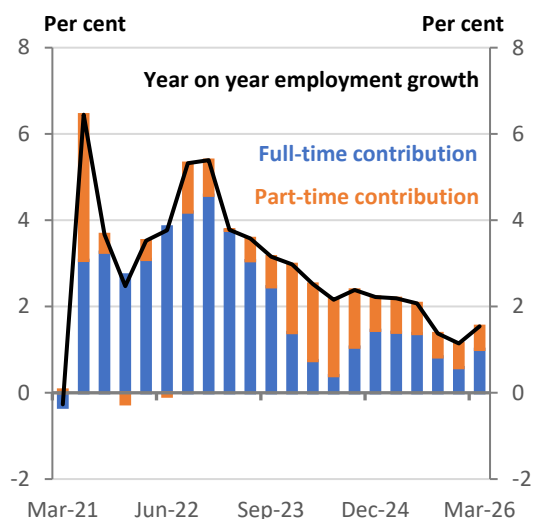


Figure 4: Annual employment growth contributions



Source: ABS Labour force, Australia & ACTU calculations

2.3 The Israel-US conflict with Iran

19. There is considerable uncertainty surrounding the outcome of the US-Israeli war on Iran, and at time of writing the Strait of Hormuz remains closed, although outright hostilities and further damage to regional energy infrastructure have ceased for the time being. The most recent reporting indicates that while Iran had proposed concluding the war and reopening the Strait of Hormuz, with negotiations over the Iranian nuclear program to be dealt with at a later date¹, the Trump Administration rejected the proposal, and negotiations are at a stalemate. Until the Strait of Hormuz is reopened, it is challenging to make judgements on the full impact of the economic disruption arising from the war. The ACTU will comment further on the implications of the conflict for this Review in the supplementary submissions, once the Federal Budget forecasts have been published.

3. COMMON ISSUES RAISED IN SUBMISSIONS

3.1 Productivity

20. The employer groups advanced a similar view of productivity. AiG suggested ‘productivity growth in Australia has performed especially poorly since the pandemic’, a claim made with reference to the GDP per hour worked figures for 2024-25.² ACCI intimated ‘very weak productivity performance’ in its submission.³ ABI submitted that ‘productivity has been lacklustre in the past two years’.⁴ COSBOA stated that ‘productivity growth is constrained’ and AHA similarly mentioned ‘productivity improvement in the economy appears weak’.⁵ The employer groups all appear to have focused their attention on the headline GDP per hour worked to draw this inference, making no meaningful engagement with the considerations of the Panel in last year’s decision.

21. The considerations highlighted by the Panel in paragraphs [33] to [35] of the 2024-25 AWR decision remain relevant to these proceedings and deal with the concerns of the employer groups outlined above. Credible economic commentators acknowledged the validity of the Panel’s considerations in the immediate aftermath of the decision, with NAB economists reported as commenting that the Commission’s assessment that productivity weakness was concentrated in non-market industries was in line with NAB’s own view.⁶ Similarly, Westpac chief economist Luci Ellis also commented that ‘The FWC emphasised that slow growth in labour productivity was mostly an outworking of the expansion in the care economy. We have been highlighting this for some time...Importantly, though, this will have almost no implications for labour costs in the sectors where rising labour costs might actually influence prices and so inflation’.⁷ An update on the most recent productivity outcomes relevant to the decision is outlined in paragraphs [84] and [85] of the ACTU’s initial submission, and show encouraging signs of strength in the part of the economy most relevant to the Panel’s deliberations.

22. ACCI asserted a related proposition that recent productivity growth and wage outcomes ‘are contributing to higher unit labour costs and adding to domestic inflation pressures’.⁸

¹ Reuters, ‘Trump Reviews Iranian Proposal aimed at reopening Strait of Hormuz’, Aljazeera, 28 April 2026, available: [Trump reviews Iranian proposal aimed at reopening Strait of Hormuz | US-Israel war on Iran News | Al Jazeera](#)

² Australian Industry Group, Initial Submission to the Annual Wage Review 2025-26, available: [Initial Submission](#), p. 17

³ Australian Chamber of Commerce and Industry, Initial Submission to the Annual Wage Review 2025-26, available: [ACCI Initial submission to the 2026 AWR](#), p. 1

⁴ Australian Business Industrial & Business NSW, Initial Submission to the Annual Wage Review 2025-26, available: [ABI Business NSW - Annual Wage Review 2026 submission](#), p. 2

⁵ Council of Small Business Organisations Australia, Initial Submission to the Annual Wage Review 2025-26, available: [COSBOA - Initial Submission](#), p. 6; and Australian Hotels Association, Initial Submission to the Annual Wage Review 2025-26, available: [c20261-australian-hotels-association-300326.pdf](#), p. 1

⁶ Marin-Guzman, D. ‘Historic real increase to minimum wage “not sustainable”’, *Australian Financial Review*, 3 June 2025, available: [Fair work awards minimum wage rise of 3.5 per cent for millions of workers](#)

⁷ Ellis, L., ‘Cautiously and predictably, RBA Minutes confirm a moderate path’, Westpac IQ, 3 June 2025, available: [Cautiously and predictably, RBA Minutes confirm a moderate path | Westpac IQ](#)

⁸ ACCI Initial Submission, p. 1

23. Real unit labour costs can be estimated using national accounting data, Labour Account data and the Labour force, Detailed tables. An estimate of the employee hours ratio can be gleaned from Table EQ05 in the Labour force, Detailed publication. Then, depending on the purposes of the analyst, this can be applied to the Labour Account hours worked – the ABS’ preferred reference point for industry labour market estimates⁹ – to derive an estimate of employee hours worked. Labour costs can be derived from the Labour Account using Compensation of Employees and Other Related Costs to Employers. Following the formula for unit labour costs from the Australian System of National Accounts: Concepts, Sources and Methods, published by the ABS, a measure of real unit labour costs can then be derived.¹⁰ Figure 5 shows the ACTU’s estimate of real unit labour costs for the whole economy ex. Agriculture, forestry and fishing versus the published index for Real non-farm unit labour costs, both indexed to December 2019. The differences reflect the inclusion of the non-farm component of Agriculture, forestry and fishing in the published index and minor conceptual differences between the published Other Related Costs to Employers and what is included in the ABS construction of real unit labour costs. This aside, the two series are relatively close together and have the same direction of travel, suggesting the estimation is sound. This methodology can then be expanded to derive industry estimates of real unit labour costs.

Figure 5: Estimates of real unit labour costs

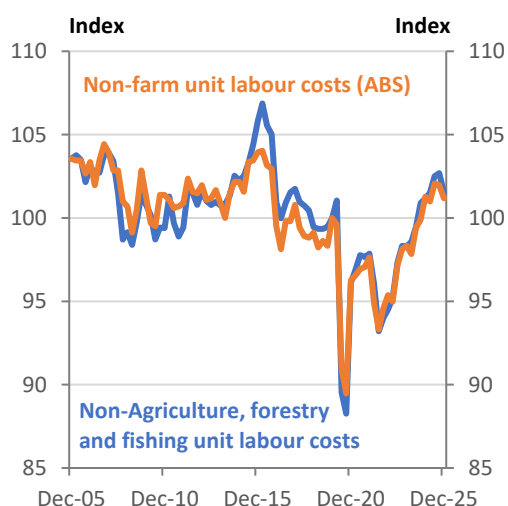
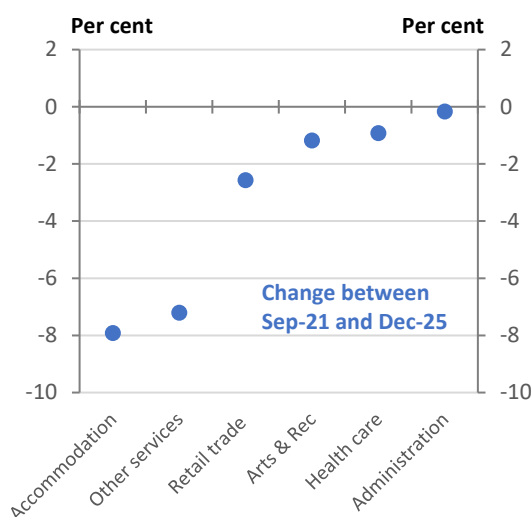


Figure 6: Real unit labour cost growth between Sep-21 and Dec-25 for award-reliant industries



Source: ABS Australian National Accounts: National Income, Expenditure and Product, December 2025, ABS Labour Account, December 2025, ABS Labour force, Australia, detailed & ACTU calculations

24. Figure 6 shows the change in real unit labour costs between September 2021, the last “pre-inflation” Annual Wage Review decision, and December 2025. In every award-reliant industry, real unit labour costs have declined. The smallest decline was in the Administrative and support services industry, which fell by 0.2 per cent over the period, but nevertheless real unit labour costs in the industry still fell. The Panel’s decisions are not contributing to higher real unit labour costs in award-reliant industries.
25. On the theme of productivity and wage outcomes, ARCA asserts a stylised indexation of labour productivity and wage growth to say that ‘there has been a clear divergence between labour productivity and wage growth’ in the Accommodation and food services sector.¹¹ It is not entirely clear where the growth rates have come from, somewhat undermining the credibility of the claim. Nevertheless, taking the comparison of labour productivity and the real (producer) wage as a point of departure, ARCA’s claim can be examined.

⁹ [Industry employment guide | Australian Bureau of Statistics](#)

¹⁰ [Unit labour costs | Australian Bureau of Statistics](#)

¹¹ Australian Restaurant & Café Association, Initial Submission to the Annual Wage Review 2025-26, available: [c2026-arca-annual-wage-review-submission-260326.pdf](#), p. 9

Using quarterly derivations of real GVA per hour worked from the National Accounts and Labour Account, between December 2010 and December 2025, labour productivity in the Accommodation and food services industry fell 4.6 per cent, although the real producer wage fell further, declining 7.6 per cent over the same period. Figure 7 also suggests that there has been no substantial divergence between labour productivity and producer real wages on the scale suggested by ARCA, although in the near-term real producer wages have fallen faster than labour productivity, with the real producer wage declining 1.9 per cent over the year to December 2025 compared to a 1.5 per cent decline in labour productivity. As ARCA does not provide conventional sourcing, it is challenging to conjecture on where the numbers have been taken, but using conventionally published data suggests that ARCA's stylised graph does not accurately reflect productivity and real wage outcomes in Accommodation and food services.

Figure 7: Labour productivity and real producer wages in Accommodation and food services

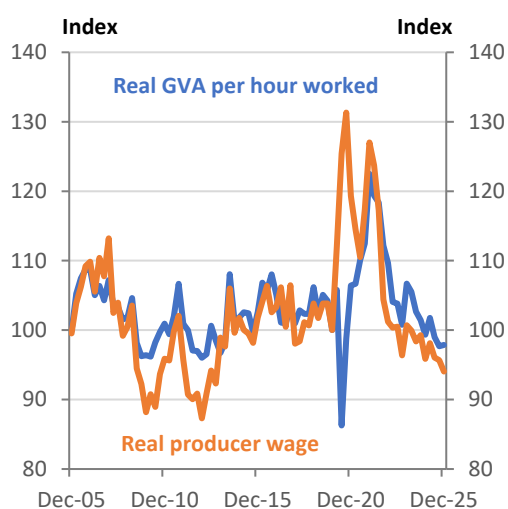
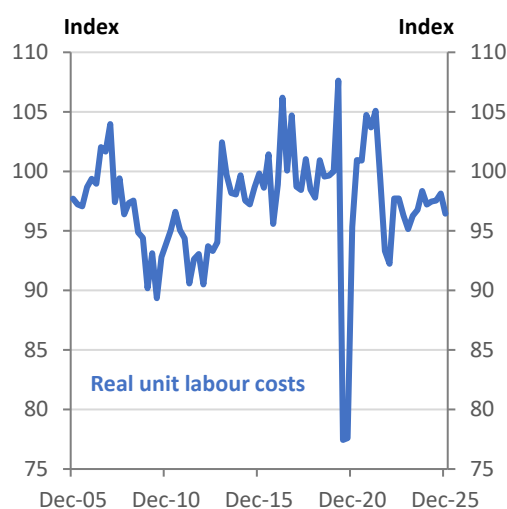


Figure 8: Real unit labour costs in Accommodation and food services



Source: ABS Australian National Accounts: National Income, Expenditure and Product, December 2025, ABS Labour Account, December 2025, ABS Labour force, Australia, detailed & ACTU calculations

26. The Panel may also wish to note in passing that real unit labour costs in the Accommodation and food services industry fell 0.8 per cent over the year to December 2025, and are down 7.9 per cent since September 2021, as noted in Paragraph 24 and Figure 6 earlier. Real unit labour costs in the industry are also down 3.5 per cent since December 2019.
27. Returning to productivity, Ai Group advances a notion that market sector (ex. mining) productivity is 'below its long-run trend at the end of 2025', with an accompanying visual representation in Figure 16 of its submission.¹² This is a significant claim to make. As Ian Maclean reminds economic analysts, 'it is especially important to be cautious about overinterpreting short-run movement: productivity measures are highly volatile, hence sensitive to the choice of end points for any analysis of trends'.¹³ Figure 9 and Figure 10 show the same productivity data with very different trend estimations, with the differences being derived from the choice of (semi-)arbitrary but differing reference points. Figure 9 uses December 1995 as a starting point as it is the peak in headline inflation after the 1990s recession, before it started to return to the RBA's target band – the first test of the new inflation targeting regime. Figure 10 uses December 2011, as this is when the terms of trade peaked and began to turn once mining exports began to ramp up. These reference points are not used to advance any argument other than the choice of trend should be based on analytical considerations that reflect the history and development of Australia's economy. It is not sufficient to apply

¹² AiG Initial Submission, pp. 19-20

¹³ Maclean, Ian, *Why Australia Prospered*, Princeton University Press, Princeton, 2013, pp. 237-238

a trend estimation to a data set without elaborating on the choice of periodisation and the analytical framework that informs that choice.

Figure 9: Market ex. mining productivity, Dec-95 to Dec-25

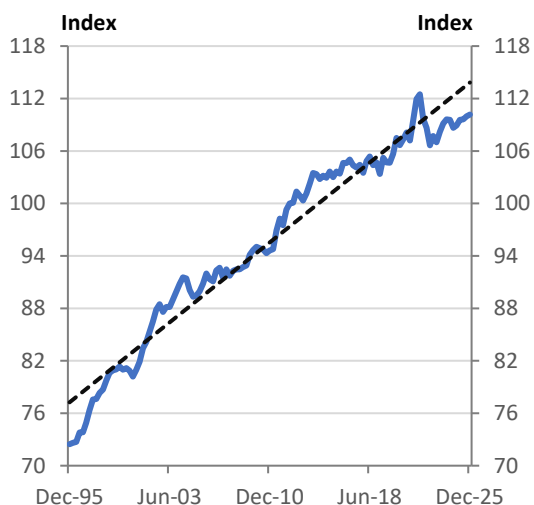
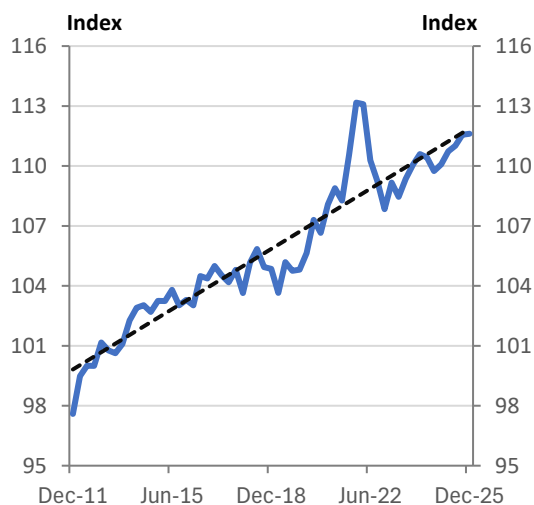


Figure 10: Market ex. mining productivity, Dec-11 to Dec-25



Source: ABS Australian National Accounts: National Income, Expenditure and Product, December 2025, ABS Labour Account, December 2025 & ACTU calculations

28. Further, as Maclean notes, economic development depends on history, the quality of institutions and other related factors.¹⁴ The current historical conjuncture illustrates the challenges in analysing shifts in trends. In the middle of 2025, NAB published a short note exploring whether the global economy, and domestic economies within that, were undertaking a regime change. NAB noted that the ‘concept of regime change is useful for thinking about longer-term shifts in trends’, with NAB going on to argue that ‘we have now entered a new, multi-decade economic and political cycle’.¹⁵ The concept of “regime” is common in economic sociology and economic history, and helps to frame significant changes in political and economic institutions, such as the advent of globalisation and market-based reform in the 1980s and the more regulated ‘golden age’ institutions that were in place after the Second World War and the Bretton Woods negotiations.¹⁶ NAB suggests that the new regime, which they date from Brexit and the first Trump Presidency, is more inward looking, with the possibility of a ‘less efficient organisation of global production and trade’, with implications for productivity growth domestically as Governments respond to domestic and international political and economic pressures.¹⁷
29. The central point here is that there are a range of complexities in determining with any certainty a regime of accumulation and any trends for productivity and growth that might throw up. In consequence, Ai Group’s long declarations around productivity trends should be treated with extreme caution and as existing at a considerable distance from sufficient to inform a precise determination on an extremely complex topic.

3.2 Labour market

30. Several employer groups asserted that changes in the minimum wage have adverse effects on employment. ACCI asserts that ‘significant wage increases could inhibit the ability of employers to continue to employ

¹⁴ Maclean, Ian, *Why Australia Prospered*, Princeton University Press, Princeton, 2013, pp. 5-7

¹⁵ NAB, ‘Long-term signal vs Short-term noise’, 23 June 2025, available: [NAB Chief Economist Update – 23 June 2025](#)

¹⁶ See for example Kotz, D., McDonough T. & M. Reich (eds.), *Social Structure of Accumulation: the political economy of growth and crisis*, Cambridge University Press, Cambridge, 1994 and Boyer, R. & Y. Saillard (eds.), *Régulation Theory: the state of the art*, Routledge, London & New York, 1995

¹⁷ NAB, ‘Long-term signal vs Short-term noise’, 23 June 2025, available: [NAB Chief Economist Update – 23 June 2025](#)

workers on the [minimum wage]'.¹⁸ COSBOA conjectures that 'Above-inflation wage increases risk discouraging hiring, particularly for young and entry-level workers'.¹⁹ MGA state that 'further significant increases in minimum wages are likely to result in: reduced employee hours, reduced staffing levels, [and] constrained trading hours'.²⁰ Similarly, NFF speculate risks of reduc[tions in] labour demand, as [employers] adjust by cutting hours or roles'.²¹

31. A survey of the minimum wage literature by Dube and Linder in 2024 found a general consensus that employment effects of minimum wage increases are very small, and in certain cases can be positive.²² A similar study by Anxo in 2024 also found that negative effects of minimum wages on employment are close to zero.²³ A more extensive survey of the minimum wage literature can be found in section 9.1 of the ACTU initial submission to the 2024-25 Annual Wage Review, though the conclusion that moderate and regular increases in minimum wages do not result in significant dis-employment effects remains the same.
32. On the labour market theme, in its submission, ACCI infers from recent movements in job vacancy data that 'With job vacancies falling over the year...and private-sector job vacancies doing most of the adjustment, the labour-demand pulse is cooling rather than accelerating'.²⁴ ACCI goes on to suggest this should act as a moderating factor during the course of this Review.
33. Recently published job vacancy data points in the other direction. In seasonally adjusted terms, job vacancies rose 3.7 per cent over the year to February 2026, the first annual increase since February 2023. The main driver of the outcome was the private sector, which contributed 3.2 percentage points to annual growth. An industry breakdown is also available in the job vacancy data, though this is not published in seasonally adjusted terms. The largest contributor to annual growth on an industry basis was the group of five market award-reliant industries, which contributed 2.2 percentage points to annual growth (see Table 1 below). These outcomes are consistent with the view of an upswing in private sector activity being well underway and a resulting uptick in labour demand, which appeared to be strengthening prior to the shift in the stance of monetary policy and the US-Israeli attack on Iran.

Table 1: Contributions to annual growth in job vacancies

	Feb-25	May-25	Aug-25	Nov-25	Feb-26
All industries (sa)	-9.6	-2.9	-1.4	-5.1	3.7
Private sector ctg	-8.8	-2.5	-2.3	-6.0	3.2
Public sector ctg	-0.7	-0.3	0.8	0.9	0.6
All industries (og)	-9.3	-2.7	-1.8	-5.1	4.1
Other Market ctg	-5.0	0.8	-1.3	-3.0	1.5
Market award ctg	-1.9	-1.6	0.8	-2.0	2.2
Non-market ctg	-2.3	-1.9	-1.4	-0.1	0.3

Source: ABS Job vacancies, Australia & ACTU calculations

Note: Contributions may not sum to total due to rounding barriers

¹⁸ ACCI Initial Submission, p. 6

¹⁹ COSBOA Initial Submission, p. 5

²⁰ Master Grocers Australia, Initial Submission to the Annual Wage Review 2025-26, available: [Master Grocers Australia - Annual Wage Review 2026 Initial Submission](#), p. 2

²¹ National Farmers Federation, Initial Submission to the Annual Wage Review 2025-26, available: [c20261-national-farmers-federation-awr-submission-260326.pdf](#), p. 4

²² Dube A & Lindner AS (2024), Minimum wages in the 21st century, Handbook of Labor Economics (Amsterdam: Elsevier) Volume 5, Ch.4, 2024, Pages 261-383

²³ Anxo D (2024), The EU Directive on Adequate Minimum Wages: Preliminary Assessment of Potential Impacts, Swedish Institute for European Policy Studies

²⁴ ACCI Initial Submission, p. 20

34. In analysing the labour market, AiG point to a decline in the participation rate as revealing ‘a clear weakening in the labour market’, suggesting that falling participation has ‘acted as a shock absorber that has prevented labour market weakening manifesting in a rising unemployment rate’.²⁵
35. AiG’s interpretation of the participation rate overlooks an important, although easy to miss, dynamic. While it is true that there was a decline in the participation rate in the year to December 2025, disaggregating by age shows that in the main, the decline in participation in the year to December is linked to a decline in participation for workers aged 55 and over. Participation for this cohort fell 0.7 percent points, from 37.2 per cent in December 2024 to 36.4 per cent in December 2025. Over the same time period, participation was mostly unchanged in the other cohorts, if not a little up in some cases (see Table 2). From the perspective of the March quarter, participation for workers aged 45-54 declined by 0.2 percentage points between March 2025 and March 2026, and participation for workers aged 55 and over fell 0.4 percentage points across that period. Participation for 25-34 year olds and 35-44 year olds was unchanged between March 2025 and March 2026, while the youth participation rate rose 1.1 percentage points (noting rounding barrier challenges in each case).
36. The decline in participation rates for older workers does not really show an underlying weakness in the labour market. The ABS noted in March 2025 that there had been ‘higher levels of retirement in Australia in recent months’, which seems to have continued and appears to explain the drop off in participation among older cohorts relative to the younger ones.²⁶ Westpac has also argued that cost of living pressures meant ‘at the margin’ older workers were seeming to ‘temporarily delay retirement plans or come out of retirement in order to offset these [cost of living] pressures’.²⁷ In the cohorts most relevant to the Panel’s decision, participation does not look to have changed much since the past Review, and in the case of young people has picked up a little bit. The underlying dynamic is older workers leaving the labour force in favour of retirement, not some latent weakness in the labour market. It is challenging to think that these workers, having left employment to retire entirely from the workforce, are in some way discouraged workers who would otherwise have showed up in the unemployment rate. Instead, the linear passage of time better explains the exit of this cohort from the workforce, not discouragement because of adverse labour market conditions.

Table 2: Labour force participation by age cohort

	Dec-24	Mar-25	Jun-25	Sep-25	Dec-25	Mar-26
15-24 year olds	70.7	70.3	70.5	70.9	71.1	71.4
25-34 year olds	86.8	86.9	86.8	86.5	86.7	86.8
35-44 year olds	87.8	87.9	88.2	87.7	87.8	87.8
45-54 year olds	85.5	85.6	85.6	86.0	85.7	85.5
55+	37.2	36.8	36.9	36.7	36.4	36.4

Source: ABS Labour force, Australia, ABS Labour force, Australia, detailed January 2026 & ACTU calculations

3.3 Business indicators

37. Ai Group advance a unique interpretation of the national accounting outcomes for the latter half of 2025, which has a difficult relationship with the data. For example, Ai Group suggest that ‘the economy remains dependent on government stimulus and the non-market sector for growth’.²⁸ In September 2025, on an expenditure basis quarterly growth was driven largely by private sector spending, with contributed 0.9

²⁵ AiG Initial Submission, pp. 9-10

²⁶ [Unemployment rate remains steady at 4.1% in February | Australian Bureau of Statistics](#)

²⁷ Westpac, ‘February Labour Force: retirees retreat?’, 20 March 2025, available: [February Labour Force: retirees retreat? | Westpac IQ](#)

²⁸ AiG Initial Submission, p. 3

percentage points to growth, with the public sector contributing a further 0.4 percentage points to growth, and the rest of the economy detracting 0.8 percentage points. In December both the private and the public sector contributed 0.3 percentage points to quarterly growth, with the rest of the economy adding 0.3 percentage points to growth.

38. Further, on a GVA basis, the main driver of both quarterly and annual growth in both September and December 2025 was the market sector ex. commodities, with the non-market sector the third largest contributor in December 2025 as the economy gathered momentum. It is not clear what is meant by ‘remains dependent’ in Ai Group’s interpretation, but growth would still have been positive and increasing without the non-market sector in the latter half of 2025.

Table 3: Sector contributions to growth in gross value added

	Mar-25	Jun-25	Sep-25	Dec-25
Quarterly growth	0.4	0.8	0.4	0.8
Commodities	0.0	0.4	-0.2	0.3
Market ex. commodities	0.3	0.3	0.5	0.4
Non-market	0.1	0.1	0.1	0.0
Annual growth	1.2	1.7	2.0	2.4
Commodities	-0.1	0.5	0.2	0.5
Market ex. commodities	0.7	0.6	1.2	1.5
Non-market	0.4	0.6	0.4	0.4

Source: ABS Australian National Accounts: National Income, Expenditure and Product, December 2025 & ACTU calculations

Note: differences due to rounding barriers and exclusion of Ownership of dwellings component of GVA

39. Ai Group also argued that data centre construction provided ‘a fillip to private sector investment in 2025’, suggesting that ‘the recovery is yet to become broad-based’.²⁹ While it is true that data centre construction contributed to the increase in investment, it is important to recall that investment has been at reasonably high levels since June 2023 (see Figure 4 of the ACTU’s initial submission) and that this state of affairs was in place prior to the boost provided by data centres. Further, the ABS commented that ‘Investment across most asset classes maintained high levels’ in the media release accompanying the December quarter national accounts.³⁰ While the industry breakdown of investment will not be clear until the release of the annual national accounts in October 2026, it is rather overstating things to suggest investment growth is concentrated only in data centre construction.
40. Ai Group further note that the ‘recovery in the Australian economy has triggered an incipient improvement in business profitability during the latter half of 2025’ but suggest that this ‘wholly driven by a recovery amongst unincorporated business entities’.³¹ While non-mining unincorporated businesses contributed 1.8 percentage points to quarterly growth in December, non-mining company profits contributed a more substantial 3.8 percentage points to total quarterly growth of 5.5 per cent in December. Similarly, while non-mining unincorporated businesses contributed 1.7 percentage points to annual growth in December, non-mining companies contributed 2.9 percentage points to total annual growth of 4.6 per cent in December 2025. Unincorporated businesses also detracted from both quarterly and annual growth in non-mining profits in the September quarter 2025. It is imprecise to suggest that the recovery in profits was wholly driven by unincorporated business entities.

²⁹ AiG Initial Submission, p. 5

³⁰ ABS, ‘Australian economy grew 0.8% in the December quarter’, 4 March 2026, available: [Australian economy grew 0.8% in the December quarter | Australian Bureau of Statistics](#)

³¹ AiG Initial Submission, p. 3

Figure 11: Quarterly growth in non-mining profits

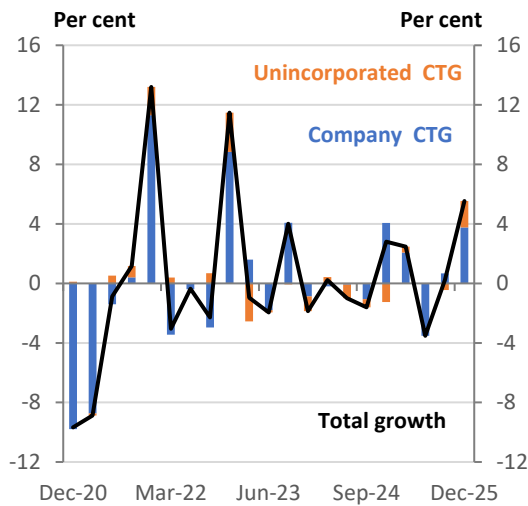
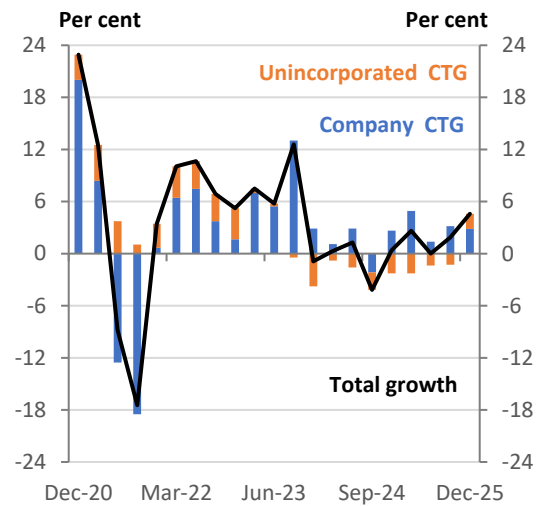


Figure 12: Annual growth in non-mining profits



Source: ABS Business indicators, Australia, December 2025 & ACTU calculations

41. In the course of the discussion of profits, it is worth highlighting that ACCI asserted that the improvement in profits was ‘due to a seasonal boost over the Christmas period and a rise in the prices of gold and silver’.³² As noted in the previous paragraph, non-mining profits rose over the year to both September and December 2025. Further, the ABS publishes seasonally adjusted data. Given the Christmas period occurs with relative stability year to year, the seasonal adjustment process is able to account for this in a straight-forward fashion. The improvement in profits at the end 2025 can be separated from the usual Christmas boost that would show up in data that has not been seasonally adjusted, so it is not informative to point to the Christmas period as a complicating factor.
42. In the discussion of profits, Ai Group note that ‘Industry-level analysis shows margin decline was widespread in 2025’.³³ Part of the context for this is the backdrop of the character in inflation that Australia endured from 2022 onwards. As Olivier Blanchard, former IMF chief economist, observed in 2022:
 - (a) A point which is often lost in discussions of inflation and central bank policy. Inflation is fundamentally the outcome of the distributional conflict, between firms, workers, and taxpayers. It stops only when the various players are forced to accept the outcome. The source of the conflict may be too hot an economy: In the labor market, workers may be in a stronger position to bargain for higher wages given prices. But, in the goods market, firms may also be in a stronger position to increase prices given wages. And, on, it goes. The source of the conflict may be in too high prices of commodities, such as energy. Firms want to increase prices given wages, to reflect the higher cost of intermediate inputs. Workers want to resist the decrease in the real wage, and ask for higher wages. And on it goes.³⁴
43. Inflation was easing for the first half of 2025 and for the two years prior, a reflection of the initial abatement of the conflict of the distribution of income at the time. Some easing in implied profit margins in some industries in 2025 is also a reflection of this outcome. Further, Blanchard’s comments are congruent with the deliberations of the Reserve Bank Board in February 2025, where members ‘considered whether the recent easing in inflation at a time of subdued growth in activity was attributable to some firms’ profit

³² ACCI Initial Submission, p. 14

³³ AiG Initial Submission, p. 14

³⁴ Olivier Blanchard on x (formerly twitter), 31 December 2022, quoted in Lavoie, Marc, ‘Conflictual Inflation and the Phillips Curve’, *Review of Political Economy*, vol. 36, no. 4, 2024, pp. 1397-1419

margins being compressed (as had been reported in liaison with firms)³⁵ and with comments by Treasury Secretary Wilkinson (cited in the ACTU’s initial submission and reproduced here for ease of reference). Secretary Wilkinson argued that ‘the pick-up in underlying inflation reflects a combination of temporary and more persistent factors’, with ‘business and service providers rebuilding margins following a period in which they were unable to pass higher input costs onto households’ among the temporary factors, alongside seasonal travel components.³⁶ In fact, Ai Group’s own suggestion that wages outcomes are a ‘factor accounting for reduced business profitability and margins in 2025’ would also be consistent with Blanchard’s reminder on the character of inflation.³⁷

44. That notwithstanding, as the ACTU noted in paragraph [41] and [42] of its initial submission, in aggregate implied profit margins for the non-mining part of the economy were largely unchanged over 2025 and only marginally lower than December 2024, while wage to income ratios were also mostly unchanged from late 2024 through to 2025.

3.4 Relative Living Standards and the Needs of the Low Paid

3.4.1 ACCI

45. ACCI’s treatment of data and other information concerning relative living standards and the needs of the low paid in its Initial Submission is such as to significantly diminish the assistance it may otherwise have provided to the Panel.
46. At paragraph [83] of its Initial Submission, ACCI submits that “the minimum wage of \$948 per week compares favourably at two thirds (66 per cent) of the median wage”. The utility of the comparison is however, much reduced by the fact that ACCI, in making the comparison, appears to have compared a *full-time* minimum wage with EEH figures for a median wage based on both *full-time and part-time* employees.³⁸
47. At paragraphs [127] and [128] of its Initial Submission, ACCI relies on information regarding median household disposable income taken from an Australian Institute of Health and Welfare (AIHW) article and submits that “household incomes have normalised, reducing the case for a large, additional “catch up” increase through minimum and award wages”. The AIHW data contained in the article suggest that there has been growth in median household disposable income, however, ACCI makes no adequate case as to why such growth should be a reason to deny increases to low paid award-reliant employees. Further, in relying on the AIHW article to suggest household incomes of “normalised” and no significant catch up in award wages is necessary, ACCI fails to acknowledge that the article *also* reports that “the prevalence of financial stress increased in 2023 to the highest rate in 11 years, reflecting financial pressures associated with the cost-of-living crisis” and that there were “record high proportions of people missing meals”.³⁹
48. At paragraph [132] of its Initial Submission, ACCI contends that “[j]ust because some contributors to the Annual Wage Review use the two-thirds median earning in the campaign to seek increases to the national and modern award wages does not make it a valid assumption”. That contention overlooks that the two-thirds median earnings benchmark is not merely a feature of submissions by parties, but reflects the Panel’s own construction of s 134(1)(a) in previous Review decisions, in which *the low paid* have been

³⁵ Minutes of the Monetary Policy Meeting of the Reserve Bank Board, 17-18 February, available: [18 February 2025 | Minutes of the Monetary Policy Meeting of the Board | RBA](#)

³⁶ Senate Economics Committee, ‘Treasury Portfolio: Treasury’, Australian Parliament, Canberra, 11 February 2026, available: [2025-26 Additional estimates – Parliament of Australia](#)

³⁷ AiG Initial Submission, p. 15

³⁸ Australian Bureau of Statistics. (2026). *Employee earnings and hours, Australia* (May 2025). ABS. <https://www.abs.gov.au/statistics/labour/earnings-and-working-conditions/employee-earnings-and-hours-australia/latest-release>. See also the *Statistical Report – AWR 2026 (Version 3)* at Table 8.1.

³⁹ Australian Institute of Health and Welfare. (2025). *Income and income inequality*. AIHW. <https://www.aihw.gov.au/reports/australias-welfare/income-and-income-inequality>

treated as encompassing full-time employees earning below that level.⁴⁰ Notably, the Australian Government in its Initial Submission submits that “the minimum wage bite”, defined as the ratio between the NMW and median full-time earnings, is a *useful* indicator of the relative living standards of the low-paid. The Australian Government also provides an important contextualisation of the “minimum wage bite” over the last 30 years.⁴¹ Chart 5.1 of the Australian Government’s Submission shows that while the minimum wage bite has increased since the lows of the COVID-19 disruption, it remains well down in historical terms.

49. At paragraph [135] of its Initial Submission, ACCI suggests that *all* full-time households that receive the National Minimum Wage receive a disposable income above the poverty line⁴² and that hours worked and household composition are decisive in living-standards outcomes. Notably however, several full-time households, including all “Single-earner couple” households are recorded as having a disposable income below the poverty line. Further, in our submission, the needs of the low paid may include having dependents and/or not being able to work full-time and consideration of those matters are relevant to the Panel’s considerations of the fairness of the national minimum wage and award wages. Such matters cannot reasonably be treated only, or even primarily, as a matter for the tax-transfer system.

3.4.2 HIA

50. At page 15 of its Initial Submission HIA submits that “real wage catch-up has been achieved”. The submission is not supported by the evidence before the Panel. As demonstrated in Chart 3 at page 25 of the Commission’s Background Paper, *C12 and C13 classification rates in modern awards*, once the RBA’s CPI forecasts made prior to the Israel–US attacks on Iran are taken into account, real wages have not caught up on a point-in-time basis. Further, the submission ignores the accumulated erosion in earnings over the recent high-inflation period (represented in Chart 3 by the area between the CPI line and the lines for the NMW and C10 rates), an amount which the Panel estimated in last year’s Review decision to be 14.4 per cent for employees reliant on the C10 rate and 6.0 per cent for employees reliant on the NMW.⁴³
51. At page 15 of its Initial Submission, HIA submits that household poverty is more appropriately addressed through the tax-transfer system. That position is difficult to reconcile with the absence of corresponding proposals in HIA’s pre-Budget submissions⁴⁴ and, being expressed at a high level of generality, is of limited assistance to the Panel.
52. The ACTU does not suggest that the tax-transfer system is irrelevant; however, reliance on transfers alone cannot displace the central role of minimum wages in addressing low pay. This point has been made in several earlier decisions of the Panel.
53. In the Annual Wage Review 2013-2014 the Panel observed at paragraph [375]:
- Other major factors are eligibility for and levels of social welfare payments, the distributional impact of direct household taxes, household composition and numbers in the workforce, income from assets and self-employment. Some of these factors can and do mitigate the effect of the falling relative value of award rates of pay on the distribution of disposable household income. But less work would be required of these other determinants if the relative value of award rates of pay held their own.*
54. The issue was also addressed in the Annual Wage Review 2016-2017, where the Panel observed:

⁴⁰ AWR Decision 2025 [2025] FWCFB 3500 at [91].

⁴¹ Commonwealth Government, Initial Submission to the 2025-26 Annual Wage Review at Part 5.1.

⁴² See Table 8.6 of the Statistical report—Annual Wage Review 2026 (version 3).

⁴³ AWR Decision 2025 [2025] FWCFB 3500 at [105].

⁴⁴ Housing Industry Association. (2026). *Housing Industry Association plan for the 2026–27 Federal Budget: Pre-Budget submission*. HIA. <https://hia.com.au/our-industry/-/media/files/newsroom/submissions/2026/2026-2027-hia-pre-budget-submission.pdf>.

[438] Employers pay for a wage increase and taxpayers (individuals and corporations) pay for an increase in net transfers to low-income households. This obvious point means that any assessment of the 2 redistributive instruments must take into account the cost of raising and distributing the revenue required to deliver the welfare increases. The latter costs include the distortionary effects of taxes and social welfare benefits and the administrative costs of the tax transfer system....

[442] We make one final point. A number of parties emphasise the benefits of being employed. These benefits extend beyond just the income earned, to include greater dignity and self-respect and capacity for social inclusion. It is consistent with this view to believe that dignity and self respect, and sense of fairness, is enhanced when individuals and families are paid a fair wage and are able to rely more on what they earn and less on social welfare benefits to sustain themselves. A dollar received as a wage carries a different meaning from a dollar received as a welfare transfer.

55. The ACTU dealt in detail in last year's Review with submissions from employer groups contending that issues of low incomes are more appropriately addressed through the tax-transfer system. Those submissions included analysis demonstrating historical low rates of social assistance benefits and high rates of personal income taxation as a share of gross household income⁴⁵ and directed the Panel to research showing low rates of government benefits received by low-paid workers.⁴⁶ The ACTU continues to rely on those submissions.

3.4.3 AI Group

56. The Ai Group, unlike ACCI and HIA, acknowledges that real wages for award-reliant employees have not been restored on a point-in-time basis. In its Initial Submission, the Ai Group includes a chart (Figure 17 at page 25) showing that the real value of the C10 rate - the relevant benchmark for award rates- remains 0.5 per cent below its July 2021 level.
57. Importantly however, in utilising a point-in-time figure immediately upon the latest wage increase, the Ai Group Chart fails to capture the accumulated loss that award-employees have suffered since 2021. Workers over this period have borne several years of reduced purchasing power. Even if wages are restored to parity with prices at a later point, the income foregone over that period is not recovered. These are matters that the Panel has previously been mindful of. The loss in purchasing power, which will have manifested for the low paid as material deprivation, constrained or diminished savings and/or increased reliance on indebtedness, was specifically, and with respect, appropriately, recognised at paragraphs [104] to [107] of last year's AWR Decision. Nor does the Ai Group Chart estimate the loss incurred, and likely to be incurred, in the time period following the wage increases on 1 July 2025. Given those limitations, while appreciating that Ai Group has not made the inaccurate assertions of a number of other employer groups in relation to "catch up", the ACTU respectfully submits that the Commission's Background Paper, *C12 and C13 classification rates in modern awards*, better demonstrates in Chart 3 on page 25, the losses and likely losses (albeit on now dated forecasts) for award-reliant employees.
58. There is also a broader conceptual difficulty with relying on point-in-time measures of "restoration". A submission that real wages have been restored because parity is briefly achieved at 1 July implicitly accepts that award-reliant employees may nonetheless experience renewed real wage erosion over the ensuing year as prices continue to rise. Framed in that way, "restoration" describes a momentary alignment rather than a durable outcome. Viewed more substantively, the relevant question is not whether real wages are restored for a single point in time, but whether minimum rates are set at a level that maintains real purchasing power on an ongoing basis, having regard to forecast inflation over the forthcoming year. An adjustment that merely delivers temporary parity, before real wages again decline through the year, does

⁴⁵ [ACTU Initial Submission to the 2024-2025 Review](#) at paragraph [341] and [343].

⁴⁶ [ACTU Reply Submission to the 2024-2025 Review](#) at paragraph [122].

not restore real wages in any meaningful or lasting sense. This is a matter the ACTU raised in its Initial Submission, and it underscores the importance of considering forward-looking price movements when assessing whether award-reliant employees' real wages have, in fact, been restored.

3.5 C13 Phase-out identified for consideration in the 2026 Review

59. The employer groups' response to the C13 phase-out identified for consideration in the 2026 Review fall into 3 categories. First, employer groups who directly oppose the proposal. Second, those who have not explicitly, or squarely, opposed the proposal but sought to apply caveats up to and including that the proposal not be dealt with by the Panel but subsequent proceedings under s.157. Third, those who have expressed no view.⁴⁷ The submissions below respond to the first and second categories.

3.5.1 Employer Groups Opposed to the Movement

ACCI

60. ACCI's Initial Submission make clear that ACCI opposes any additional increase in award rates to the C12 level.
61. At paragraphs [114] and [115] of its Initial Submission, ACCI contends that "broad-based real wage erosion has largely been addressed at the bottom of the award system". As the ACTU has noted elsewhere in these submissions, that contention is inconsistent with the Panel's findings in last year's Annual Wage Review and contrary to the Commission's recent research published for the purposes of the current Review.⁴⁸
62. At paragraphs [108] to [110] of its Initial Submission, ACCI contends that the minimum wage should be confined to "the smallest cohort of employees possible". While modern awards operate as a safety net, there is no statutory foundation for the proposition that the coverage of the lowest adult classifications within award structures should be limited by reference to a predetermined or preferred cohort size. Further, insofar as the Panel's proposal would result in greater commonality in the lowest ongoing adult minimum rate across the modern award system, such an outcome appears consistent with the safety-net character of modern awards.
63. At paragraphs [110], [116] and [119] of its Initial Submission, ACCI raises concerns about the cost of entry-level employment. While the Panel has previously acknowledged the proposition that comparatively higher growth in minimum wages may, over the longer term, affect the availability of entry-level and lower-skilled jobs, it has also noted the absence of academic literature establishing such effects.⁴⁹
64. Significantly, the Panel has also repeatedly found no evidence that minimum wage increases determined by the Panel have resulted in measurable disemployment outcomes. As the Panel observed most recently in last year's Annual Wage Review, relatively high nominal wage increases awarded over the past 3 Reviews did not give rise to any discernible disemployment effects.⁵⁰
65. The ACTU has in previous Reviews made extensive submissions concerning the relationship between minimum wage increases and employment outcomes. The ACTU continues to rely on those submissions.⁵¹

⁴⁷ The Initial Submissions of the following make no direct reference to the proposal: Australian Restaurant and Café Association, Council of Small Business Organisations Australia, Master Grocers Australia, ABI and NSW Business Chamber, South Australian Wine Industry Association and the Australian Hotels Association.

⁴⁸ A point recognised by the Panel in the *AWR Decision 2025* at [103]-[104] (Chart 2), [149] and in the recent Background Paper *C12 and C13 classification rates in modern awards* at page 25 (Chart 3).

⁴⁹ *AWR Decision 2016* [2016] FWCFB 3500 at [492]. The matter is discussed from [489] to [492].

⁵⁰ *AWR Decision 2025* [2025] FWCFB 3500 at [140].

⁵¹ See Chapter 9 of the ACTU's [Initial Submission](#) to the 2025 Annual Wage Review.

66. The Commission’s newly updated Background Paper, *C12 and C13 classification rates in modern awards*,⁵² provides important context to ACCI’s submissions concerning the cost of the proposal and its asserted implications for entry-level employment. Using EEH data, the Background Paper reports that:
- (a) Approximately 1 per cent of employees—around 119,000 workers—receive an adult wage at the C13 rate or below;⁵³
 - (b) Of that cohort, an estimated 59.6 per cent are covered by a modern award;⁵⁴
 - (c) In absolute terms, the largest numbers of employees receiving wages at or below the C13 level are found in accommodation and food services, manufacturing, administrative and support services, retail trade, and health care and social assistance (noting that the data at this level is not disaggregated by method of setting pay);⁵⁵ and
 - (d) Measured as a proportion of employees within an industry, the highest incidence of employees paid at or below the C13 level is in accommodation and food services (3.5 per cent), followed by arts and recreation services (3.2 per cent), other services (2.1 per cent), manufacturing (2.1 per cent) and administrative and support services (2.0 per cent), again noting that these proportions are reported on an industry basis and are not confined to award-reliant employees.⁵⁶
67. While the Background Paper acknowledges issues of standard error with respect to a number of the estimates, the data does not suggest industries that are likely to be materially affected by the implementation of the Panel’s proposed, and relatively modest, increase in the lowest adult modern award minimum rates.
68. We note that the relatively small number of modern award employees on C13 or NMW level wages identified in the Background Paper appears consistent with the related data contained in the Commonwealth Government’s Initial Submission to the Review on page 15 (in Chart 4.1).
69. Further, as ACCI itself acknowledges, approximately 50 per cent of classifications set between the C13 and C12 rates are within 1 per cent of the C12 level. That observation necessarily recognises that the additional cost associated with moving those classifications to the C12 rate would be modest.⁵⁷ However, contrary to ACCI’s submission, we submit that there is no basis for concluding that such rates have “naturally adjusted” in a manner that would render them inappropriate for further consideration in the Annual Wage Review.
70. The likely impact of the Panel’s proposal on key industries for entry-level employment can also be considered through the lens of ABS data identifying industries with the largest numbers of new entrants to the workforce. The most recent ABS data, covering the 12 months to February 2025, indicates that the top five industries were:
- (a) Health care and social assistance (213,000);
 - (b) Accommodation and food services (191,700);
 - (c) Retail trade (178,000);
 - (d) Construction (100,000); and
 - (e) Professional, scientific and technical services (95,400).⁵⁸

⁵² Hayler N, Kuzyk A, Rozenbes D & Wray T (2026), *C12 and C13 classification rates in modern awards*, Fair Work Commission Background Paper 2026, April.

⁵³ *Ibid* at page 26.

⁵⁴ *Ibid* at Table 4.

⁵⁵ *Ibid* at Table 5.

⁵⁶ *Ibid*.

⁵⁷ See paragraph [112] of ACCI’s Initial Submission.

⁵⁸ Australian Bureau of Statistics. (2025). *Job mobility, February 2025*. <https://www.abs.gov.au/statistics/labour/jobs/job-mobility/latest-release>

71. The *AWR 2026 Statistical Report* indicates that, with the exception of accommodation and food services—where around 60 per cent of employees are award-reliant, the industries with the largest numbers of new entrants generally have a minority of employees dependent on modern award rates. Award reliance is reported at 32.1 per cent in health care and social assistance, 32.0 per cent in retail trade, 12.4 per cent in construction, and 7.2 per cent in professional, scientific and technical services.⁵⁹
72. Further, in a number of key awards applying in these industries, there is no adult minimum rate for ongoing employment below the C12 level. That is the case, for example, under the *Social, Community, Home Care and Disability Services Industry Award 2010*; the *Aged Care Award 2010*; the *Health Professionals and Support Services Award 2020*; the *Pharmacy Industry Award 2020*; the *General Retail Industry Award 2020*; the *Fast Food Industry Award 2020*; and the *Building and Construction General On-site Award 2020*. Other relevant awards applying in the 5 top new-entrant industries have entry-level classification lower than the rate paid to adults for ongoing employments and provision for junior rates. For example, the *Hospitality Industry (General) Award 2020*, the *Restaurant Industry Award 2020* and the *Registered and Licensed Clubs Award 2020* have an “Introductory Level” as well as junior rates up to the age of 20 years (in clauses 18.4, 16.2 and 18.6 respectively).
73. For the above reasons, the Panel can comfortably find that adult award minimum rates below the C12 level operate primarily within a relatively narrow range of roles in those industries most associated with the highest numbers of workforce entry. Moreover, the Panel can be satisfied on reasonable grounds that the likely impact of moving the lowest adult award rates to the C12 level would be minimal in terms of any potential disemployment effects or impact on entry level employment.
74. To the extent that ACCI contends that low-paid award employment operates as a pathway to higher wages, both in relation to the lift to C12 proposal and more generally (“the stepping stone effect”),⁶⁰ the Commission’s Research Report, *Labour mobility of award-reliant employees*,⁶¹ provides further relevant (if partially incomplete) insight into patterns of job mobility, skill development and earnings progression. The Research Report finds, *inter alia*, that:
- (a) Award-reliant employees are more likely than employees whose pay is set by other methods to leave the workforce, including to commence or continue study.⁶²
 - (b) More than two-thirds of award-reliant employees who changed employers also changed occupation.⁶³
 - (c) Award-reliant employees change employers at a higher rate than employees covered by other methods of setting pay.⁶⁴
 - (d) Award-reliant employees who change employers experience higher median income growth than award-reliant employees who remain with the same employer, a pattern also observed for employees covered by other methods of setting pay.⁶⁵
75. While the data is not confined to employees in the lowest award classifications, it is nevertheless notable that the Research Report identifies no method of pay-setting that operates, in practice, as a more effective pathway for skill development or career advancement through continued employment with the same employer as compared to by changing employers.⁶⁶

⁵⁹ Table 7.1.

⁶⁰ See paragraphs [100] to [107] and [119] of ACCI’s Initial Submission.

⁶¹ Strong J & van Netten J (2026), *Labour mobility of award-reliant employees*, Fair Work Commission Research Report 1/2026, February.

⁶² *Ibid* at Tables 3 and 5.

⁶³ *Ibid* at page 6.

⁶⁴ *Ibid* at Tables 6 and 17.

⁶⁵ *Ibid* at Table 19.

⁶⁶ *Ibid*.

76. The ACTU does not deny that entry-level work, regardless of method of setting pay, provides useful generic workplace skills and may assist in future workforce participation. However, the data does not appear to demonstrate a large advantage for award-reliant employees, as compared with employees whose pay is set by other methods, in terms of outcomes associated with job switching.⁶⁷ Further, to the extent that job switching for the award-reliant is associated with higher wages, that outcome should, respectfully, be viewed in the context of the operation of award wages as a legal minimum, rather than *necessarily* being indicative of a progression advantage for award-reliant employment. That is to say, it is *prima facie* unsurprising that workers who leave a job paid the legal minimum, experience an increase in pay when switching to a new employer.
77. At paragraph [119] of its Initial Submission, ACCI contends that minimum wages are “intended to function as a transitional safety net, not a permanent destination”. The proposed phase-out of the C13 classification identified for consideration in the 2026 Review is directed to lifting the minimum adult rates applicable to ongoing employment to at least the C12 level. As a result, the classifications primarily the subject of the Panel’s consideration are not, at least as a legal matter, transitional.
78. Nor does the available empirical evidence support the assumption that employment at minimum award rates is necessarily short-lived. While the *Mobility of Low-Paid Workers* Research Paper indicates that average tenure is lower for award-reliant employees than for those covered by collective agreements or individual arrangements, it also shows that a substantial proportion of award-reliant employees remain in the same job for extended periods. In particular, the Paper reports an average tenure of 3.8 years, with just over one in five award-reliant employees (20.5 per cent) remaining in the same job for more than five years.⁶⁸
79. At paragraph [120] of its Initial Submission, ACCI further submits that “broader income adequacy is more effectively addressed through the tax-transfer system rather than further ratcheting award floors”. We note, in a similar vein to our observations with respect to HIA, that while ACCI made representations in its pre-budget submission for, *inter alia*, a lower corporate tax rate, expanded deductions for business, initiatives to lower payroll tax on employers and for the government to reduce spending and balance the budget over the business cycle,⁶⁹ no specific proposal appears to have been made of increased spending or tax benefits for the lowest paid workers. While we again acknowledge that the Panel routinely takes into account specifics of the tax-transfer system, broad and unparticularised appeals to rely on that system in lieu of higher wages appear of comparatively limited assistance to the question of the appropriateness of raising rates to C12.
80. ACCI submits at paragraph [110] of its Initial Submission that an increase in award rates would result in flow-on adjustment claims above the revised minimum. The assertion is speculative, and the mechanism by which such claimed flow-on effects would materialise is unarticulated. Given the very low rates of pay of the workers affected, and the low bargaining power associated with the award-reliant, there appears little reason that the Panel should be concerned that a modest increase in wages for the lowest classification, in a limited number of modern awards, will trigger a broader wages outbreak.
81. Finally, out of an abundance of caution, we note that to the extent ACCI endeavours to draw conclusions on the basis that the paper identifies transitions between different methods of pay-setting, the paper does

⁶⁷ *Ibid.*

⁶⁸ *Ibid* at page 36.

⁶⁹ Australian Chamber of Commerce and Industry. (2026). *ACCI pre-budget submission 2026–27*. <https://acci.com.au/Common/Uploaded%20files/Smart%20Suite/Smart%20Library/7701c570-62da-4aa3-9312-f882dffeac35/ACCI%20Pre-Budget%20Submission%202026-27.pdf> on page 1.

not, contrary to ACCI's submission, provide such information. Instead, the reported data concerns movements *between* employers.⁷⁰

HIA

82. The HIA characterises the C13 phase-out identified for consideration in the 2026 Review as “the wrong vehicle and the wrong moment for structural change of this magnitude” and, under the heading *Disproportionate Impact on Residential Construction*, contends that for small building businesses “already operating at the margin”, the proposal would be equivalent to a second wage increase imposed within the same Review.⁷¹
83. However, the basis for that contention in relation to residential construction is not apparent. The *Building and Construction General On-site Award 2020* does not contain an ongoing adult classification below the C12 rate. In those circumstances, the proposal would not give rise to any “structural change” or additional increase under that award.

3.5.2 Employer Groups not Squarely Opposed but with Substantial Caveats

Ai Group

84. While not appearing to go so far as expressly opposing the C13 phase-out identified for consideration in the 2026 Review, the Ai Group raises a number of concerns and advances substantial qualifications. In particular, the Ai Group contends that the phasing out the C13 rate could not be undertaken on a uniform basis and would instead require award-specific consideration, which the organisation submits is not feasible within the timeframes of the Annual Wage Review.⁷²
85. As the ACTU submitted in our Initial Submission, the ACTU does not support phasing arrangements that would significantly delay increases to the lowest adult minimum rates for ongoing employment. The research reported in the Commission's Background Paper, *C12 and C13 classification rates in modern awards*, suggests that the adjustments required to lift rates equivalent to C13 to the C12 level are modest in scale. For awards containing rates at the equivalent of C13 (of which there are 43)⁷³, the increase would be 3.6 per cent, while for awards with classifications between C13 and C12 (of which there are 52)⁷⁴ of the 93 classifications affected, 44 classifications, fall within 1 per cent (or approximately \$10 per week) of the C12 rate and 27 of the 44 classifications fall within 0.5 per cent of the C12 rate (or approximately \$5 per week).⁷⁵
86. By way of comparison, the Commission has, in matters outside the Annual Wage Review, implemented substantially larger increases through phased arrangements involving tranches well in excess of those contemplated by the Panel's proposal. Recent examples include the phasing of increases for dental assistants and pathology assistants in the *Health Professional and Support Services Award 2020*, which involved an initial tranche of 4 per cent (or no phasing where the increase was below that threshold),⁷⁶ and the increases in the *Children's Services Award 2010*, which commenced with an initial increase of 5 per cent.⁷⁷ A Full Bench has determined phasing arrangements providing for a 10 per cent initial increase (by

⁷⁰ The suggestion is made at paragraph [100] of ACCI's Initial Submission. This appears contrary to the definition of “Job Switching” on page 4 of the paper.

⁷¹ Housing Industry Association, Initial Submission to the Annual Wage Review 2025-26, available: [Initial Submission](#) at paragraph [18].

⁷² The Initial Submission of the Ai Group deal with the issue from pages 22 to 23.

⁷³ Hayler N, Kuzyk A, Rozenbes D & Wray T (2026), C12 and C13 classification rates in modern awards, Fair Work Commission Background Paper 2026, April at page 20.

⁷⁴ *Ibid.*

⁷⁵ *Ibid* at page 21.

⁷⁶ [2025] FWCFB 297 at [44] and [158].

⁷⁷ *Gender based undervaluation -- priority awards review -- Children's Services Award 2010* [2025] FWCFB 283 (10 December 2025).

consent) in the *Aboriginal and Torres Strait Islander Health Workers and Practitioners and Aboriginal Community Controlled Health Services Award 2020*.⁷⁸

87. More recently, the Full Bench determining the phasing of adjustments to junior rates in the *General Retail Industry Award 2020*, the *Fast Food Award 2020* and the *Pharmacy Industry Award 2020* has provisionally proposed 6 monthly increases to certain Junior Rates amounting to 5 percentage points of the adult rate.
88. Finally, the Full Bench in the Review of C14 and C13 rates in modern awards determined to lift C14 rates to C13 (a rise of around 2.7 per cent) without staged phasing. While the increase itself was not phased, the Commission provided transitional lead times of approximately 8 months for most awards and a further 4 months for the *Horticulture Award 2020*, reflecting the higher proportion of employees paid at the C14 rate.⁷⁹
89. While not dismissing the “granular” matters identified by the Ai Group, if what is foreshadowed by the Ai Group are arbitral proceedings outside of the AWR Review process (where work value matters *must* be considered)⁸⁰, we are concerned that it is likely that the proposed lift in wages to the lowest paid will be significantly delayed and what we understand the purpose of the proposal to be, a timely rise in the wage of the lowest paid for cost of living relief, substantially frustrated.

NFF

90. The National Farmers’ Federation submits that the C13 phase-out identified for consideration in the 2026 Review should be approached with caution, advocating for a process that involves, *inter alia*, “clear evidence of need”, “genuine consultation and impact assessment” and “practical transition arrangements and lead time”. The ACTU recognises that several awards applicable to the Agricultural Industry will be affected by the uplifting to C12 proposal including the *Horticulture Award 2020* and the *Pastoral Award 2020* and, further, that the *Horticulture Award 2020* was expected to be the most significantly affected by the 2.7% increase of the rates of pay for casual fruit and vegetable pickers from the C14 to the C13 rate.
91. Although not large sectors in terms of overall employment, the earlier Commission research shows that the *Horticultural Award 2020* has easily the higher share of low-paid employees across the modern award system (98.1%), with the *Pastoral Award 2020* at number 8 (53.8%).⁸¹ The study also identifies the *Horticulture Award 2020* as having the highest proportion of employees employed on a casual basis at 94.6%.⁸² ABARE data shows that Australian Horticulture has relatively high levels of levels of “contract” labour both from Australia, as well from overseas (including PALM workers).⁸³ On any reasonable basis, it would appear that the sector can be characterised as containing a significant proportion of low paid workers with limited bargaining power.
92. The ACTU submits that movement of minimum rates in the agricultural sector to the C12 benchmark would appropriately assist in addressing the needs of low-paid workers and promote greater coherence across the award system. While the comparison need not be overstated, the circumstances of itinerant rural workers, drawn from both Australia and overseas, have an uneasy Steinbeckian quality when those workers are subject to lower minimum adult rates for ongoing employment than award-reliant workers performing comparable work in metropolitan Australia. Such a proposition is difficult to reconcile with notions of fairness and the award safety net.

⁷⁸ [2025] FWCFB 271 at [12].

⁷⁹ [2024] FWCFB 213 at [234]; [2024] FWCFB 359 at [12]; and [2024] FWCFB 438 at [17].

⁸⁰ Subsection 157(2) of the FW Act.

⁸¹ Strong J, Rozenbes D & Tomlinson J (2025), A profile of employee characteristics of modern awards – 2023, Fair Work Commission Research Report 1/2025, February at page 113.

⁸² *Ibid* at page 87.

⁸³ Australian Bureau of Agricultural and Resource Economics and Sciences. (2023). *Labour use*. Department of Agriculture, Fisheries and Forestry. <https://www.agriculture.gov.au/abares/research-topics/agricultural-workforce/labour-use/2023>.

93. Further, while not sufficient of itself, a rise to the minimum award wage that better meets the needs of the low paid – and one that does not lag behind other sectors of the economy – should reasonably be regarded, on any orthodox economic view, as a potentially a useful mechanism in addressing the persistent labour shortages faced by the horticulture sector.⁸⁴

94. In terms of the affordability to the sector, the ACTU notes that in the broader Agriculture, forestry and fishing industry, real unit labour costs have fallen substantially over most of the last two decades, notwithstanding some volatility year to year. Relative to calendar year 2005, real unit labour costs for Agriculture, forestry and fishing have fallen 35.0 per cent. Between 2019 and 2025, real unit labour costs have fallen 28.2 per cent, and in 2025, real unit labour costs in the industry fell 13.2 per cent. Productivity outcomes have been much more robust in the industry, with GVA per hour worked up 65.6 per cent between calendar year 2005 and calendar year 2025, up 50.0 per cent between 2019 and 2025, and rose 8.2 per cent in 2025 alone. The share of gross value added in the Agriculture, forestry and fishing industry has also been relatively stable at around 80 per cent since 2012 and the wage share at around 20 per cent. While not confined to a particular award, these indicators point to a reasonable capacity to pay. The significant instance of low paid workers may also be contributing to a disproportionate imbalance between profits and wages in the industry, suggesting such an increase should be able to be absorbed with little impact on employment or business viability.

Figure 13: Productivity and real unit labour costs in Agriculture, forestry and fishing

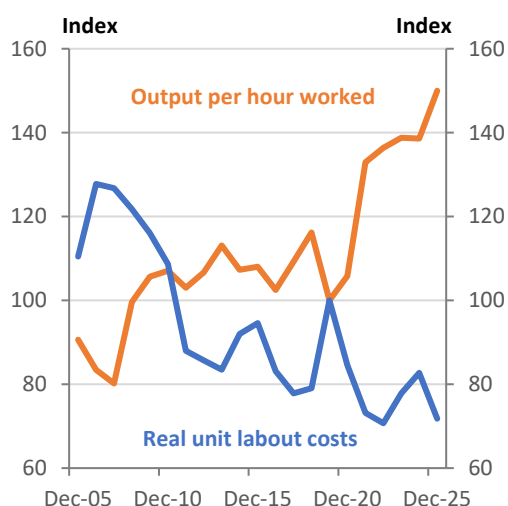
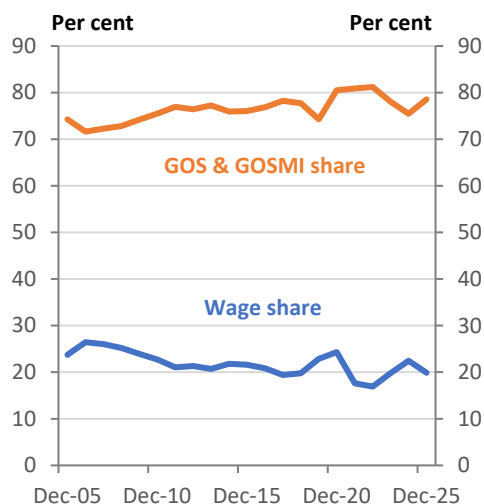


Figure 14: Factor income shares in Agriculture, forestry and fishing



Source: ABS Australian National Accounts: National Income, Expenditure and Product, December 2025, ABS Labour Account, December 2025, ABS Labour force, Australia, detailed & ACTU calculations

R&CA

95. The precise position of the Restaurant and Catering Industry Association of Australia Incorporated (R&CA) with respect to the movement to C12 is somewhat unclear, however, to the extent that it is pressed that Annual Leave Loading be considered as amounting to an additional pay rise of 1.4% on top of an increase in the Level 1 rate in the *Restaurant Industry Award 2020*,⁸⁵ or that “wages paid are already comparable with inflation”⁸⁶ it is mathematically flawed, not supported by data and should not be accepted.

⁸⁴ Department of Agriculture, Fisheries and Forestry. (2024, November 26). *Farmers finding solutions to ease labour shortages*. Australian Government. <https://www.agriculture.gov.au/about/news/farmers-finding-solutions-labour-shortages>.

⁸⁵ Restaurant & Catering Industry Association, Initial Submission to the Annual Wage Review 2025-26, available: [Annual Wage Review 2026 - R&CA Submission](#) at paragraph [23].

⁸⁶ R&CA Initial Submission at paragraph [36].

3.6 Gender Equality

3.6.1 Gender Pay Gap

96. In its submission, ACCI claims that: ‘Increases to the minimum wage and modern award wages are incapable of having any material impact on the gender pay gap or women’s economic inequality more broadly’, before noting that the Commission has observed that the capacity of increases to the national minimum wage and modern award minimum wage rates to narrow the gender pay gap is very limited.⁸⁷
97. These statements are either incorrect or mischaracterise what the Panel has said previously. The Panel has found in previous decisions that:
- (a) Because women are disproportionately award-reliant, ‘any increase to modern award minimum wage rates will provide a disproportionate benefit to female workers, and may contribute to narrowing the aggregate gender pay gap across the entire employee workforce’;⁸⁸
 - (b) ‘An adjustment to modern award minimum wages which exceeds wages growth in the labour market as a whole will likely have an effect, albeit small, in narrowing the aggregate gender pay gap’, and that this is a matter favouring an increase of this nature;⁸⁹ and
 - (c) It is possible that increases to modern award minimum wages which exceed those produced by the labour market generally may attract more women into those award-reliant industries and occupations.⁹⁰
98. As outlined in the ACTU’s Initial Submission, there appears to be a strong relationship between above average increases in award wages and the closure of the gender pay gap.⁹¹ The data suggests that a larger gap between award wage increases and economy wide average wages is strongly correlated with a larger decrease in the gender pay gap – with a 1 percentage point difference between Award wages and year average growth in the WPI lowering the total average earnings gender pay gap by 0.51 percentage points. These results are consistent with the Panel’s previous findings.
99. Further, the latest WGEA data demonstrates that faster growth in wages in the bottom two quartiles (where workers are more likely to be award reliant) than in the top two quartiles has contributed to a reduction in the overall gender pay gap.⁹²
100. Finally, international research demonstrates that stronger minimum wages have positive disproportionate impacts in lifting women’s pay, and hence reducing gender pay gaps and wage inequality between genders.⁹³
101. ACCI’s claims run against the available evidence and do not make a positive contribution to discussions around closing the gender pay gap and addressing women’s economic inequality.

3.6.2 Women’s Workforce Participation

102. ACCI also argues in its submission that large increases to wages have disemployment effects and therefore could potentially undermine the consideration of facilitating “women’s full economic participation” – meaning significant increases to the minimum wage and modern award wage rates will have disproportionate disemployment impacts on women and should be avoided.⁹⁴ AiG similarly argue that

⁸⁷ ACCI Initial Submission at [153], [156].

⁸⁸ *Annual Wage Review 2022–2023* [2023] FWCFB 3500 at [9], [114]–[115], [117].

⁸⁹ *Annual Wage Review 2023–2024* [2024] FWCFB 3500 at [87]; *Annual Wage Review 2024-2025* [2025] FWCFB 3500 at [60].

⁹⁰ *Annual Wage Review 2022–2023* [2023] FWCFB 3500 at [141].

⁹¹ ACTU Initial Submission at [105] and Figure 23.

⁹² WGEA, *Australia’s Gender Equality Scorecard 2024-25*, November 2025, pages 39-47; WGEA, *Employer gender pay gaps report 2024-25*, March 2026. See also ACTU Initial Submission at [106]–[109].

⁹³ See ACTU [Initial Submission](#) to 24-25 Annual Wage Review, Chapter 9, which summarises the international research.

⁹⁴ ACCI Initial Submission at [158].

cautious wage increases that do not risk additional disemployment are warranted, especially for women, youth and the low paid.⁹⁵

103. There is no evidence presented in support of these submissions. On the contrary, as noted in the ACTU's Initial Submission, unemployment and underemployment outcomes indicate that the labour market has stayed resilient and inclusive over the course of 2025 and into 2026 and has not changed dramatically since the last Review, or the two Reviews prior to that. The unemployment rate has continued to hold around 4% for just over 4 years, the longest period of an unemployment rate sustained at that low a level in decades. Where it has changed, the labour market has seen some improved outcomes for women and young people.⁹⁶ Recent increases in the unemployment rate do not signal deterioration in the labour market and instead reflect rising participation due to a return of cost of living pressures, pressing home the need for a solid increase in award and minimum wages in the 2025-26 Review.⁹⁷
104. In this context, the Panel may wish to note that the unemployment rate for women was 3.9 per cent in March 2026, unchanged from March 2025 and still holding at a decadal lows. Further the women's unemployment rate has not substantially changed since December 2023. Further, the underemployment rate for women was 7.1 per cent in March 2026, only marginally higher than the 7.0 per cent rate prevailing in March 2025, having been relatively stable around this level since January 2025, having declined since the middle of 2024 when it was 8.3 per cent. Similarly, the participation rate for women was 63.0 per cent in March 2026, a little higher than March 2025 when it was 62.7 per cent but largely unchanged at around 63.0 per cent (give or take a tenth of a percentage point month to month in either direction) since September 2024. There continues to be every indication that women's employment opportunities and labour market outcomes are solid and the implementation of several Annual Wage Reviews has passed without changing these outcomes.
105. Further, in the 2025 Review Decision, the Panel found that "Relatively high nominal wage increases over the last three annual wage review decisions did not result in any discernible disemployment effects,"⁹⁸ and that it did not consider that that the amount of the increase determined in 2025 would have any discernible disemployment effects.⁹⁹ This has been borne out by labour market outcomes, with job growth continuing and the unemployment rate holding at relatively low levels in the intervening period between sequential Reviews.
106. The international literature also demonstrates that the employment effects of minimum wage increases are generally near zero and in some cases positive.¹⁰⁰
107. Finally, while lifting women's workforce participation may be a relevant consideration, consistent with ss 134(1)(ab) of the FW Act, we refer to the Panel's previous commentary that s 134(1)(ab) is more likely to relate to conditions of work rather than rates of pay.¹⁰¹

⁹⁵ AIG Initial Submission at page 3.

⁹⁶ ACTU Initial Submission at [29],[49].

⁹⁷ ACTU Initial Submission at [29].

⁹⁸ Annual Wage Review 2024-2025 [2025] FWCFB 3500 at [140]

⁹⁹ Ibid at [148].

¹⁰⁰ Dube A & Lindner AS (2024), Minimum wages in the 21st century, Handbook of Labor Economics (Amsterdam: Elsevier) Volume 5, Ch.4, 2024, Pages 261-383; Anxo D (2024), The EU Directive on Adequate Minimum Wages: Preliminary Assessment of Potential Impacts, Swedish Institute for European Policy Studies. See also ACTU [Initial Submission](#) to 24-25 Annual Wage Review, Chapter 9, which summarises the international research.

¹⁰¹ AWR Decision 2023 [2023] FWCFB 3500 at [41].

3.6.3 Gender Undervaluation Proceedings

108. AIG state in their submission that the gender undervaluation proceedings are ‘potentially relevant to the impact on employers in these sectors of further wage increases as a consequence of the AWR (subject in particular to the extent to which the various increases are funded by Government).’¹⁰²
109. To the degree that this submission suggests that the increases awarded pursuant to the gender undervaluation proceedings should act as a moderating factor on the increase to be awarded in this Review, we respond as follows. These increases have been made, or will be made in the future, to rectify gender-based undervaluation in specific awards. This is an essential task so that the Commission has a properly valued and non-gender based foundation upon which to make any adjustments to minimum rates.¹⁰³ There has been no suggestion from previous Panels that corrections to minimum rates to rectify gender-based undervaluation should act as a moderating factor on Annual Wage Review increases to minimum rates. To do so would be inappropriate, unfair and counter-productive, as it would transfer some or all of the benefit of that correction from the intended beneficiaries to their employers via the setting of wages lower than would have otherwise been the case. It would also serve to exacerbate gender-based undervaluation and gender pay gaps by holding back the wages of minimum wage and award reliant workers, the majority of whom are women. We therefore submit that such an approach would be contrary to the considerations in s134(1)(ab) and 284(1)(aa), particularly the need to eliminate gender-based undervaluation of work and address gender pay gaps. Further, in all cases, the wage increases are being phased in, with the cost impact of the increases having been thoroughly considered and taken into account in those proceedings. The cost impact should not again be considered in this Review.

4. SPECIFIC ISSUES RAISED IN SUBMISSIONS

4.1 COSBOA – Exceptional Circumstances Justifying Delayed Operative Date of General Increase

110. In its Initial Submission, COSBOA urges that any increase be both below inflation and subject to a delayed operative date of 1 December 2026 pursuant to s.286 of the FW Act. No other employer organisation sought a delay in the operative date in their Initial Submissions. For the reasons that follow, the ACTU submits that the Panel should not accede to COSBOA’s proposed delay.

4.1.1 Application of Section 286 – “A Strong Case” Is Necessary

111. The Panel has, on numerous occasions, been asked to consider delays in the operative date of annual wage review decisions or the application of differential treatment to particular industries, regions or employers. Over time, the Panel has consistently emphasised that the operation of s.286, including what constitutes “exceptional circumstances” and whether the Panel’s discretion should be exercised, is to be construed in the context of Part 2-6 of the FW Act, and that a *strong case* must be established before the deferral of an increase to modern award minimum wages is warranted.¹⁰⁴
112. In the 2009–2010 Annual Wage Review, employer organisations sought a delay to the operative date of the Panel’s decision on the basis of the scale and cost of the changes associated with the commencement of modern awards. The Panel did not accept that the introduction of modern awards constituted “exceptional circumstances” for the purposes of s.286 of the FW Act and declined the request for a delayed operative date.¹⁰⁵
113. In the 2010–2011 Annual Wage Review, employer organisations again sought a delay to the operative date of the Panel’s decision, or differential treatment for parts of the economy or particular employers. The

¹⁰² AIG Initial Submission at page 24.

¹⁰³ *AWR Decision 2023* [2023] FWCFB 3500 at [40]; *AWR Decision 2024* [2024] FWCFB 3500 at [88].

¹⁰⁴ See *AWR Decision 2020* [2020] FWCFB 3500 at [145] and *AWR Decision 2021* [2021] FWCFB 3500 at [302].

¹⁰⁵ *AWR Decision 2010* [2010] FWA FB 4000 at [340] – [347].

grounds advanced largely concerned the effects of recent natural disasters, including widespread flooding in late 2010 and early 2011 in Queensland, New South Wales and Victoria, and Cyclone Yasi. The Commission again declined to grant the relief sought, observing, inter alia, that:

[317] *We are also conscious that a deferral of a wage increase would place some of the burden of adjustment on the lowest paid in the community, who might themselves be in a difficult financial position because of the effects of natural disasters on themselves and their families. Many low-wage workers will also have been directly affected by the floods and cyclone (not only in Queensland). We have no information on how the losses have been distributed across the different classes of employees and enterprises. It is also relevant that governments are already providing assistance through the various programs.*¹⁰⁶

114. In the 2011–2012, 2012–2013, 2014–2015 and 2015–2016 Annual Wage Reviews, various employer organisations continued to seek delays in operative dates or differential treatment for particular industries, sectors, modern awards or individual employers by characterising natural disasters and asserted incapacity to pay as “exceptional circumstances” for the purposes of the FW Act. The Panel did not accede to the relief sought. In the 2016 Annual Wage Review Decision, the Panel, again, expressed concern about the plight of low paid employees:

[146] *We are conscious of the hardship inflicted on many businesses, particularly small businesses, by natural disasters. We are also conscious that while deferral of any rise in minimum wages may contribute to easing pressures on businesses, such a deferral will also adversely affect employees who may also be facing financial distress because of the impact of natural disasters on them and their families.*

115. Consistent with this approach, it was only in the extraordinary circumstances of the global pandemic that the Panel exercised its powers under s 286 of the FW Act in the 2019–20, 2020–21 and 2021–22 Annual Wage Reviews. Those Reviews were marked by unprecedented economic disruption and uncertainty. The conditions which justified that approach do not arise in the present Review.

116. In the 2019–20 Annual Wage Review, the Panel’s decision was made against the backdrop of an abrupt and severe economic shock. In particular:

- (a) The Reserve Bank characterised the period as the most significant economic contraction since the 1930s and forecast sharp declines across most key economic indicators.¹⁰⁷
- (b) The shock to the labour market was unprecedented.¹⁰⁸ Between 14 March and 30 May 2020, the number of jobs fell by approximately 7.5 per cent—around one million jobs in the March quarter—with particularly pronounced declines in Accommodation and Food Services (–29.1 per cent) and Arts and Recreation Services (–26.3 per cent).¹⁰⁹ At the time, the Commonwealth Treasury forecast that the unemployment rate would reach 10 per cent in the June quarter.¹¹⁰
- (c) The Review occurred in the context of widespread and sharp falls in aggregate wages. Over the same period, 18 of 19 industries experienced declines in total wages, with the largest falls recorded in Accommodation and Food Services (–25.4 per cent), Mining (–20.8 per cent), Arts and Recreation Services (–14.0 per cent), Rental, Hiring and Real Estate Services (–13.7 per cent) and Wholesale Trade (–13.5 per cent).
- (d) However, notably in terms of the impact on low paid employees, inflation at that time was comparatively low and expected to fall. CPI inflation was 2.2 per cent and the LCI increased by 1.1

¹⁰⁶ *AWR Decision 2011* [2011] FWA FB 3400 at [309] to [323]

¹⁰⁷ The reference to the 1930s can be found at [280] and the RBA’s forecasts were provided at paragraph [332] of the Panel’s decision

¹⁰⁸ At [282].

¹⁰⁹ At [294].

¹¹⁰ At [315].

per cent. The RBA forecast that inflation would initially fall into negative territory before rising only temporarily.¹¹¹

117. Moreover, the severity of the impact on many individual sectors of the economy, and society in general, cannot be understated. The response to COVID-19 included government restrictions on movements, gathering, border controls and social distancing. As a result, whole sectors of the economy were effectively shut down.¹¹² The circumstances confronting the Panel included the closure of the international border on 20 March 2020 and nationwide lockdowns from 23 March to Mid-May 2020.¹¹³ The federal government had introduced 3 emergency fiscal stimulus and/or support packages on 12 March, 22 March and 30 March 2020.¹¹⁴ The Panel's deliberations took place prior to the development of a vaccine and concerns about a second wave of infections loomed large in the Panel's considerations.¹¹⁵ Three weeks after the Panel's decision, the Victorian restrictions and lockdowns commenced on 9 July 2020.
118. In the 2020–21 Annual Wage Review, the Panel relied on commissioned expert evidence to assess the unique circumstances before it, including in particular research from Professor Borland, which categorised industries as having either “fully recovered”, “almost recovered” or experiencing a “lagging recovery”. Taking into account Professor Borland's research, the Panel delayed the operative date of increases for modern awards covering a confined group of industries regarded as most exposed to the anticipated risk of further lockdowns. Those industries included hairdressing and beauty services, gyms, certain retail businesses (other than food and essential supply retailers and those able to operate on a ‘click and collect’ basis), accommodation and hospitality businesses (other than those providing takeaway food services), and businesses operating in the tourism and entertainment or sporting sectors.
119. The 2021–22 Annual Wage Review was the final Review in which the Panel exercised its powers under s.286 of the FW Act to delay the operative date of increases for certain modern awards. While the Panel granted a general increase operative from 1 July, it was satisfied that exceptional circumstances continued to exist in respect of a limited number of awards applying to the aviation, tourism and hospitality sectors, which remained directly affected by COVID-19-related impacts.
120. COSBOA advances three broad grounds to support a delay in the current Review:
- (a) uncertainty arising from the Middle East conflict;
 - (b) pay day superannuation reforms and amendments to the FW Act over the past 4 years; and
 - (c) providing small business time to plan for any awarded increase.
121. In respect of the first ground, COSBOA points to uncertainty arising from the conflict in the Middle East. The current circumstances however, are not comparable to the exceptional conditions that led the Panel to delay the operative date of increases for certain awards during the COVID-19 pandemic and its associated economic consequences. Nor is there, respectfully, information before the Panel of the kind capable of being buttressing the “strong case” required to justify the delay sought by COSBOA.
122. Further, a fundamentally distinguishing feature between the economic environment now, as compared to those accompanying the exercise of discretion under s.286 in the 2019–2020 Review, is the level of inflation and its expected movement over the Review period. In 2020, inflation was comparatively low or falling, and the deferral of increases was not expected to badly exacerbate cost-of-living pressures faced by the low paid. By contrast, the present context is one in which inflation is elevated and exposure of low paid

¹¹¹ *AWR Decision 2020* [2020] FWCFB 3500 at paragraph [134] and [138].

¹¹² *Ibid* at [35].

¹¹³ Reserve Bank of Australia. (n.d.). *The COVID-19 pandemic: 2020 to 2021*.

<https://www.rba.gov.au/education/resources/explainers/pdf/the-covid-19-pandemic-2020-to-2021.pdf> at page 1.

¹¹⁴ *Ibid*.

¹¹⁵ *AWR Decision 2020* [2020] FWCFB 3500 at [35].

employees to further significant price pressures is likely. In those circumstances, we submit that the considerations identified by the Panel in earlier Reviews, including that deferral of increases places a disproportionate burden of adjustment on the lowest-paid, assume particular weight. Even in the circumstances of the uncertainty regarding the Israel – US attacks on Iran, the expected rise in inflation, should tell strongly against the exercise of discretion under s.286 of the FW Act in the present Review.

123. In relation to the second and third grounds pressed by COSBOA, those matters, respectfully, do not warrant a delay in the operative date of any increase. Employers have had substantial advance notice of the commencement of payday superannuation, which was announced in the 2023–24 Budget on 2 May 2023 and is scheduled to commence on 1 July 2026.¹¹⁶ Similarly, many of the amendments to the FW Act relied upon by COSBOA have been operative for several years. In the context of a workplace relations system that has been characterised by ongoing legislative evolution over several decades, COSBOA has not established that the existence of recent reforms, of themselves, render the application of an annual wage review increase either impracticable or unreasonable (much less exceptional). Notably such relief was not afforded at the time of the introduction of modern awards. Further, a recent study by the Australian HR Institute found that employers have generally *welcomed* many of these changes, contrary to COSBOA’s assertion. The study, which sampled 619 employers, including 173 employers that employed less than 20 employees, found that the “Overall [its] research demonstrates that the recent legislative changes have had a positive impact on many organisations” and that “...many employers are seeing benefits arising from these recent legislative changes, noting improvements in job security, employee well-being and job performance”.¹¹⁷

¹¹⁶ The broad timeline can be found here: Australian Taxation Office. (2026, February 26). *Payday superannuation announcements*. Australian Government. <https://www.ato.gov.au/about-ato/new-legislation/in-detail/superannuation/payday-superannuation>.

¹¹⁷ AHRI (2025) [Recent Employment Legislation: What do employers think?](#) Pages 3-4

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