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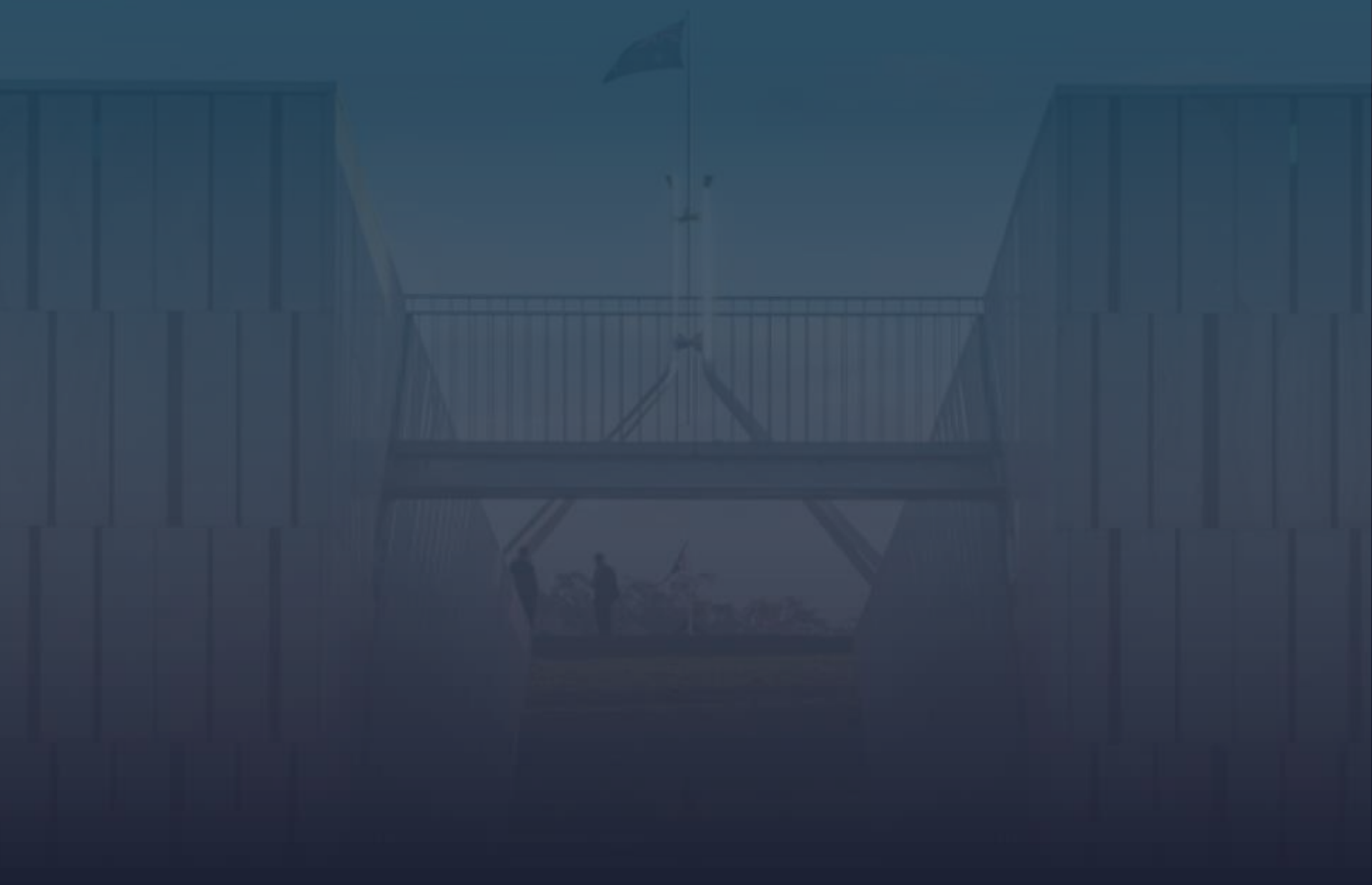
KEY ISSUES FOR THE 47TH PARLIAMENT



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AUSTRALIA IN NUMBERS

AUSTRALIA IN NUMBERS

Joanne Simon-Davies, Statistics and Mapping

The *Briefing book* aims to provide a suite of articles on topics that may be salient to the incoming parliament. As an introduction to these articles, this article provides a big-picture overview of the economic and social context through a series of data-driven snapshots. These selected statistics reflect both structural trends – such as population ageing, longer-term immigration trends, and the skills and capacity of the labour force, as well as some of the recent disruptions to these longer-term trends triggered by the COVID-19 pandemic.

Key economic and demographic indicators, Australia

Indicators (a)		Time period			
		March quarter			
Economic indicators		2012	2017	2021	2022
Wage Price Index (total) (annual change)	%	3.6	1.9	1.5	2.4
Consumer Price Index (annual change) (original)	%	1.6	2.1	1.1	5.1
Gross domestic product (chain volume) (annual change)	%	4.8	2.1	1.4	3.3
Current account balance (at current prices)	$b	-17.4	-8.4	20.3	7.5
Terms of trade—Index	..	110.6	97.5	113.5	122.9
		March (month)			
Labour force indicators		2012	2017	2021	2022
Persons 15 years and over					
Unemployment rate	%	5.2	5.9	5.7	4.0
Underemployment rate (b)	%	7.2	8.6	7.9	6.3
Long-term unemployment share (c)	%	18.4	23.2	30.9	24.8
Labour force participation: males	%	71.8	70.5	70.9	70.8
Labour force participation: females	%	59.1	59.5	61.9	62.2
Persons 15 to 24 years					
Youth unemployment rate	%	11.8	13.0	11.7	8.3
Youth underemployment rate	%	14.0	17.3	19.2	13.9
		September quarter			
Demographic Indicators		2011	2016	2020	2021
Annual population growth rate (original)	%	1.5	1.7	0.8	0.3
Components of annual population change					
Natural Increase (original)	no.	154,518	154,883	133,388	136,185
Net Overseas Migration (original)	no.	194,040	229,509	75,627	-67,268
Total growth (original)	no.	328,369	395,582	209,015	68,917

(a) All data is seasonally adjusted data unless stated otherwise.
(b) The rate is the share of employed people in the labour force that want, and are available for, more hours of work.
(c) The ratio is the long-term unemployed (unemployed for 52 weeks or more) as a share of total unemployed population.

Source: Australian Bureau of Statistics (ABS), *National, State and Territory Population, September 2021* (Canberra: ABS, 2022); ABS, *Labour Force, March 2022* (2022); ABS, *Wage Price Index, March 2022* (2022); ABS, *Consumer Price Index, March 2022* (2022); ABS, *Australian National Accounts: National Income, Expenditure and Product, March 2022* (2022); ABS, *Balance of Payments and International Investment Position, March 2022* (2022).

Estimated resident population, Australia

Source: ABS, *Historical Population, 2016* (Canberra: ABS, 2019); ABS *National, State and Territory Population, September 2021* (Canberra: ABS, 2022). Interactive version.

The figure above shows the difference in the age distribution of the Australian population in 1981 and 2021. The 2021 structure reflects population ageing and the changing 'old age dependency ratio'. The latest *Intergenerational report* (p. 31) notes:

> In 1981–82, for every person aged over 65, there were 6.6 working-age people. In 2019–20, for every person aged over 65, there were 4.0 working-age people. … The rapid decline in the old-age dependency ratio [from 2010-11onwards] … is largely due to the baby boomer generation reaching age 65.

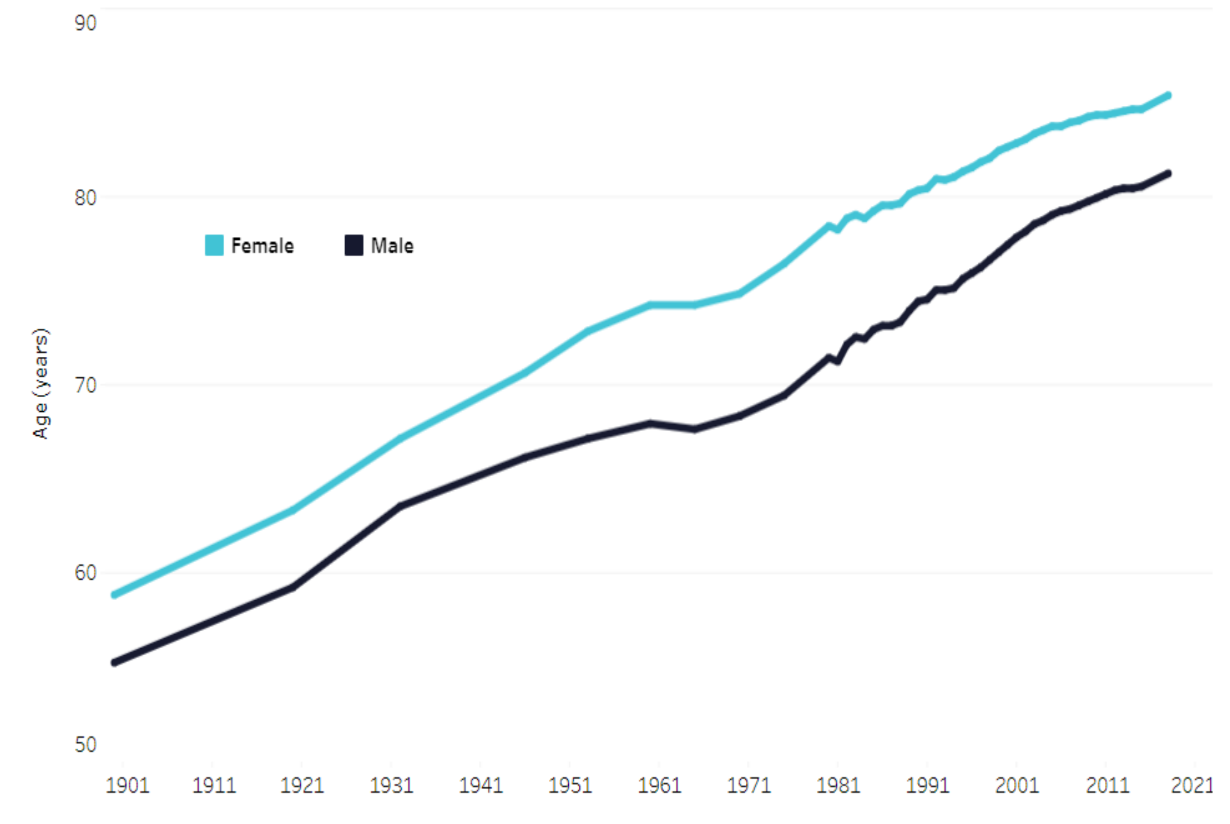
The increase in the male proportion of the population over 65 in 2021 compared to 1981 also reflects improvements in men's life expectancy at age 50. A 50-year-old man could expect to live another 25 years in 1980–82 compared with another 33 years in 2018–20.

The latest Aboriginal and Torres Strait Islander population estimates are as at June 2016 when the median age of the Aboriginal and Torres Strait Islander population was 23.0 years, compared to 37.8 years for the non-Indigenous Australian population. The Aboriginal and Torres Strait Islander population has a younger age structure than the non-Indigenous population, reflecting higher fertility rates as well as higher mortality rates than the non-Indigenous population.

In 2020–21, Australia's annual population growth fell sharply from an annual increase of 1.3% to an increase of just 0.2% as international border restrictions were implemented to contain the COVID-19 pandemic. This was the slowest growth in over a century. The 2022–23 Budget (p. 1) suggests:

> As travel returns to pre-pandemic conditions, population growth is projected to increase to 1.4 per cent by 2024–25 and then gradually decline to 1.2 per cent by the end of the medium-term in 2032–33. These growth rates are similar to those expected prior to the COVID-19 pandemic. However, losses in migration during the pandemic will lead to our population being smaller and older than forecast before the pandemic.

Life expectancy at birth, Australia



Source: ABS, *Historical Population, 2016* (Canberra: ABS, 2019); ABS *Life Tables, 2018–2020* (2022). Interactive version.

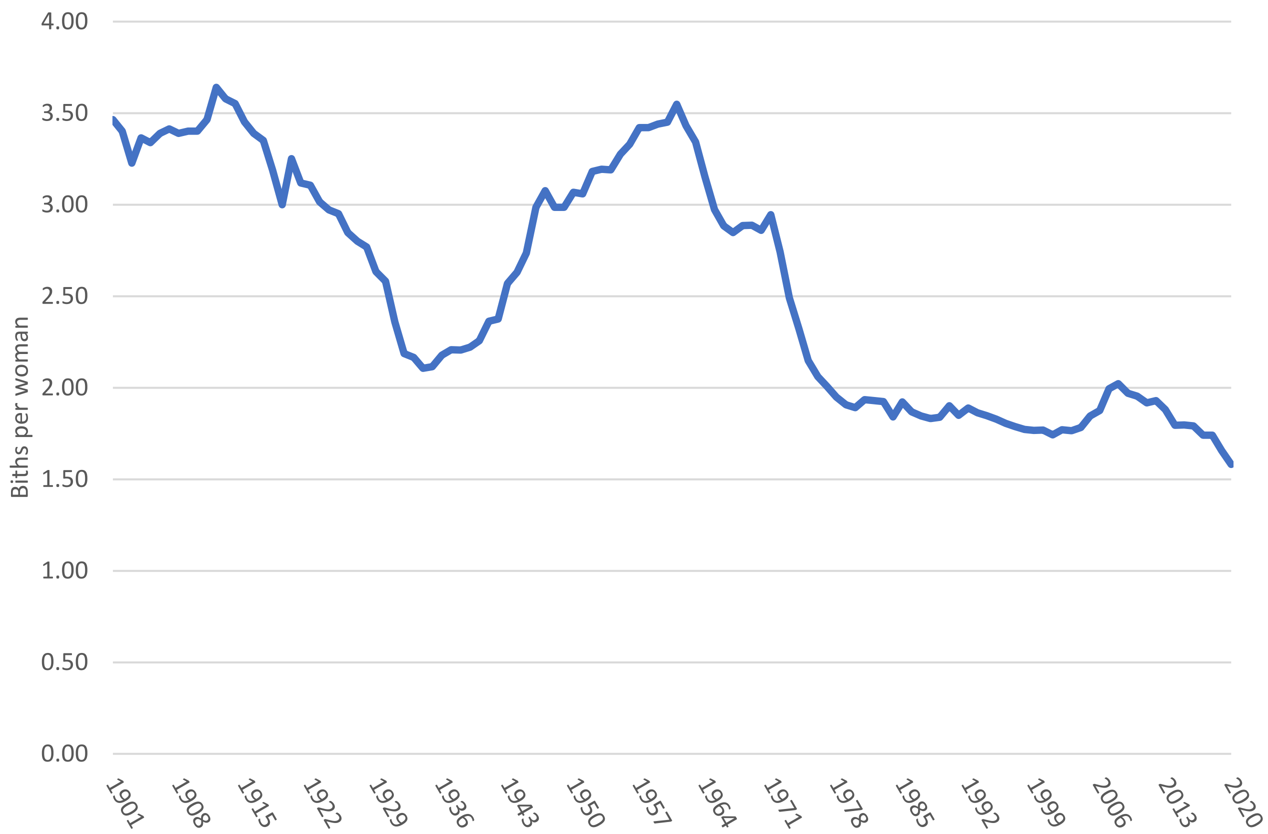
Australia has one of the highest life expectancies of any nation, ranked sixth highest for both men and women. Only Japan, Switzerland, Singapore, Spain, and Italy have higher life expectancies than Australia. Australian men and women have higher life expectancy than similar countries, such as New Zealand, the UK, and the US.

In recent years, life expectancy (at birth) for males has improved at a faster rate than for females. Over the past 10 years, life expectancy for males increased by 1.7 years and for females by 1.3 years. Around 30 years ago, life expectancy at birth in Australia was
73.9 years for males and 80.1 years for females, a gap of 6.2 years. This gap narrowed to 4.1 years in 2018–20.

Life expectancy is much lower among Aboriginal and Torres Strait Islander peoples than the non-Indigenous population. Nationally, Aboriginal and Torres Strait Islander males born in 2015–2017 are expected to live to 71.6 years and females to 75.6 years, and non-Indigenous males and females to 80.2 years and 83.4 years, respectively. The 'Close the Gap in life expectancy within a generation, by 2031' target is not on track to be met.

When comparing the states and territories there is considerable variation. The ACT has the highest life expectancy (males at 82.1 years and females at 85.9 years), and the Northern Territory has the lowest (males at 76.2 years) and females at 81.0 years).

Fertility rate, Australia



Source: ABS, *Historical Population, 2016* (Canberra: ABS, 2019); ABS, *Births, 2020* (2021). Interactive version.

In the last few decades, Australia,

similar to other OECD (Organisation for Economic Co-operation and Development) countries, has undergone a

demographic transition from high fertility to low fertility (3.64 children per woman in 1912 compared to fewer than 1.95 in 1981 and 1.58 children in 2020). The Total Fertility Rate (TFR) dropped during the 1930s Depression but rose strongly during the post-Second World War baby-boom. Since the 1970s the rate has mostly sat at fewer than 2 children per woman. The record low fertility rate of 1.58 in 2020 can be attributed to fewer births and birth registrations in most jurisdictions in a year marked by COVID-19 disruptions.

On Australia's future population (p. 4):

> The 2022–23 Budget assumes COVID-19 will not have an adverse impact on Australia's total fertility rate. The fertility rate is assumed to be 1.66 babies per woman in 2021–22 and then fall to 1.62 babies per woman by 2030–31 and remain there thereafter, reflecting a long running trend of families having fewer children and doing so later in life. Despite the declining fertility rate, births are forecast to increase from 298,000 in 2020–21 to 310,000 in 2025–26, and to 326,000 by 2032–33, as the number of women of childbearing age continues to increase.

Leading causes of death in Australia

	2011		2020(a)		Median age
	no.	**Rank**	**no.**	**Rank**	**(2020)**
Ischaemic heart diseases	21,526	1	16,587	1	84.1
Dementia, including Alzheimer's disease	9,864	3	14,575	2	89.1
Cerebrovascular diseases	11,245	2	9,470	3	86.1
Malignant neoplasm (cancer) of trachea, bronchus and lung	8,117	4	8,457	4	74.5
Chronic lower respiratory diseases	6,565	5	7,102	5	80.4
Malignant neoplasm of colon, sigmoid, rectum and anus	5,206	6	5,483	6	77.1
Diabetes	4,211	7	5,148	7	81.4
Malignant neoplasms of lymphoid, haematopoietic and related tissue	3,979	8	4,754	8	78.5
Diseases of the urinary system	3,384	10	4,019	9	87.2
Malignant neoplasm of prostate	3,294	11	3,568	10	82.5
Accidental falls	1,872	17	3,395	11	87.3
Heart failure and complications and ill-defined heart disease	3,486	9	3,249	12	88.9
Malignant neoplasm of pancreas	2,416	14	3,244	13	75.2
Malignant neoplasms of breast	2,938	12	3,144	14	72.0
Intentional self-harm [suicide]	2,393	15	3,139	15	43.5
COVID-19	NA	NA	898	38	86.9

(a) Causes of death data for 2020 are preliminary and subject to revision.

Source: ABS, *Causes of Death, 2020* (Canberra: ABS, 2021).

In 2020, the 5 leading causes of death were Ischaemic heart disease, Dementia including Alzheimer's disease, Cerebrovascular diseases (such as stroke), Lung cancer, and Chronic lower respiratory diseases. For Aboriginal and Torres Strait Islander peoples, the top 5 causes were: Ischaemic heart disease, Diabetes, Chronic lower respiratory diseases, Malignant neoplasm of trachea, bronchus and lung, and suicide.

The latest data from the ABS reports there were 898 deaths from COVID-19 in 2020, making it the 38th leading cause of death. This changed dramatically in 2022, with recent estimates from the Department of Health suggesting COVID-19 may become a leading cause of death in Australia in 2022. The Department of Health's *Coronavirus (COVID-19) cases numbers and statistics* reports the

number of Australian deaths associated with COVID-19, from the start of the pandemic to the end of May 2022 was 8,469. The department's *COVID-19 Australia: epidemiology report 57* notes 1,319 COVID-19 associated deaths in 2021, suggesting more than 6,200 deaths were associated with COVID-19 in 2022.

Australia's population by country of birth – top 10 ranking

Country of birth	2001	% of all overseas born	Country of birth	2021	% of all overseas born
England	927,630	20.8	England (1)	967,390	12.9
New Zealand	389,600	8.8	India (10)	710,380	9.5
Italy	229,850	5.2	China (5)	595,630	7.9
Vietnam	163,490	3.7	New Zealand (2)	559,980	7.5
China	153,360	3.4	Philippines (9)	310,620	4.1
Scotland	141,850	3.2	Vietnam (4)	268,170	3.6
Greece	128,700	2.9	South Africa (12)	201,930	2.7
Germany	118,340	2.7	Malaysia (13)	172,250	2.3
Philippines	114,260	2.6	Italy (3)	171,520	2.3
India	98,070	2.2	Sri Lanka (18)	145,790	1.9
Total Australian-born	14,822,350	76.9	Total Australian-born	18,235,690	70.9
Total overseas born	4,452,360	23.1	Total overseas born	7,502,450	29.1

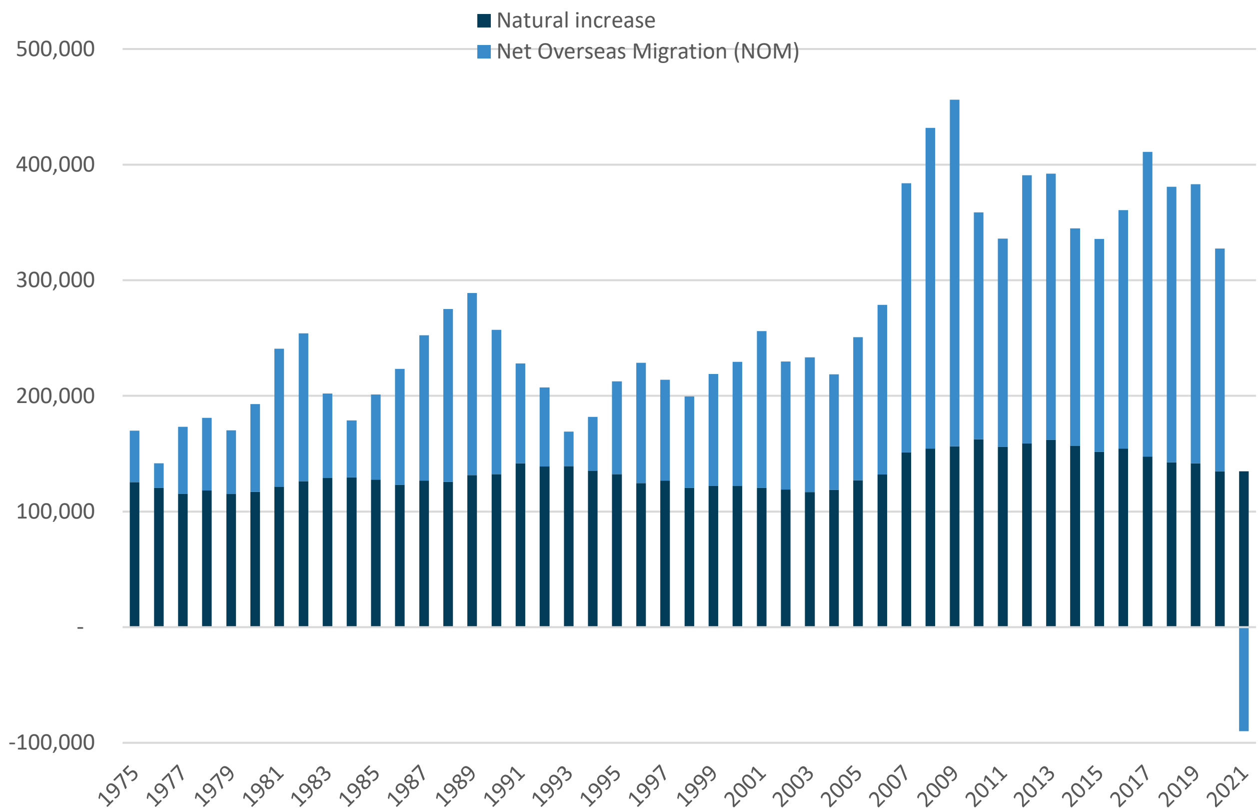
Source: ABS, *Australia's Population by Country of Birth, 2021* (Canberra: ABS, 2022).

High levels of immigration to Australia in the years before 1891 resulted in 32% of the population counted as overseas-born in the first country-wide census in 1891 (noting that Aboriginal and Torres Strait Islander peoples were not counted until the 1971 Census). This proportion fell to a low of 10% in 1947 due to lower levels of migration during the First World War, the Great Depression, and the Second World War. Post-war immigration saw the proportion of overseas-born population rise rapidly. Since then, there has been a fairly steady increase in the size of this group.

In 2021, about a third (29.1%) of Australia's estimated resident population were born overseas (7.5 million people), down from 29.8% in 2020 (7.7 million people). This was the first decrease in the proportion of people born overseas since 2000. The decline reflects travel restrictions as a result of COVID-19, limiting overseas migration in and out of

Australia.

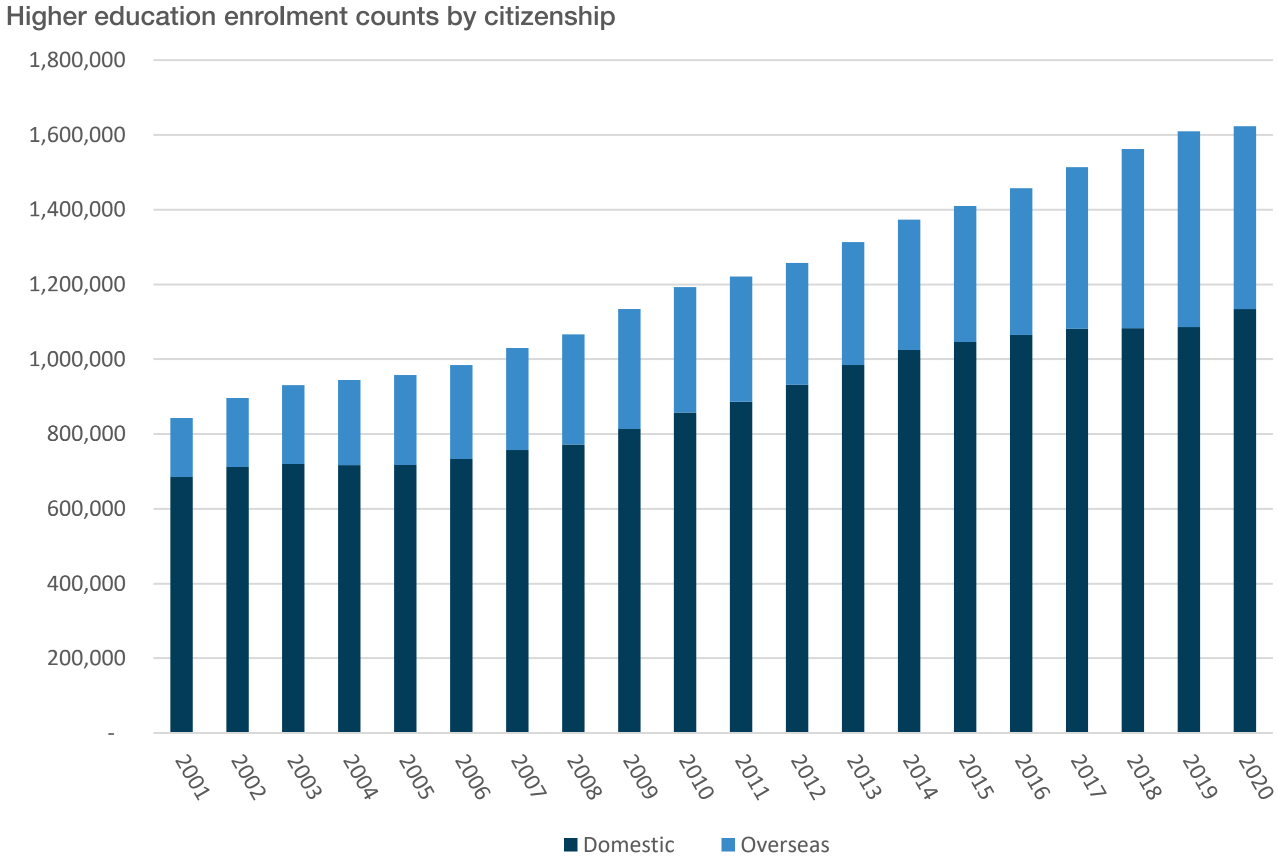
Components of population change, to 30 June 2021



Source: ABS, *Historical Population, 2016* (Canberra: ABS, 2019); ABS *National, State and Territory Population, September 2021* (2022). Interactive version.

Australia has a relatively high proportion of the population who are overseas born, compared with other countries with high migrant numbers (except Saudi Arabia). In 2020, the US had 50.6 million migrants with 15.3% of their total population born overseas, Germany had 15.8 million migrants (18.8% of their population), and Saudi Arabia had 13.5 million migrants (38.6% of their population).

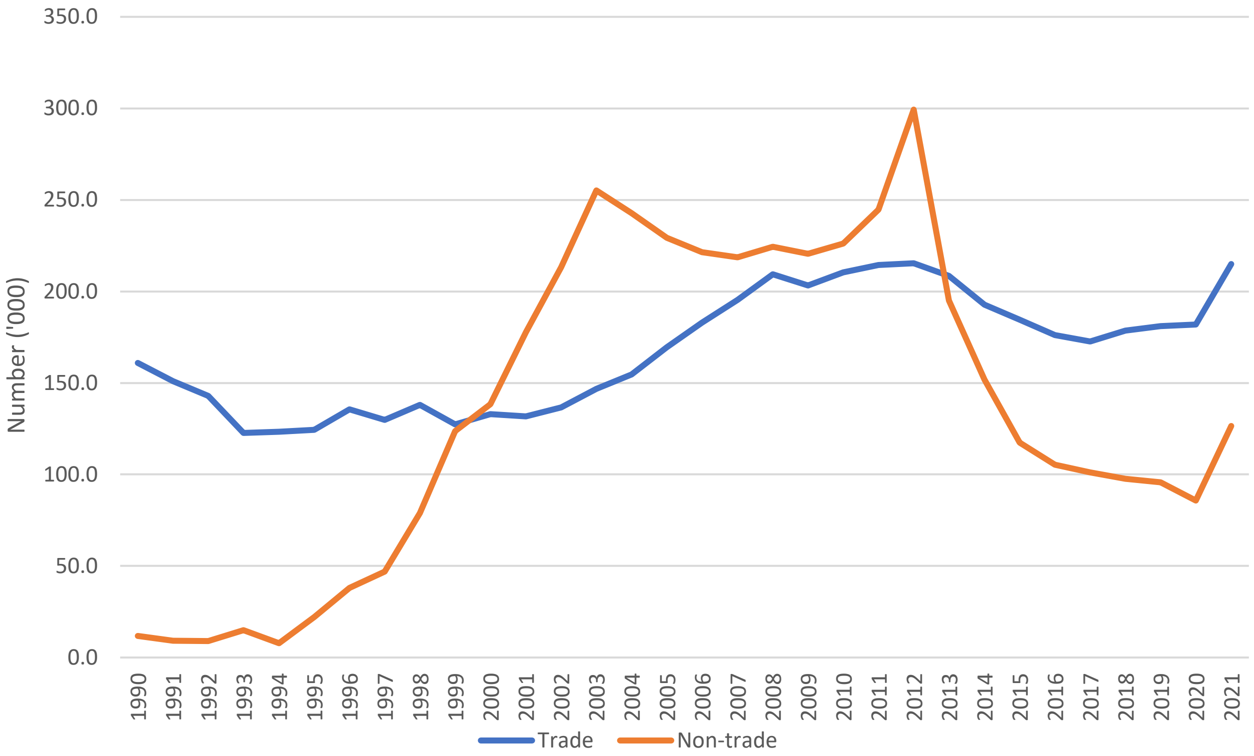
Australia's population growth is comprised of natural increase (births minus deaths) and net overseas migration (NOM) (migration arrivals minus migration departures). The contribution of these 2 components has changed over time. In 1978–79, natural increase represented 68% and NOM 32%. In 2019–20, natural increase represented 41% and NOM 59%. Population growth fell dramatically when Australian borders closed in March 2020 due to the COVID-19 pandemic. In the year ending June 2021, natural increase was 134,800 people and NOM was minus 88,800 (a decrease of 281,500 people since the previous year). The Australian border-opening in February 2022 is expected to lift NOM, but it is unclear if it will return to pre-COVID levels.



Source: Department of Education, Skills and Employment, Student Enrolments Pivot Table, (Canberra: Australian Government, 2022). Interactive version.

Between 2001 and 2020, higher education enrolments in Australia almost doubled, from about 842,000 to 1.62 million. In 2019, a third (33%) of students were from overseas, declining to 30% in 2020. As discussed elsewhere in this *Briefing book* (see 'Tertiary Education and COVID-19 recovery'), COVID-19 resulted in declining higher education enrolments by overseas students in 2020 and 2021. Between 2019 and 2021 overseas students declined 17.4%, from about 440,674 to 363,859. Over this same period, 40.1% fewer overseas students started a higher education course (a decline from 177,136 to 106,113). The first quarter of 2022 shows modest signs of recovery, although total enrolment numbers are still declining.

Trade and non-trade apprentices and trainees in-training



Note: Trade placements includes occupations in metal manufacturing; motor vehicle repairs and maintenance; construction; printing; food; hairdressing; wood product manufacturing and textile; and clothing and footwear. Non-trade placements include community and personal service workers (including health and welfare support workers, carers and aids, hospitality workers and protective service workers); clerical and administration workers; sales workers; machinery operator and drivers.

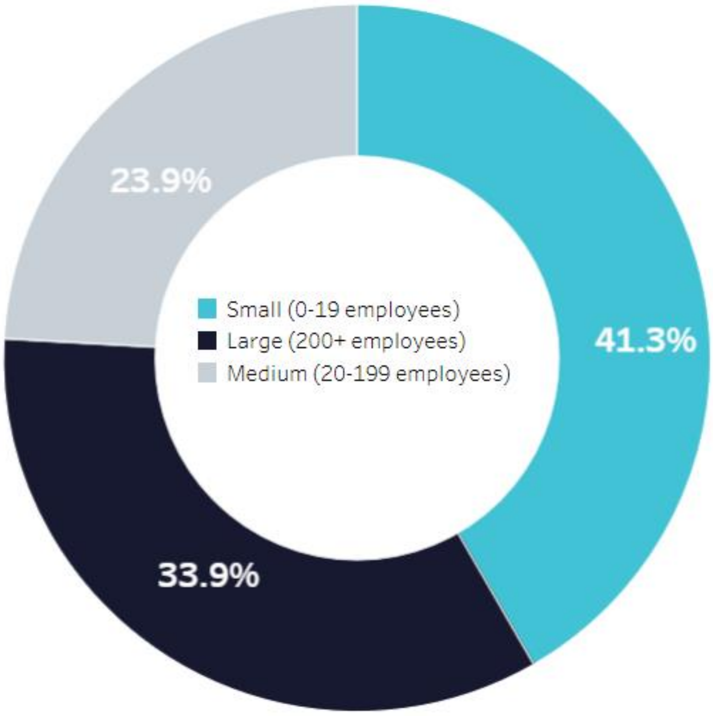
Source: National Centre for Vocational Education Research (NCVER), *Historical Time Series of Apprenticeships and Traineeships in Australia* (Adelaide: NCVER, 2022). Interactive version.

The National Centre for Vocational Education Research (NCVER) June quarter 2021 report shows total apprentices in-training reached 341,385, up 28% compared with June 2020. This increase is largely attributable to the impact of apprentice wage subsidies of 50%, which were introduced in response to COVID-19. These subsidies are due to be scaled back at the end of June 2022.

The number of apprentices and trainees fell substantially after changes in employer incentives were introduced in July 2012. The fall in the number of non-trade trainees employed in occupations in hospitality, retail and administration was more substantial (down from 299,300 in 2012 to 85,800 in 2020, which equates to a fall of 71.3%). By comparison, the number of trade apprentices in training fell by 33,500, or 15.6% during the same interval.

Non-trade trainees have increased substantially in the 12 months to 2021, up by 40,600, or 47.3%, to 126,400.

Share of Australian private sector employment (in selected industries) by size of business



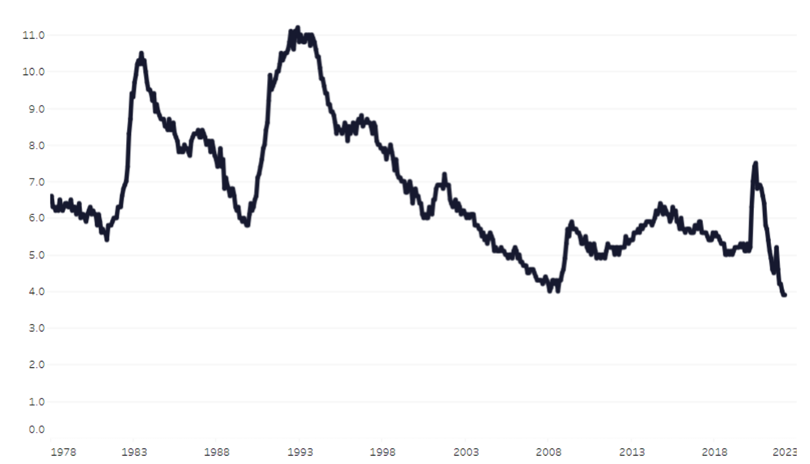
Source: ABS, *Australian Industry, 2020–21* (Canberra: ABS, 2022). Interactive version.

The figure above shows the share of total private sector employment (in selected industries) by business size (small, medium, and large) as measured by number of employees. Employment covers all business entities operating in the Australian economy during 2020–21, including those private businesses operating in the General Government sector (Public Administration and Safety; for example, private security firms and private correctional services institutions), Education and Training (such as private schools, universities, and training providers), and Health Care and Social Assistance (including private medical practices and hospitals). A range of business entities are excluded from the figures, including those operating in Finance, Insurance and superannuation funds, Defence, and Private households employing staff.

In the past decade there has been a shift in the composition of private sector employment. Small businesses (includes non-employing businesses and those employing up to 19 people) accounted for 41.3% of total private sector employment in June 2021, compared with 47.0% in June 2010.

Large businesses (employing 200 people or more) accounted for 33.9% of total private sector employment in June 2021, compared with 29.7% in June 2010. Medium-sized businesses (employing 20 to 199 people) accounted for 23.9% of total private sector employment, compared with 23.2% in June 2010.

Unemployment rate, seasonally adjusted,1978 to 2021



Source: ABS, *Labour Force, April 2022* (Canberra: ABS, 2022). Interactive version.

The Australian unemployment rate stood at just under 4.0% in March 2022 (seasonally adjusted), which is the lowest the rate recorded since just before the global financial crisis in mid-2008. The chart shows the impact of cyclical change on the unemployment rate over time, with peaks recorded in the recessions of the

early 1980s and early 1990s.

The recession experience of the early 1990s saw significant increases in unemployment and long-term unemployment which took considerable government resources in the form of labour market programs to address with varying degrees of success.

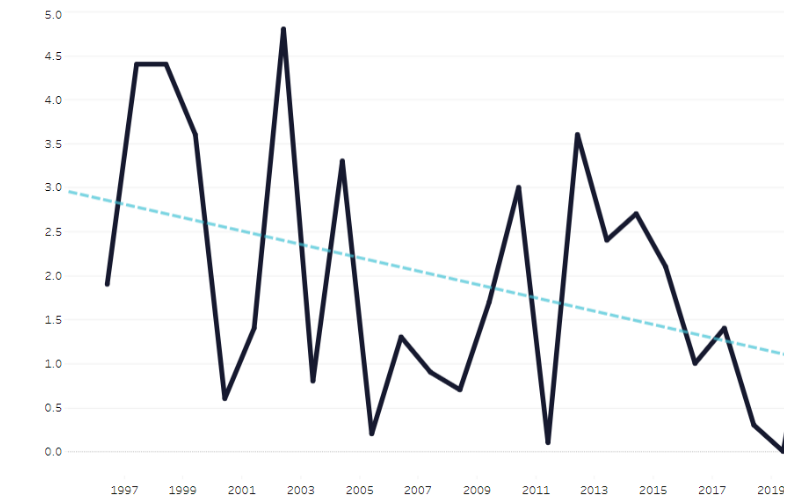
After the experience of the early 1990s governments have been much more willing to increase spending and introduce emergency payments quickly to stimulate economic activity and prevent large increases in unemployment when there are signs of significant economic downturns. For example, the Australian Government developed a $10.4 billion fiscal package to combat the impacts of the global financial crisis. And Australia was one of a number of OECD countries that introduced job retention schemes to contain the employment and social fallout associated with the COVID-19 pandemic.

Labour productivity is one measure of productivity and is measured as gross domestic product (GDP) per hour worked. Labour productivity reflects the contribution of labour to changes in production, as well as the influences of capital and other factors affecting production.

According to Australia's *2021 Intergenerational report,* labour productivity contributed more than 80% of the growth in living standards over the last 30 years, measured by real gross national income (GNI) per person.

In June 2021, labour productivity was growing at an annual rate of 1.2%. Several reasons have been suggested for the slowdown in productivity growth over the past decade, including a decline in the rate of business dynamism as measured by declining firm entry and exit rates. Slowed rates of adoption of new technologies have contributed to suboptimal allocation of resources to less productive firms rather than more productive firms.

Labour productivity (GDP per hour worked)



Source: ABS, *Australian System of National Accounts, 2020–21* (Canberra: ABS, 2022). Interactive version.

Other reasons for the productivity slowdown include a structural shift of the

economy to service industries, such as Education and Training, and Health Care and Social Assistance, where productivity is more difficult to

measure. Measurement difficulties have also been experienced in trying to gauge the economic impacts of digital platforms introduced to facilitate e-commerce.

The introduction of the JobKeeper Allowance during the COVID-19 pandemic may have also had a dampening effect on productivity, as it facilitated the survival of less productive firms which may have ceased trading under normal business conditions.

Further reading

'Key economic and social indicators dashboard', Parliamentary Library.

2

AUSTRALIA'S ENVIRONMENT

CLIMATE CHANGE AND EMISSIONS REDUCTION

Dr Emily Hanna and Elizabeth Smith, Science, Technology, Environment and Resources

Key issue

The effects of climate change and related emissions reduction targets and policies continued to gain attention during the 46th Parliament. In the lead-up to the 2021 international climate conference COP26, the question of whether Australia would increase its 2030 target and commit to net zero emissions by 2050 attracted global attention. Focus will once again be drawn to emissions reduction targets as COP27 approaches in November 2022, particularly after the COP26 decision that requests countries strengthen their 2030 targets by the end of 2022 to align with the Paris Agreement temperature goal (Article 29, p. 5).

Background

Changes in climate continue to be observed globally and in Australia. These changes are primarily attributed to increases in greenhouse gases (GHG), such as carbon dioxide (CO_2) and methane, in the atmosphere. Global CO2 levels achieved a new high in 2020 with an annual average of 413 parts per million (p. 5) and continue to rise. The International Panel on Climate Change (IPCC), the United Nations' climate change science body, stated in 2021:

> It is unequivocal that human influence has warmed the atmosphere, ocean and land… Observed increases in well-mixed greenhouse gas (GHG) concentrations since around 1750 are unequivocally caused by human activities. (p. 5)

The average global surface temperature recorded between 2011 and 2020 was 1.09 °C higher than the average between 1850 and 1900, with the 2010s the warmest decade recorded over that period (p. 5). The warmest 7 years on record occurred from 2015 to 2021 (p. 6). According to the Bureau of Meteorology, 'Australia's climate has warmed on average by 1.47 ± 0.24 °C between when national records began in 1910 and 2020'.

Global mean sea level has risen by 0.2 m from 1901 to 2018 (p. 5). It reached a new high in 2021 with the rate of increase more than doubling between 1993–2002 and 2013–21 (from 2.1 mm per year to 4.5 mm per year) (p. 9). This is partly due to the thermal expansion of seawater from increased temperature and extra water from melted land ice.

These increases in average temperature, as well as sea level, influence extreme weather and climate events globally including heatwaves, heavy rainfall, droughts, tropical cyclones and compound extreme weather events (p. 10). In Australia, the warming climate has increased the frequency of extreme heat events, and there has been an increase in the frequency and severity of dangerous fire weather conditions, and the intensity of heavy rainfall events
(pp. 4–5; 8).

People's physical and mental health can be negatively affected by climate change, including through extreme heat, increased bushfires and the change in disease distribution (p. 13). Food production can be reduced by drought and excessive heat, while flooding and more intense storms can damage infrastructure (p. 11). Climate change also adversely affects terrestrial, freshwater and marine ecosystems in a variety of direct and indirect ways, with cumulative impacts over time (p. 11). This can result in reduced food security and loss of tourism in degraded ecosystems (p. 13).

Paris Agreement

Climate change has been recognised for decades as a critical global challenge that must be dealt with internationally. Reflecting this, the United Nations Framework Convention on Climate Change (UNFCCC) was adopted and opened for signature in 1992 at the 'Rio Earth Summit', where Australia became a signatory. The UNFCCC provides a framework for international action on climate change, with the ultimate aim of 'stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system' (Article 2, p. 9). There are currently 197 parties to the agreement (as of May 2022), representing nearly every state worldwide.

Two international agreements to act on climate change have been made under the UNFCCC: the completed Kyoto Protocol and the in-force Paris Agreement. The Paris Agreement aims to 'strengthen the global response to the threat of climate change' by:

> Holding the increase in the global average temperature to well below 2 °C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5 °C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change (*Article 2(1a)*, p. 3).

In addition to the focus on limiting climate change (through mitigation such as by reducing GHG emissions), adaptation and climate finance are other key aspects of the Paris Agreement.

Mitigation

The Paris Agreement relies on ratcheting up emissions reduction ambition over time to achieve its goals and to address the emissions gap that exists between the temperature target in the Paris Agreement and the likely increase in temperature resulting from existing emissions reduction pledges by parties. All parties submit Nationally Determined Contributions (NDC) that state their domestic emissions reduction targets post-2020 and how they plan to achieve the reduction, as well as efforts to adapt to climate change. Under Article 4, parties are required every 5 years to bring forward plans that reflect their 'highest possible ambition' for greater emissions reduction contributions. Parties are expected to increase their ambition in each successive NDC. These 5-yearly commitments were due at COP26 (26th Conference of Parties to the UNFCCC) in 2021. Parties who had an NDC period ending in 2025 needed to communicate a new NDC with a 2030 emissions reduction target, while those who already had a 2030 target needed to 'communicate or update' their NDC and were encouraged to increase their target. Leading into COP26, attention was on the 2030 targets and whether parties would commit to net zero emissions by 2050.

International pressure to increase targets came from multiple sources including the UN, individual countries and international organisations. After the initial UNFCCC *NDC synthesis report* found that international emissions reduction commitments (from NDCs at the end of 2020) fell 'far short of what is required' to limit warming to the Paris Agreement goals (p. 5), the UN Secretary-General stated:

> … governments are nowhere close to the level of ambition needed to limit climate change to 1.5 degrees and meet the goals of the Paris Agreement. The major emitters must step up with much more ambitious emissions reductions targets for 2030.

Following the release of the International Panel on Climate Change (IPCC) Working Group I report, *Climate change 2021: the physical science basis*, the IPCC expressed the urgency of increasing ambition, finding that 'unless there are immediate, rapid and large-scale reductions in greenhouse gas emissions, limiting warming to close to 1.5 °C or even 2 °C will be beyond reach'. COP26's first goal was to '[s]ecure global net zero by mid-century and keep 1.5 degrees within reach', with host, the UK, pressuring other countries to strengthen their emissions reduction commitments. Organisations from numerous sectors also stated support for increasing emissions reductions, including for example, the International Energy Agency.

Australia also faced pressure from other countries to increase emissions reduction ambitions, including from some Pacific Island countries for whom climate change is an existential threat. Within Australia, stronger emissions reduction targets were supported by organisations such as the Business Council of Australia and the National Farmers Federation.

Climate finance

The provision of climate finance from developed to developing countries is part of acknowledging both the differing contributions of countries to climate change, and their varying capacities to mitigate and adapt to climate change. The goal for developed countries to mobilise climate finance of US$100 billion per year by 2020 is expected to be met in 2023.

Australia provided $1.4 billion in climate finance to developing countries during 2015–20 to support adaptation and emissions reduction, including over $300 million to the Pacific to support climate change and disaster resilience. The Morrison Government committed to $2 billion in climate finance over 2020–25, including $700 million to continue supporting Pacific climate change and disaster resilience and renewable energy. The Australian Labor Party (ALP) has committed to establishing a Pacific Climate Infrastructure Financing Partnership to support climate and clean energy infrastructure projects, and an Australia-Indonesia Climate Resilience and Infrastructure Partnership with an initial $200 million in grant funding.

Adaptation

Parties to the Paris Agreement are required to engage in adaptation planning, which includes developing and implementing a National Adaptation Plan (NAP) and submitting 'adaptation communications' to the UNFCCC, outlining their actions and progress. Australia updated and released its new NAP, the *National climate resilience and adaptation strategy 2021–2025*, in October 2021. This was presented at COP26, alongside Australia's first *Adaptation communication*.

More information on the strategy and Australia's action on adaptation is provided in the 'Natural disasters and climate risk' article in this *Briefing book*.

Australia's emissions targets

In 2015, Australia committed to an 'economy-wide target to reduce greenhouse gas emissions by 26 to 28 per cent below 2005 levels by 2030' under the Paris Agreement (p. 1). This target is 'developed into an emissions budget covering the period 2021–30' (p. 3), meaning that meeting the target is judged on whether total emissions over the period remain within the target budget, not whether the actual emissions level in 2030 is 26%–28% below the emissions in 2005. The latest multi-year budget given in Australia's 2021 emissions projections is 4,915 million tonnes of carbon dioxide equivalent (Mt CO_2-e) under a 26% reduction and 4,847 Mt CO_2-e under a 28% reduction (p. 3).

Australia's updated NDC, submitted on 28 October 2021 just before COP26, reaffirmed the 26%–28% reduction commitment, adding that the emissions projections showed that Australia 'is on track to reduce emissions by up to 35% below 2005 levels by 2030' (in emissions budget terms) (p. 3). The NDC also included the newly-adopted 'target of net zero emissions by 2050' (p. 3). Consistent with the 2030 target, the 2050 target is economy-wide and covers 'all sectors and gases included in Australia's national inventory' (p. 3). In contrast with the 2030 target, the 2050 target reflects Australia's net emissions in a single year (p. 9). Using a target of 'net zero' rather than 'zero' allows for continued emissions, but any emissions need to be balanced by removing GHGs (such as through carbon sequestration) so that net emissions are zero.

The June 2022 NDC update strengthens the 2030 emissions reduction target to 43% below 2005 levels, and reaffirms the 2050 net zero emissions target. The 2030 target has changed to be both an emissions budget target (with an indicative value of 4,381 Mt CO_2-e for 2021–30) and a single year target. The 2030 and 2050 targets both remain economy-wide and cover the same GHGs as previously.

Australia's states and territories have all individually committed to net zero emissions by 2050 at the latest (p. 4). Most also have interim targets for 2030 that are more ambitious than the national target, giving Australia 'a de-facto emissions target of 37–42 per cent below 2005 levels' by 2030 on a yearly comparison basis (p. 6).

Australia's emissions

As shown in Figure 1, Australia's annual total emissions are slowly declining overall. Compared to the year in June 2005, the baseline year for the Paris Agreement emissions reduction target, emissions have dropped 21.4% to December 2021 on a year-to

-year comparison (p. 3).

The main sectoral trend driving the long-term decrease in Australia's total emissions is the reduction in emissions from the Land Use, Land Use Change and Forestry (LULUCF) sector (p. 10). Figure 1 demonstrates the large influence the LULUCF sector has on Australia's long-term emissions trends. Since 1990, emissions in this sector have dropped 120.3%, or 23.1 Mt CO_2-e, due to decreases in land clearing and native forest harvesting, soil carbon improvements, and plantation and native vegetation growth (p. 10). The LULUCF sector is now a net sink for GHGs in Australia, meaning it is absorbing more GHGs than it emits (p. 20).

In the year to December 2021 (the latest available figures as of June 2022), electricity accounted for 32.9% (160.4 Mt CO_2-e) of Australia's emissions, making it the largest sector (p. 9). The decline in electricity emissions since the sector's peak in 2008–09 (p. 11), as well as a reduction in agriculture emissions since 1990 (p. 10), have also contributed to the decrease in total emissions. In contrast, the 3 main sectors driving emissions up since 1990 are stationary energy (excluding electricity), transport and fugitive emissions. The stationary energy sector includes emissions from the combustion of fuels (such as natural gas), mostly in the manufacturing, mining, residential and commercial sub-sectors.

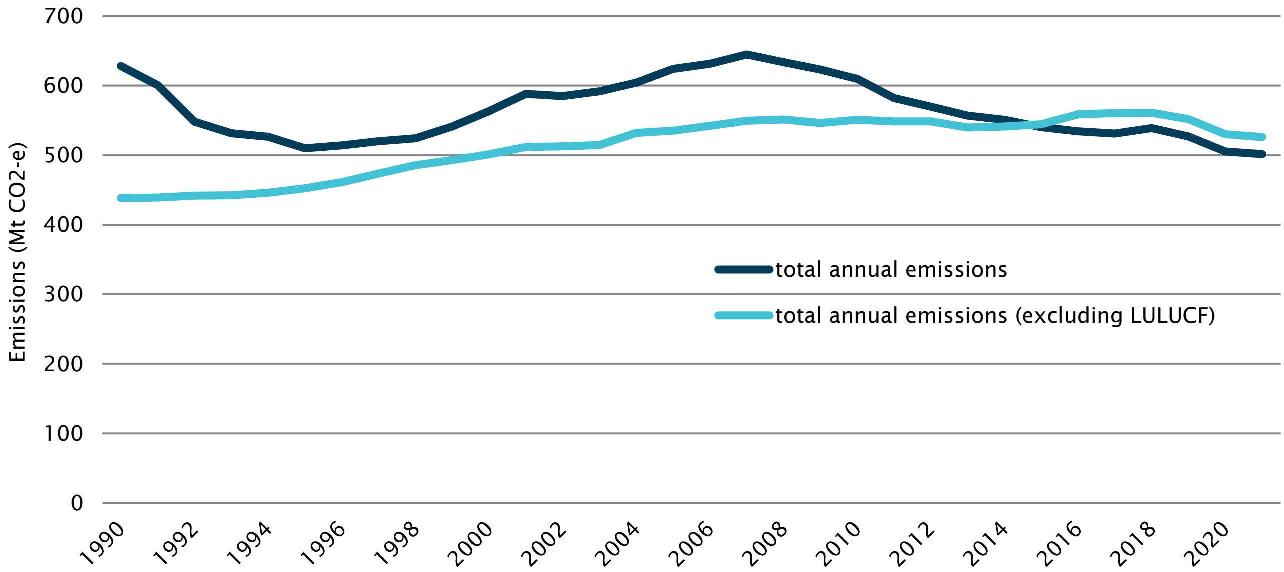
Australia's action

Emissions Reduction Fund

Since 2014, Australia's primary emission reduction policy has been the Emissions Reduction Fund (ERF) and its safeguard mechanism. The ERF provides a financial incentive for businesses and organisations to reduce their emissions or sequester carbon by participating in eligible projects that deliver emissions abatement or reduction. Participants earn one Australian Carbon Credit Unit (ACCU) for every tonne of CO_2-e stored or avoided by the project. ACCUs can then be sold to generate income.

The role of the ERF's safeguard mechanism is to limit covered emissions (defined as direct scope 1 emissions) from Australia's industrial sectors. The mechanism requires facilities that emit covered emissions of more than 100,000 tonnes of CO_2-e a

Figure 1 – Australia's total annual emissions including and excluding LULUCF (Mt CO2-e), December 1990 to December 2021



Source: 'National Greenhouse Gas Inventory Quarterly Update: December 2021', Department of Industry, Science, Energy and Resources, (data extracted from 'Annual emissions data' table).

year to keep net emissions below a specified limit (a baseline). These facilities account for roughly half of Australia's emissions and mostly belong to the mining, oil and gas extraction, manufacturing, electricity generation and waste industry sectors. The electricity sector is treated slightly differently, with a sectoral baseline collectively applied to relevant grid-connected generators.

The safeguard mechanism has been criticised for allowing facilities to increase their baselines, resulting in emissions covered under the mechanism rising by 7% since it began in 2016 (p. 8). Following the 2020 King Review that examined new sources of low cost emissions abatement, the Morrison Government began establishing a Safeguard Crediting Mechanism that would operate by allowing facilities to undertake 'transformative' abatement projects and earn 'Safeguard Mechanism Credits' by reducing emissions below their established baselines. The proposed scheme is described as a 'low-emissions technology deployment incentive scheme' as opposed to an 'offset scheme' like the ERF (p. 2). The ALP also committed to implementing such a scheme (p. 31) and committed to reducing facility baselines 'predictably and gradually over time' (p. 5).

Further concerns have been raised about the ERF and safeguard mechanism. One of the issues raised since 2016 is that some ERF projects may not be achieving genuine emissions reductions. Recently, critics have claimed there are integrity issues with many ACCUs that are issued to some of the main types of abatement projects and that they 'do not represent real and additional abatement'. These claims have been strongly denied by the Clean Energy Regulator, its Emissions Reductions Assurance Committee and the Carbon Market Institute. The ALP has noted these concerns and had previously committed to 'undertak[ing] a short review into ACCUs to ensure their integrity' (p. 34).

Other programs and agencies

Other programs and agencies that support emissions reduction include the following:

- The Renewable Energy Target scheme incentivises investment in renewable energy from energy generation companies (large-scale scheme) and households and small businesses (small-scale scheme). It will continue to operate until 2030.
- The Clean Energy Finance Corporation invests in clean energy technologies, projects and businesses through loans and equity investments.
- The Australian Renewable Energy Agency (ARENA) provides grant funding to early-stage technologies. Recent changes to the ARENA regulations will allow it to fund a broader range of projects, including clean energy technologies.
- International low emissions technology (LET) partnerships facilitate LET research and projects, spearheaded by Special Adviser to the Australian Government on Low Emissions Technology, Dr Alan Finkel.

A full summary of current agencies, policies and measures (including by sector) is provided in Appendix A of *Australia's long-term emissions reduction plan* (pp. 106–18).

Major parties' policies

A major focus of the Morrison Government's approach to reaching net zero emissions, as described in the October 2021 NDC update, was to implement a 'technology-led approach to emissions reduction'. This centred around investment in LETs to make them 'cheaper, and more widely available'. The priority technologies were clean hydrogen, energy storage, low emissions steel and aluminium, carbon capture and storage, soil carbon and ultra low-cost solar. The approach was underpinned by the *Technology investment roadmap* (the strategy to identify, develop and deliver LETs), and part of *Australia's long-term emissions reduction plan* (the whole-of-economy plan to achieve Australia's 2050 target). The plan outlined actions and funding commitments for the priority LETs anticipated to deliver 40% of the domestic emission reductions required to reach the 2050 target (p. 15). It also described the broader deployment of enabling technologies (such as electric vehicle charging infrastructure), emerging market opportunities (such as expanding markets for minerals used in low emissions economies and clean hydrogen exports) and fostering global collaboration (p. 9).

The ALP released its *Powering Australia* policy in December 2021, outlining a plan to achieve a 2030 emissions reduction target of 43% below 2005 levels. It covers a range of policies, confirmed in the June 2022 NDC, including:

- a $20 billion plan to upgrade the national electricity grid and establish new electricity infrastructure to integrate more renewable energy (p. 22)
- investment from the National Reconstruction Fund, with up to $3 billion to support renewables manufacturing and the deployment of LETs (p. 28)
- changes to the Safeguard Mechanism (as noted above)
- the Powering the Regions Fund, which will redirect uncommitted ERF funds to facilitate investments in industry decarbonisation, including in energy efficiency, clean energy industries and workforce development (p. 32)

a national electric vehicle strategy (p. 40).

The Albanese Government has committed to introducing legislation for the emissions reduction targets when Parliament returns. Some analysts question how the Government's policy can achieve the projected emissions reductions and consumer savings (within the electricity sector) without accelerating the early closure of coal-fired generators. The Government is expected to face pressure in the new Parliament – including from the Australian Greens (who have called for a moratorium on all new coal and gas projects) and other climate-motivated crossbenchers – to commit to more ambitious climate change action.

Further reading

International Panel on Climate Change (IPCC), *Climate Change 2021: the Physical Science Basis: Summary for Policymakers*, Working Group I Contribution to the Sixth Assessment Report of the IPCC, (Geneva: IPCC, 2021).

Bureau of Meteorology (BOM) and CSIRO, *State of the Climate 2020*, (BOM and CSIRO, 2020).

World Meteorological Organization (WMO), *State of the Global Climate 2021*, (Geneva: WMO, 2022).

NATURAL DISASTERS AND CLIMATE RISK

Tessa Satherley, Economic Policy and Dr Daniel May, Science, Technology, Environment and Resources

Key issue

Recent natural disasters have been traumatic and costly for Australian communities, and recovery will take many years. Under climate change projections, natural disasters are expected to impose a worsening burden on emergency responders and communities, and to further challenge the management capabilities of governments. The 47th Parliament has an opportunity to build on its predecessor's legacy of reforming federal disaster management arrangements, and careful scrutiny of Australian Government spending to promote preparedness, response and recovery.

This article recaps recent disasters and climate change projections, and outlines current governance arrangements for disaster response and climate adaptation. It explores key issues for the 47th Parliament, including the inadequacy of federal–state emergency management arrangements in light of recent disasters; the right balance between investment in prevention, mitigation and response; and planning for the growing fiscal impact of natural disasters.

This article recaps recent disasters and climate change projections, and outlines current governance arrangements for disaster response and climate adaptation. It explores key issues for the 47th Parliament, including the inadequacy of federal–state emergency management arrangements in light of recent disasters; the right balance between investment in prevention, mitigation and response; and planning for the growing fiscal impact of natural disasters.

Background: natural disasters in Australia

Australia has always experienced natural disasters, but their frequency, severity and cost is increasing as climate change progresses. As concluded in the 2020 report of the Royal Commission into National Natural Disaster Arrangements (RCNNDA): 'Natural disasters have changed, and … the nation's disaster management arrangements must also change' (p. 22).

Recent major disasters

During the 46th Parliament, Australia experienced multiple large-scale disasters in succession, starting with the continuation of the 2017–19 drought. The year 2019 was Australia's warmest and driest year ever recorded. Climatologists said the drought surpassed the Federation, Second World War and Millennium droughts in severity. Parliament heard that farmers struggled to put food on their own tables, and 'financial wellbeing, mental health, employment and family relationships' suffered across broader rural and regional communities (p. 39). The impact on Murray–Darling Basin communities – human and ecological – was severe. Multiple mass fish die-offs occurred, and the competing environmental and socio-economic stresses threatened to 'destroy the Murray–Darling Basin plan' (see the article, 'Water, including the Murray-Darling Basin', in this *Briefing book*).

Drought is sometimes described as a tragedy in slow motion, requiring different response mechanisms to more sudden disasters. The arrangements for federal–state cooperation on drought measures are set out in the 2018 National Drought Agreement. The 2019–21 Senate Inquiry into the Federal Government's Response to the Drought identified gaps in the available support payments, including restrictive eligibility criteria, burdensome application processes, unclear communication about available support and a pattern of mostly 'reactive' expenditure.

The **2019–20 Black Summer bushfires** were characterised by an unprecedented extent of high-severity fire across eastern Australia. Thirty-three people died, 24–33 million hectares were burnt, a pall of smoke covered east coast cities and thousands were hospitalised due to smoke inhalation. Researchers have warned some rainforests and peatland may never recover. At the commencement of the 47th Parliament, some survivors are still in temporary accommodation.

The Morrison Government was criticised for allegedly failing to act decisively on warnings of a catastrophic fire season, reducing aerial firefighting funding, an ad hoc approach to resource deployment and poor communication with relevant state authorities – a state firefighting chief claimed he first learned of planned Australian Defence Force (ADF) deployments through the media. Longer-term recovery measures have been found wanting, with ongoing homelessness in fire-affected regional communities in Victoria and NSW. The RCNNDA, the Senate Finance and Public Administration Committee and separate state inquiries reported on the disaster, and the RCNNDA recommended an overhaul of national disaster management arrangements.

The catastrophic **February–March 2022 east coast floods** saw rainfall records fall across south-east Queensland and north-east NSW, leading to flash and riverine flooding from Maryborough in Queensland to Grafton in NSW. Flooding also occurred on NSW's Central Coast, in Sydney, in the Illawarra and on the NSW South Coast. In Lismore, northern NSW, the unexpectedly high flood peak of 14.4 metres (dwarfing the previous record of 12.1 metres) meant thousands had to be rescued. Local reporting suggested most rescues were conducted by civilians, as the scale of the task overwhelmed official response capabilities. More than 20 people died nationally, and the Insurance Council of Australia estimated $3.35 billion in insured losses, making it 'the costliest flood in Australia's history'.

Criticism of the federal, state and local flood response has been particularly fierce in northern NSW, where residents and media reported triple zero calls going unanswered; civilians chartering their own helicopters to meet the unmet need for aerial rescues and food drops; miscommunication about ADF deployments; the unequal provision (at first) of federal financial support to flood victims in adjacent electorates; and mixed messages from federal and local government about Lismore's future, preventing informed repair and reconstruction decisions. The National Resilience and Recovery Agency (NRRA) was forced to defend its earlier decision 'to omit Lismore from its priority areas for flood mitigation funding' and the slow delivery of relief payments. The NSW Government has commissioned an independent inquiry, which at the time of writing was hearing from flood victims in northern NSW. Media report that the inquiry has 'heard countless tales of government unpreparedness during the peak of the crisis, in the recovery centres and as efforts continue to find accommodation for the thousands left homeless'.

The natural disaster and extreme weather outlook

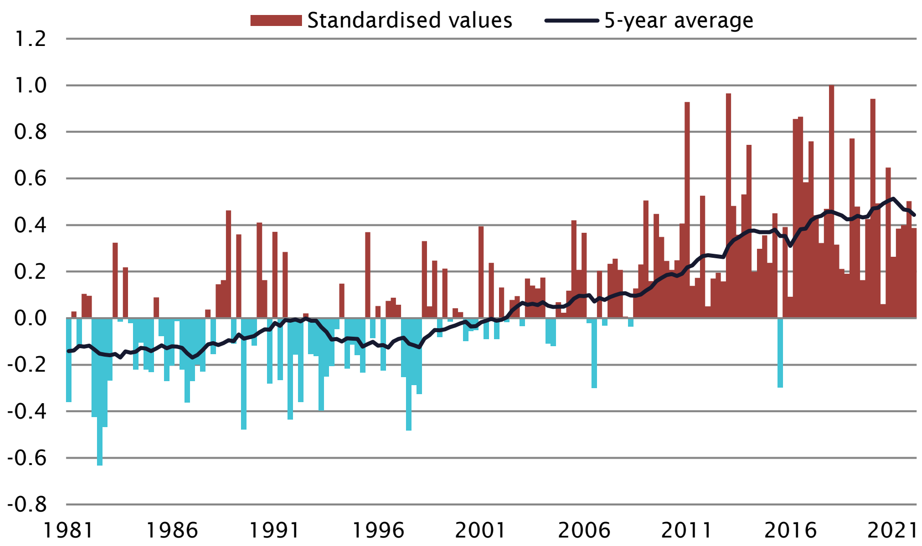
The 2020 RCNNDA report stated that 'Australia's disaster outlook is alarming', with climate change exacerbating bushfires, extreme rainfall and flooding (p. 68), although the CSIRO has also reported that the implications of climate change for droughts, damaging hail, tropical cyclones and other storms are less clear.

Actuaries specialise in assessing the financial consequences of risks, and are often employed by insurers, banks and investment managers. The Australian Actuaries Climate Index (AACI) tracks changes in the frequency of extreme temperatures, heavy precipitation, dry days, strong wind and changes in sea level across Australia, 'because extremes have

The *Inquiries and reviews database* catalogues 315 disaster inquiries and reviews from 1886 to 2020, and all recommendations from 186 inquiries and reviews from 2003 to 2020. Inquiries provide a space for survivors to tell their stories. However, some researchers have suggested less adversarial and more holistic methods of identifying lessons, and others have argued for greater focus on implementation.

the greatest potential impact on people and, often, the largest cost to the economy'. The AACI shows significantly worsening extreme weather risk, shown by an index number above zero (see Figure 1).

Figure 1 – Australian Actuaries Climate Index



Source: Actuaries Institute, Australian Actuaries Climate Index website

The RCNNDA quoted evidence from the Australian Business Roundtable for Disaster Resilience and Safer Communities that 'Direct and indirect disaster costs in Australia are projected to increase from an average of $18.2 billion per year to $39 billion per year by 2050, even without accounting for climate change'.

The Business Roundtable, in partnership with Deloitte Access Economics, published an *Update to the economic costs of natural disasters in Australia* in October 2021, which concluded that even under a low emissions scenario, the cost of natural disasters in Australia is estimated to increase to $73 billion per year by 2060. Scenarios with higher global emissions can expect commensurately higher disaster costs (p. 1). Under a high-emissions, 3 °C warming scenario:

> By 2060 costs reach $94 billion, representing a 29% increase relative to the low emissions scenario. Over the next 40 years the different trajectories will lead to a $125 billion difference in cumulative cost in present value. Even if a low emission scenario is achieved, the cost of natural disasters is forecast to be $1.2 trillion in cumulative costs over the next forty years.

Current disaster response and climate adaptation arrangements

Strategic foundation: 'shared responsibility'

The 2011 *National strategy for disaster resilience* (NSDR), negotiated through the former Council of Australian Governments, is the strategic foundation of current federal disaster arrangements. It frames disaster resilience as 'a shared responsibility for individuals, households, businesses and communities, as well as for governments'. It has an objective of 'community empowerment', but also outlines very significant roles for all levels of government.

Academics have criticised the 'shared responsibility' framing for its ambiguity on the division of responsibilities, and for the tension between the placement of governments at the centre of disaster risk management and the emphasis on 'community empowerment'.

Further, the Productivity Commission has warned of 'the risk that the expectation of government financial assistance will create "moral hazard" … by reducing incentives for individuals and businesses to take out insurance and invest in mitigation' (p. 25) – and that the same risk of moral hazard could apply to Australian Government assistance to states and territories (p. 86).

Federal disaster response arrangements

Constitutional power for emergency management largely rests with the states and territories. The

Australian government crisis management framework (AGCMF), first released in 2012, outlines that 'states and territories are the first responders to any incident that occurs within their jurisdiction and have primary responsibility for the protection of life, property and the environment within the bounds of their jurisdiction' (p. 7).

However, the AGCMF acknowledges that 'the Australian Government possesses operational and strategic capabilities that can ensure decisive action is taken during a nationally significant crisis' and 'recognises the expectations of the Australian public that it will take a leadership role in nationally significant emergencies' (p. 7).

The AGCMF outlines the financial and non-financial assistance the Australian Government may provide at various phases during a crisis. The main forms of direct Australian Government financial support for individuals are the Australian Government Disaster Recovery Payment and the Disaster Recovery Allowance, delivered via Services Australia (see 'Further reading').

The Australian Government can also provide disaster funding to states and territories. Most is coordinated through National Cabinet or Council on Federal Financial Relations mechanisms.

The main formal mechanism is an Australian Government 'disaster relief' payment, typically a contingent payment made to a state or territory on a cost-sharing basis. The bases for these payments are the Intergovernmental Agreement on Federal Financial Relations, the Natural Disaster Relief and Recovery Arrangements (NDRRA) and the Disaster Recovery Funding Arrangements (DRFA).

In essence, a state or territory makes an application to the Australian Government for payments in response to an eligible emergency, and some costs are shared. The Australian Government has also historically made a range of ad hoc and one-off payments for specific disasters.

These expenditure types are budgeted as 'contingent payments'. In simple terms, the legislative and governance frameworks are in place to enable these payments following an eligible event, but the timing and quantum of funding are unknowable – and not forecast – before the trigger event (see 'Natural disaster expenditure in the Australian Government Budget' below).

Additional assistance may be provided through disaster resilience programs, grants to local government and non-government organisations, one-off payments to individuals or businesses and special tax concessions or exemptions.

Under the *Australian government disaster response plan* (COMDISPLAN), the Australian Government may also provide non-financial aid to the states and territories, such as mapping services, planning expertise and physical and logistics support (for example, the airlift capabilities of the ADF). This non-financial support is coordinated through Emergency Management Australia (EMA), a division of the Department of Home Affairs. EMA also provides national '24/7 all-hazards situational awareness and monitoring' (p. 14) through the National Situation Room, formerly known as the Australian Government Crisis Coordination Centre.

Changes to natural disaster arrangements during the 46th Parliament

The Morrison Government oversaw changes to the institutional architecture for managing national-scale emergencies. Under the *National Emergency Declaration Act 2020*, the Governor-General, on the advice of the Prime Minister, may now declare a 'national emergency'.

This makes a range of powers available to ministers to assist with response and recovery, including the ability to suspend the usual administrative rules welfare recipients must comply with in order to receive Services Australia payments, and the ability to mandate the reporting of emergency stockpiles and assets.

Chapter 7 of the RCNNDA report discussed the role of the ADF following the 2019–20 bushfires, and noted 'a lack of understanding about the role, capacity and capability of the ADF in relation to natural disasters' (p. 186). In response, the COMDISPLAN was updated in December 2020 to outline the process for the Australian Government to respond to requests for assistance from state and territory governments, including for ADF assets.

The NRRA was launched in May 2021. It brought together the former National Bushfire Recovery Agency and the National Drought and North Queensland Flood Response and Recovery Agency, in addition to disaster-related functions from other departments. The

NRRA was intended to ‘provide support to local communities during the relief and recovery phases following major disasters’, and also provide advice on mitigation programs for future major disasters.

Former emergency managers have been critical of the NRRA. For example, a former Commissioner of the ACT Emergency Services Authority has criticised it for undertaking ‘almost no’ disaster mitigation work, and argued its creation – sitting alongside EMA – was ‘a recipe for duplication and administrative hubris’.

The Emergency Response Fund (ERF) was created through the *Emergency Response Fund Act 2019*. As outlined in the Parliamentary Library’s Bills digest, the ERF was initially funded through the transfer of approximately $4 billion from the Education Investment Fund, and is to be used for financial assistance for projects, services or technologies aimed at enhancing disaster recovery or improving post-disaster resilience.

The Act enables the Government to access up to $150 million each year to fund emergency response and recovery efforts following natural disasters, and up to $50 million each year to fund initiatives that build resilience and reduce the risk of future disasters.

As at 30 June 2021, the ERF was valued at $4.7 billion. Following the 2019–20 bushfires and 2022 floods, the Morrison Government faced criticism for not having disbursed the full available annual funding from the ERF since its foundation. According to the Department of Finance, the ERF paid out $50 million in 2020–21 and a total of $150 million in 2021–22 as at 31 March 2022.

In the last days of the 46th Parliament, the *Treasury Laws Amendment (Cyclone and Flood Damage Reinsurance Pool) Act 2022* established a reinsurance pool for cyclone damage backed by a $10 billion Australian Government guarantee. While the legislation was originally developed to address cost pressures in northern Australia, parliamentary debate – against the backdrop of the 2022 floods – focused on the possibility of extending the model to cover all flood or natural disaster risks nationally, to address other communities’ worsening risk profile under climate change (see ‘Further reading’).

Both major parties, the Insurance Council of Australia (ICA) and most other stakeholders supported the reinsurance pool. However, the ICA’s 2022 policy platform *Building a more resilient Australia* called for greater investment in disaster mitigation measures as the only way to sustainably reduce natural peril insurance premiums long term. The ICA also called for federal–state–local government collaboration on land planning and development reform in consideration of worsening extreme weather risk.

Climate adaptation governance arrangements

The former Council of Australian Governments agreed a federal framework on climate change adaptation roles and responsibilities in 2012. Under this framework, the Australian Government’s role and responsibilities include:

- providing leadership on national adaptation reform
- managing Australian Government assets and programs
- providing national science and information
- maintaining a strong, flexible economy and a well-targeted social safety net.

In disaster management, mitigation refers to steps to lessen or minimise the adverse impacts of foreseeable hazardous events, such as building a flood levee, cyclone-proofing a house or creating a firebreak. The word is used in that sense in this article. In the context of combating climate change, mitigation refers to ‘making the impacts of climate change less severe by preventing or reducing the emission of greenhouse gases’. Since the UK’s landmark 2006 Stern Review, experts have recommended an economic strategy of both reducing global emissions as fast as possible *and* investing early in climate change adaptation and/or disaster mitigation, to manage locked-in climate change impacts. Recent Australian Government-funded mitigation programs include the Preparing Australia Program, the Disaster Risk Reduction Package, the Future Drought Fund and the National Flood Mitigation Infrastructure Program.

Australia's *National climate resilience and adaptation strategy 2021–2025* was updated and released in October 2021, prior to COP26 (see the article, 'Climate change and emissions reduction', in this Briefing book). The strategy's 3 main objectives are to:

- drive investment and action through collaboration
- improve climate information and services
- assess progress and improve over time.

Critics have said the strategy lacks substance, citing its lack of specific policies, detailed targets and funding. Other commentators have conceded its limitations, but see it as 'a good start'.

The national adaptation strategy's second objective will largely be met by the Australian Climate Service, established in July 2021. The service functions by compiling Australian Government climate and natural hazard research into one platform, which can be used to increase the capacity to plan and prepare for natural disasters and 'build a more resilient Australia'.

The service was provided with $209.7 million over 4 years (and $37.3 million annually ongoing) in the 2021–22 Budget (p. 66).

Natural disaster expenditure in the Australian Government Budget

Extreme weather is already resulting in significant unplanned Budget expenditure, although budgetary reporting conventions make monitoring the overall picture challenging.

The Morrison Government's 2022–23 Budget anticipated significant expenditure from past natural disasters. For example, *Budget paper no. 2: 2022–23* included:

- the multi-billion dollar cross-portfolio 'Flood Package' measure in response to the east coast floods (pp. 61–63)
- an additional $116.4 million over 3 years from 2021–22 for Black Summer Bushfire Recovery Grants (p. 155)
- at least $20.1 million for 'Disaster Support', including the establishment of a national emergency management stockpile, mental health support for first responders and support following flood and storm events in 2021, to be delivered jointly with the states (p. 159).

Forward estimates in the Budget for 'natural disaster relief' in aggregate only show the expected future expenditure due to *past* disasters.

This is consistent with the funding mechanism by which payments to the states are contingent on an eligible trigger event (see 'Federal disaster response arrangements' above). The Budget does not make guesses as to whether and when future trigger events might occur, or how big the funding quantum will be.

Given this approach, it is unsurprising that Australian Government natural disaster relief has consistently exceeded previous 'estimates' in recent years (see Table 1), as new widespread disasters occur on the heels of previous ones.

This makes it difficult to use the Budget's forward

Table 1 – Spending on natural disaster relief: forward estimates and actual expenditure

$ million	Forward estimate[(a)]	Budgeted amount[(b)]	Actual expenditure[(c)]
2022–23	253	763	TBC
2021–22[(d)]	832	327	5,176
2020–21	2	482	748
2019–20	10	11	1,863
2018–19	2	17	775

(a) The forecast expenditure for the year in the first column according to the Budget for the year prior.
(b) The expenditure listed for that year in the Budget of the same year.
(c) The expenditure listed for that year in the following year's Budget.
(d) The figures for this year include funding for the establishment of the National Recovery and Resilience Agency.
Sources: Australian Government, *Budget Paper No. 1: 2022–23*, 171–2; *Budget Paper No. 1: 2021–22*, 191; *Budget Paper No. 1: 2020–21*,
6–52; *Budget Paper No. 1: 2019–20*, 5–42; *Budget Paper No. 1: 2018–19*, 6–43; *Budget Paper No. 1: 2017–18*, 6–44.

Australia's National Aerial Firefighting Centre (NAFC) 'provides a cooperative national arrangement for the provision of **aerial firefighting** resources for combating bushfires' (emphasis added). While the NAFC contracts aerial firefighting resources on a national basis, state and territory land management agencies may directly contract resources.

The NAFC recently released the *National aerial firefighting strategy 2021–26*, which provides an overview of the current NAFC fleet, consideration of the RCNNDA recommendations on national aerial firefighting capabilities and arrangements, and the costs of and opportunities for further aerial firefighting roles.

Traditionally, fire seasons in Australia and North America have been well separated, which allowed for aircraft and personnel sharing. However, fire seasons in both the northern and southern hemispheres are lengthening, placing pressure on resource-sharing and leading to calls from prominent serving and former emergency managers for boosts to our national aerial firefighting fleet capability. In contrast, NAFC's *National aerial firefighting strategy 2021–26* states that Australia already possesses 'good sovereign fleet capability … albeit largely contracted', with the exceptions of Large Air Tanker aircraft and, to some extent, Type 1 Rotary Wing aircraft (p. 17).

estimates to project the future fiscal burden of natural disaster costs relating to climate change.

In addition, the 'Statement of Risks' in recent Budgets has been silent with regard to climate-related fiscal risk. This is arguably at odds with recent prudential advice from the Australian Prudential Regulation Authority and the Actuaries Institute.

In contrast, recent Budgets have had a dedicated section on 'climate spending', to clarify the implications of spending on environmental action for the national debt.

Albanese Government disaster readiness commitments

The Albanese Government's election platform included policies to implement the Productivity Commission recommendation to invest 'up to $200 million per year on disaster prevention and resilience' (to be matched by the states and territories) through a Disaster Ready Fund, on top of existing arrangements. (The Productivity Commission's 2014 Inquiry into Natural Disaster Funding Arrangements had reported that 'Australian Government mitigation spending was only 3 per cent of what it spent post-disaster', p. 9.)

Labor also committed to establishing a sovereign aerial firefighting fleet, in partnership with the National Aerial Firefighting Centre (NAFC) and state and territory governments, and to funding Disaster Relief Australia to expand its national veterans-led volunteer corps.

Other high-level Labor election commitments included:

- reducing red tape around accessing disaster resilience funding
- improving the efficiency of disaster recovery processes
- assisting with rising insurance premiums in disaster-prone regions by reducing the risk of expensive damage; that is, through mitigation.

Intense media and community scrutiny is likely to continue as the new Albanese Government and 47th Parliament navigate the legacy of recent disasters and federal reforms, and seek to improve the nation's position to manage future disasters in a changing climate.

Further reading

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OCEANS AND THE BLUE ECONOMY

Dr Emily Gibson, Science, Technology, Environment and Resources

Key issue

Australia's coasts and marine ecosystems are facing a range of threats, including climate change, coastal development, land-based run-off, and direct human uses.

Three major regulatory issues in Commonwealth waters are oil and gas exploration and production (including decommissioning), electricity infrastructure, and aquaculture.

Achieving a balance between competing uses and users will be crucial for achieving a sustainable ocean economy, consistent with Australia's recent international policy commitments.

With the sixth largest coastline and third largest marine area in the world, the Australian coast and marine environment is intimately linked to the national economy, industry, arts, social lifestyle and cultural identity. More than 85% of Australians live within 50 kilometres of the sea.

The value of Australia's coast and marine resources is often referred to in economic terms. For example, the *AIMS index of marine industry 2020*, which assesses the contribution of Australia's 'blue economy' to the nation's economic bottom line, estimates that the economic output of 14 marine industries was $81.2 billion in 2017–18. In addition, the coast and oceans provide an estimated $25 billion worth of ecosystem services, such as carbon dioxide absorption, nutrient cycling, and coastal protection. Other values cannot be easily measured in economic terms: for example, the intrinsic recreational value of the coast and ocean, and the cultural importance of Sea Country to Aboriginal and Torres Strait Islander peoples.

Coastal ecosystems, including mangroves, seagrass meadows and tidal marshes, and the ocean, play a critical role in the carbon cycle. Coastal blue carbon ecosystems sequester more carbon dioxide than terrestrial forests. Australia is considered a 'blue carbon hotspot', with 12% of the world's blue carbon ecosystems holding 7–12% of global carbon stocks. The Australian Government is taking a range of measures to restore, conserve and account for blue carbon ecosystems. Additionally, in January 2022, a blue carbon method was approved under the Emissions Reduction Fund, allowing projects that restore tidal flows in blue carbon ecosystems to generate Australian Carbon Credit Units.

Australia is a member of several international organisations which collectively seek to increase marine ecosystem protections and achieve a sustainable ocean economy. The High Ambition Coalition for Nature and People and Global Ocean Alliance both aim to protect at least 30% of the world's land and oceans (in marine protected areas (MPA) or 'other effective area-based conservation measures') by 2030. The High Level Panel for Sustainable Ocean Economy (Oceans Panel) seeks to ensure that 100% of the ocean area under national jurisdiction is sustainably managed using sustainable ocean plans by 2025.

Australia's sustainable ocean plan is yet to be developed. However, a range of other policy and planning instruments exist, including *Australia's oceans policy* (1998), marine bioregional plans prepared for 4 of the 6 Commonwealth marine regions (all released in 2012), and 10-year management plans for Commonwealth marine parks (all updated in 2018). The new Government has committed to undertaking statutory reviews of marine park management plans (noting these cover approximately 20% of Australia's exclusive economic zone) and making changes based on scientific evidence and stakeholder consultation.

State of the coast and oceans

The 2016 *State of the environment* report highlights the multiple pressures impacting coastal and ocean systems and processes, operating at different spatial and time scales. In 2021, researchers identified 5 coastal and marine ecosystems classified as 'collapsing': the Great Barrier Reef (GBR), mangrove forests of northern Australia, Ningaloo Reef, Shark Bay seagrass beds, and Great Southern Reef kelp forests. Stakeholders, including the Australian Marine Conservation Society, have expressed concern that the major parties policies are inadequate to address key threats, including climate change and land clearing.

The World Heritage-listed GBR receives significant investment from the Queensland and Australian Governments to address threats including climate change, coastal development, land-based run-off, and direct human uses. Notably, in the summer of 2021–22, the GBR experienced its fourth mass bleaching event since 2016 – and the first one during a La Niña year (which are typically associated with cooler ocean temperatures).

However, the Great Southern Reef receives considerably less attention and investment –despite encompassing 8,100 km of coastline from Western Australia (WA) to NSW. The Great Southern Reef is home to diverse and unique species and incorporates the only marine ecological community listed as endangered under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), the Giant Kelp Marine Forests of South East Australia. The Great Southern Reef faces similar threats to the GBR, compounded by ocean temperatures warming at 2–4 times the global average and range expansion of species, such as long-spined sea urchins and tropical herbivorous fish that graze on and reduce cover provided by kelp and seagrasses. Marine scientists and advocates – as well as the Australian Greens – are arguing for greater recognition of the Great Southern Reef to support sustainable and adaptive management across relevant state and Commonwealth jurisdictions.

Governance of the coast and oceans

Governance of Australia's coasts and oceans is shared in accordance with the Offshore Constitutional Settlement (OCS) by the Commonwealth, state and Northern Territory (NT) governments. Local governments also play an important role with respect to coastal zone planning and management.

The OCS, established in June 1979, provides that the states and NT regulate activities in coastal waters (from the territorial sea baseline out to 3 nautical miles). The Commonwealth regulates activities in offshore areas (those beyond 3 nautical miles, encompassing the exclusive economic zone and Australian Fishing Zone). The Commonwealth has entered into separate Joint Authority arrangements with Queensland, WA and the NT to enable certain fisheries that straddle coastal and offshore waters to be managed under state legislation.

These arrangements coexist with Aboriginal and Torres Strait Islander peoples' traditional estates, which include land *and* marine areas (often referred to as Sea Country). Indigenous customary and subsistence fishing and other marine resource rights are recognised to some extent in all Australian jurisdictions. Recent initiatives – including Aboriginal Coastal Fishing Licences in the NT and the allocation of abalone quota in Tasmania – are providing commercial opportunities. Sea Country is also included in 25 of 78 Indigenous Protected Areas (IPA), while over a quarter of the 126 Indigenous ranger groups undertake a range of Sea Country management activities. Indigenous ranger programs provide positive outcomes for employment, the environment, and Indigenous mental health, and the incoming Government has committed to expanding these programs.

Australia's marine parks, including 2 recently declared Commonwealth marine parks in the Indian Ocean Territories, cover more than 4 million km2 or 45% of Australia's waters. However, a 2021 study found that only 25% are fully protected (International Union for Conservation of Nature (IUCN) Category Ia and II). The previous government oversaw a large-scale downgrading of marine protections when, in 2018, approximately 1 million km^2 of the total MPA estate (31%) was rezoned. Around half the downgraded MPAs were offset by increased protections in other MPAs. Downgraded areas were opened up to activities such as commercial fishing and oil and gas exploration under a range of 'class approvals', prior usage rights, or licenses.

Regulatory issues in the blue economy

Offshore oil and gas, and greenhouse gas storage

The *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGS Act) is the predominant framework regulating offshore oil and gas and greenhouse gas storage activities. Oil and gas titles cover 392,278 km2 of the Commonwealth offshore area, predominantly to the north-west of WA and in Bass Strait.

The National Offshore Petroleum Titles Administrator (NOPTA) issues titles for offshore oil and gas and greenhouse gas storage activities, on the advice of the relevant Commonwealth–state/territory Joint Authority or, in some circumstances, the Commonwealth Minister for Resources.

The National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) regulates offshore work health and safety, well integrity, and environmental management. NOPSEMA's environmental management authorisation process has been endorsed in a strategic assessment under the EPBC Act. This means that petroleum exploration and production, and greenhouse gas storage exploration (with limited exceptions) do not require separate approvals under the EPBC Act.

The Department of Industry, Science, Energy and Resources (DISER) releases new areas for exploration each year, with provision for public consultation. In 2021, the department also released areas for potential greenhouse gas storage opportunities, consistent with the Morrison Government's support for carbon capture and storage (CCS).

There is considerable community and stakeholder concern about offshore oil and gas projects. These concerns include the provision of grants and other subsidies in light of the need to decarbonise economic activity, potential for oil spills, impacts of seismic testing on marine mammals and commercial fisheries, conflicts with recreation activities, and visual impacts.

Following a sustained community-led campaign, the Australian Government, as part of the Commonwealth–NSW Joint-Authority, is taking steps to refuse an application to extend a petroleum exploration permit (known as PEP-11) for an area off the NSW central coast. There is also community concern about ongoing and proposed developments in the Great Australian Bight and Bass Strait, including near the Twelve Apostles (Vic) and King Island (Tas). The Australian Greens and some independent federal parliamentarians have advocated for a moratorium or ban on new oil and gas developments.

The decommissioning of offshore oil and gas infrastructure emerged as a significant issue during the 46th Parliament. Titleholders have an ongoing legal obligation to maintain all structures and equipment on their titles in good repair and to decommission (that is, remove) all equipment and other property as soon as it ceases being used or required for future use. However, this has not always occurred in a timely, safe and environmentally responsible manner, with some companies seeking permission to cap wells and leave associated equipment in place. The decommissioning liability for Australia's offshore petroleum industry has been estimated at approximately $60 billion over the next 50 years.

In February 2021, the Government took over responsibility for the operation and decommissioning of the Northern Endeavour Floating Production Storage and Offloading (FPSO) facility following the financial collapse of its owner. In April 2022, the Parliament passed legislation imposing a temporary levy on offshore petroleum production licence holders to recover the cost of decommissioning the Northern Endeavour. This has been estimated at up to $1 billion.

Following a review of the decommissioning framework, the Parliament passed amending legislation in September 2021 to increase oversight of changes in control of titleholders, and to expand existing powers to 'call back' previous titleholders to decommission infrastructure and remediate the marine environment where the current or immediate former titleholder is unable to do so (known as 'trailing liability'). At the direction of the Australian Government, NOPSEMA is maintaining a heightened focus on decommissioning, consistent with the Government's enhanced decommissioning framework.

Offshore electricity infrastructure

Australia is regarded as having some of the best wind resources in the world, providing significant opportunities as a bulk source of clean energy. The Blue Economy CRC estimates the technical offshore wind resource as 2,233 gigawatts (GW) – significantly more than Australia's current and projected electricity demand. While much of this resource is located in the coastal regions stretching from WA to south-east Australia, there are reported benefits of co-locating offshore wind infrastructure near existing depreciating assets (such as thermal coal power plants) and energy-intensive industries (see Figure 1).

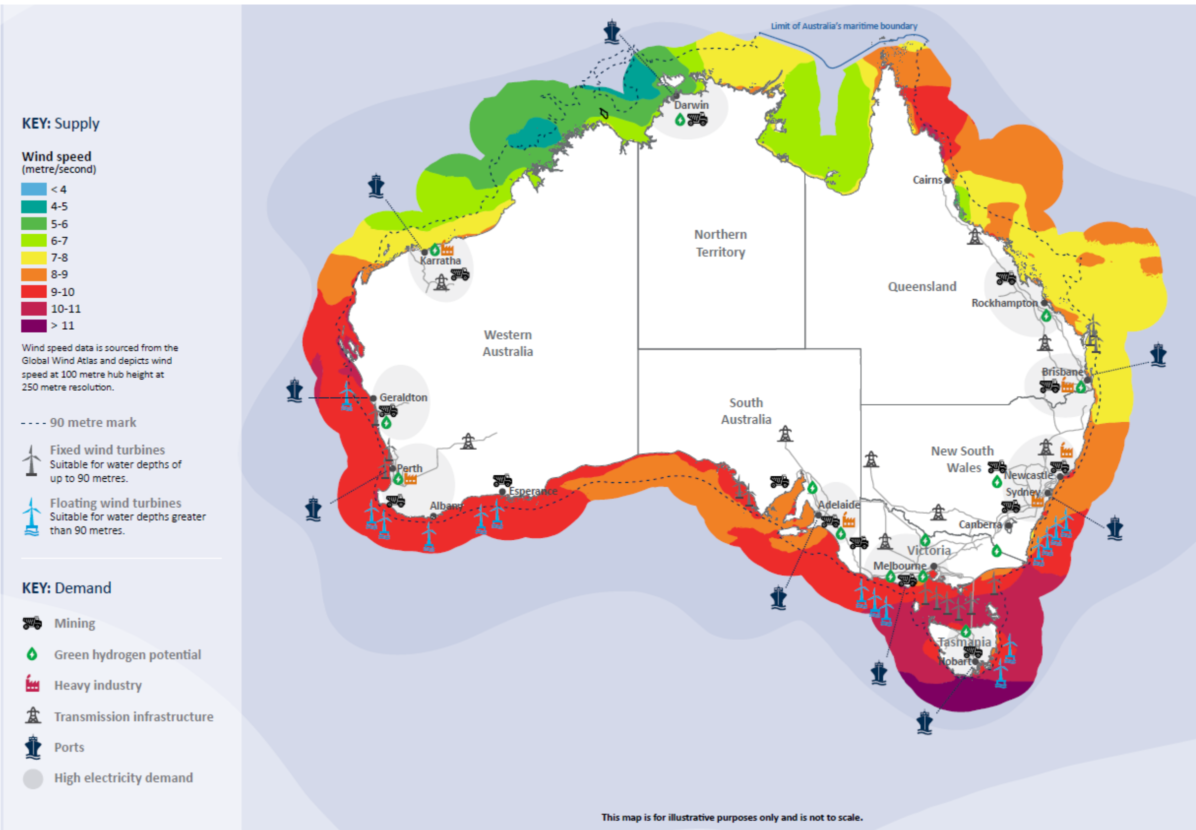
To support offshore electricity infrastructure development, the 46th Parliament passed the *Offshore Electricity Infrastructure Act 2021* (OEI Act) in December 2021; the Act commenced on 2 June 2022. The OEI Act establishes a regulatory framework and provides an expansive definition of offshore renewable energy resources (wind, tidal, solar, rain, and geothermal, among others), while offshore infrastructure includes fixed or tethered infrastructure for the storage, transmission or conveyance of electricity.

The OEI Act allows the relevant minister to declare areas as suitable for offshore renewable energy infrastructure, and to make licensing decisions. In April 2022, the Morrison Government announced that Bass Strait would be the first priority area assessed for offshore wind developments.

The Offshore Infrastructure Registrar provides advice to the minister who makes licensing decisions. The Offshore Infrastructure Regulator (designated as NOPSEMA) will oversee health and safety, infrastructure integrity, environmental management, and financial security for offshore infrastructure activities. Separate environmental approvals will be required under the EPBC Act.

The operational arrangements of the framework will be detailed in regulations, which underwent consultation in

Figure 1 – Supply and demand potential for offshore wind energy



Source: NOPSEMA, May 2022

early 2022.

Offshore aquaculture

The production value of Australia's aquaculture sector is forecast to exceed $2 billion in 2021–22 (more than wild-catch fisheries at $1.39 billion). This exceeds the 2017 *National aquaculture strategy's* projection for 2027. While over half of this value ($1.36 billion) is predicted to flow from salmonids (salmon and trout) farming, other important species include rock lobster, prawns, southern bluefin tuna, abalone and pearls. The *Australian seaweed industry blueprint* also highlights opportunities for the development of seaweed industries.

At present, aquaculture occurs in land-based operations (for example, hatcheries) and in coastal waters, regulated by the states and NT. However, offshore aquaculture is becoming more feasible due to improvements in technology; it also offers potential environmental and resource access benefits. A recent parliamentary report recommended increased regulatory efficiency and transparency, including consistency across jurisdictions, stronger biosecurity controls, and the development of aquaculture in Commonwealth waters.

According to the *National aquaculture strategy*, the Australian Government supports using Commonwealth *Fisheries Management Act 1991* (FMA Act) provisions to enable state and NT governments to extend existing aquaculture legislation and management into Commonwealth waters. Any activities likely to have a significant impact on a matter of national environmental significance will require approval under the EPBC Act. However, assessments and approvals could potentially be delegated to states and territories as part of bilateral agreements.

Australia's first offshore aquaculture project is likely to occur in Commonwealth waters north-east of Tasmania. In September 2021, the Commonwealth and Tasmanian governments entered into a memorandum of understanding to allow a trial examining the economic, environmental and operational feasibility of offshore aquaculture. The Tasmanian Government amended the *Living Marine Resources Management Act 1995* to allow for 'marine farming of fish for research purposes'. The subsequent Commonwealth and Tasmanian Government agreement allows 'marine farming of fish for research purposes' to be carried out in these specified waters, managed under Tasmanian law.

In response to public submissions, the trial area was reduced. Concerns raised include potential negative impacts on the local ecology, biodiversity and environment, animal welfare and habitat impacts, attraction of predators, and conflicts with recreational activities and local fishing operators. This follows long-standing environmental sustainability concerns about salmonid aquaculture in Tasmania, compounded by the mass salmon deaths in Macquarie Harbour during 2017–18.
The trial may provide a template for future aquaculture development in Commonwealth waters. However, devolved Commonwealth regulatory powers are unlikely to provide consistency across all facets of aquaculture, especially relating to licence and lease arrangements.

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PROTECTING THE GREAT BARRIER REEF

Dr Evan Hamman, Law and Bills Digest

Dr Rebecca Bathgate, Science, Technology, Environment and Resources

Key issue

The iconic Great Barrier Reef (GBR) is a World Heritage site, a national heritage place and an area of tremendous cultural significance for many Aboriginal and Torres Strait Islander communities. The GBR also has an estimated economic value of $56 billion and the industries associated with the ecosystem employ over 60,000 people.

The latest *Outlook report*, from 2019, found that the GBR ecosystem and its heritage values had deteriorated and were projected to deteriorate further without effective action. The main factors influencing the GBR's values are climate change, land-based run-off, coastal development and direct use.

In 2021, the World Heritage Committee decided against placing the GBR on the List of World Heritage in Danger, although the possibility is likely to arise again. Both major and minor parties, as well as some independents have promised increased action on the GBR, including through addressing climate change and improving water quality.

The significance of the Great Barrier Reef

The Great Barrier Reef (GBR) covers an area of over 340,000 km^2 and is the world's largest coral reef system. The GBR is comprised of some 3,000 coral reefs and is roughly the same size as Italy or Japan. It stretches 2,300 km along the Queensland coastline from north of K'gari (Fraser Island) in the south, to the tropical waters of the Torres Strait.

Ecologically rich, the GBR is home to more than 600 different types of soft and hard corals, 1,625 types of fish and more than 30 species of whales and dolphins. The 1,050 individual islands and cays provide important breeding and roosting habitat, feeding grounds and migratory pathways for at least 23 seabird and 32 shorebird species (p. 4).

The GBR itself, plus its associated islands and intertidal areas of coastal state waters are made up of a huge variety of marine habitats including coral reefs, seagrass shoals, mangroves, algal beds and sponge gardens. Since 2004, management of the GBR has been based on the recognition that each of these habitats plays a critical role in supporting the overall health and functioning of the GBR ecosystem. Although separately classified, the 30 defined bioregions of reef habitat and 40 bioregions of non-reef habitat within the GBR are inextricably interconnected.

The GBR is also of tremendous cultural and spiritual significance to Aboriginal and Torres Strait Islander people. There are some 70 Aboriginal Traditional Owner groups with authority for Sea Country management. Torres Strait Island Traditional Owner groups are also connected to the GBR and hold cultural knowledge of the broader GBR region. There are several Native Title claims along the Queensland coastline as well as dedicated Indigenous Protected Areas.

At the global scale, the GBR is an iconic and instantly recognisable location. Under the World Heritage Convention, the GBR is recognised for its 'Outstanding Universal Value' (see further below) and attracts more than 2 million tourists each year.

Economically, the GBR supports over 60,000 jobs (mostly in the tourism sector) with an estimated total 'economic, social and icon asset value' of $56 billion

(p. 5).

The current state of the GBR

The most recent *Scientific consensus statement on land use impacts on GBR water quality and ecosystem condition* shows that the GBR is an ecosystem under pressure. Every 5 years, the Great Barrier Reef Marine Park Authority (GBRMPA) prepares an *Outlook report*. The latest report, released in October 2019, indicated the GBR's continued deterioration. Collectively, the GBR's ecosystem was assessed as being in 'very poor' condition and its heritage values in 'poor' condition (p. 270). The next *Outlook report* is expected in 2024.

In November 2020, the International Union for the Conservation of Nature (IUCN), in its *World Heritage outlook 3*, described the outlook for the GBR as 'critical', noting that the GBR had deteriorated since its previous report in 2017 (p. 22).

The GBR's greatest threat is widely acknowledged to be climate change, which impacts the GBR through marine heatwaves, ocean acidification, rising sea levels and increased frequency of damaging cyclones. Other threats identified in the 2019 *Outlook report* and *Reef 2050 long-term sustainability plan* (Reef 2050 Plan) are:

- run-off of sediment, nutrients and other pollutants from land-based activities
- coastal development
- direct human use (for example, illegal fishing and bycatch)
- marine debris (such as microplastics, foam, rubber, glass and metal rubbish)
- spills (for example, chemical or oil spills)
- grounding vessels and damage to reef structure.

Accordingly, the GBR faces a raft of cumulative pressures that will continue to test its resilience.

Coral bleaching and the GBR ecosystem

The effect of marine heatwaves on the health of coral within the GBR has been particularly marked. These heatwaves cause coral to become stressed, a phenomenon known as bleaching. If the temperature anomaly continues for long enough, the coral will gradually starve to death. These bleaching events are becoming increasingly frequent (Figure 1), posing a threat to the GBR as coral both builds the habitat and defines the entire ecosystem, so without it, the ecosystem can no longer exist. When coral is lost, the reef ecosystem undergoes an irreversible phase shift into an alternative degraded state. The alternative state cannot produce the same products and services that the system once did and key biological and chemical interactions with neighbouring habitats, such as mangroves and seagrass beds, are lost. The preservation of coral reef habitat is therefore intrinsic to the health and functioning of the wider GBR ecosystem as a whole.

The Australian Institute of Marine Science has monitored bleaching events since the early 1980s. Severe coral bleaching took place in 2016 and 2017 and most recently in the summer of 2022. This was the fourth mass bleaching event since 2016 and the sixth to occur since 1998 (Figure 1). This 2022 event notably occurred during a La Niña year, typically associated with greater cloud cover and cooler ocean temperatures.

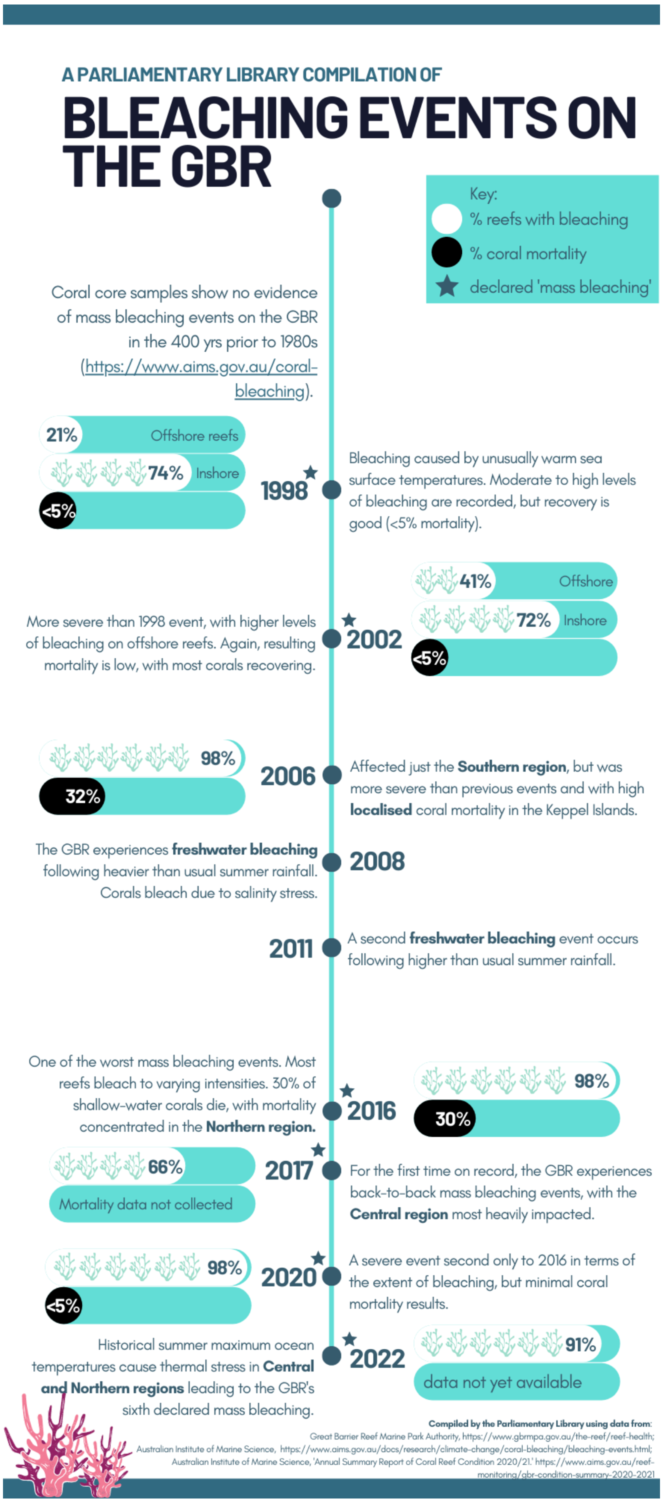
Inter-governmental cooperation

The need for federal-state collaboration on the GBR has been recognised for some time. In 1979, the Queensland and Australian governments signed the Emerald Agreement to more effectively cooperate in reef management. The agreement was updated in 2009 and 2015.

The division of roles and responsibilities for the protection of the GBR can be summarised as:

- The Queensland Government has primary responsibility for managing the (terrestrial) GBR catchment under its planning and environmental laws. The Commonwealth Government provides additional assessments and approvals for major developments (ports, dredging, coastal hotel development, etc) under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act).
- The Commonwealth Government, through GBRMPA, manages the 344,400km^2 Great Barrier Reef Marine Park (Federal Marine Park) in

Figure 1 – A history of bleaching events impacting the GBR



accordance with its zoning plan. The plan sets out which activities, such as fishing and boating, are permitted in particular zones.

- The Queensland Government is responsible for managing the 63,000km^2 Great Barrier Reef Coast Marine Park (Queensland Marine Park) in accordance with its zoning plan that covers tidal lands and tidal waters.
- The Queensland Marine Park and Federal Marine Park overlap at the coastline, and, together with islands under the jurisdiction of Queensland, comprise the GBR World Heritage area. The Federal Marine Park makes up 99% of the World Heritage Area.
- The Queensland and Commonwealth governments have fisheries responsibilities under the *Fisheries Management Act 1991* (Cth), *Fisheries Act 1994* (Qld) and EPBC Act.
- In terms of day-to-day operations, a joint field management program exists between the Queensland and Commonwealth governments.

The World Heritage Convention and the possibility of an 'in danger listing'

As a signatory to the World Heritage Convention, Australia is committed to protecting the 'Outstanding Universal Value' (OUV) of World Heritage-listed sites like the GBR. Amongst other things, Australia is obliged to:

> [endeavour, insofar as possible and as appropriate] … to take the appropriate legal, scientific, technical, administrative and financial measures necessary for the identification, protection, conservation, presentation and rehabilitation [of its World Heritage sites] (Article 5(d)).

Australia has responded to its obligations under the convention through policy initiatives and legislated environmental impact assessment and approval provisions under the EPBC Act.

Within the World Heritage Convention, a 21-member World Heritage Committee makes decisions about listed sites, including those included on the List of World Heritage in Danger. Since 2011, the committee has consistently requested Australia take stronger action to protect the GBR's OUV (see Table 1).

The United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage Centre is the committee's secretariat and the IUCN is the official advisory body for natural sites like the GBR. While the World Heritage Centre and the IUCN work together to make recommendations for action, the committee ultimately makes the decisions.

In accordance with the 2021 committee decision, the Australian Government submitted a report on the state of conservation of the GBR. The report acknowledged that climate change is the biggest threat facing the GBR but argued that the OUV of the site remained intact. In the context of 'addressing the impacts of a changing climate', and the possibility of an In Danger Listing, the report sought to delineate between threats it could and could not control:

> While the List of World Heritage in Danger remains a relevant and important tool where corrective measures can be undertaken by individual States Parties to address threats to their World Heritage properties that they can control, it is less instructive where the ongoing impacts of a threat are beyond the control of any individual State Party to address, and where changes to the OUV of a property as a result of climate change will continue for many decades. For climate-impacted properties there may be no prospect of removal from the List regardless of the level of investment or the extent of the program of corrective measures implemented by any individual State Party (p. 33).

The IUCN and the World Heritage Centre undertook a monitoring mission to Australia from 21–30 March 2022 but have not yet reported their findings. The committee is likely to consider these findings at its next meeting and may again consider inclusion of the GBR on the In Danger List.

Table 1 – Summary of World Heritage Committee decisions relating to the GBR (2011–2021)

Year	World Heritage Committee decision
2011	• Noted with extreme concern the approval of Liquefied Natural Gas processing and port facilities on Curtis Island, Queensland. • Urged Australia to undertake a strategic assessment and invite a monitoring mission from IUCN/UNESCO. The mission subsequently took place 6–14 March 2012.
2012	• Noted the unprecedented scale of coastal development currently being proposed within and affecting the property. • Requested completion of a strategic assessment and resultant long-term plan. • Considered possible inscription on List of World Heritage in Danger in the absence of progress.
2013	• Welcomed the progress on the strategic assessment and long-term plan. • Urged Australia to ensure no development permitted if it would impact individually or cumulatively on the OUV of the GBR, or compromise the strategic assessment and resulting long-term plan. • In the absence of progress, suggested possible inscription on List of World Heritage in Danger.
2014	• Welcomed progress on the strategic assessment and endorsement of the 2013 Reef Water Quality Protection Plan. • Noted with concern recent approvals for coastal developments, including the dumping of 3 million cubic metres of dredged material. • Considered possible inscription on List of World Heritage in Danger in the absence of further action.
2015	• Noted findings of GBRMPA's 2014 Outlook Report about the GBR's deterioration and that climate change, poor water quality and impacts from coastal development were major threats. • Welcomed Australia's efforts to create the Reef 2050 (long term) Plan and its commitment to establish a permanent ban on dumping of dredged material.
2017	• Welcomed the progress on the implementation of Reef 2050 Plan. • Requested that Australia accelerate efforts to ensure meeting targets in relation to water quality entering the GBR from land-based run-off.
2021	• Commended Australia on efforts to implement the Reef 2050 Plan, although noted that water quality targets were not met. • **Decided against including the GBR on the List of World Heritage in Danger** (although the IUCN and the World Heritage Centre had recommended inclusion). • Noted that climate change is the biggest threat to the GBR and requests Australia invite a monitoring mission to examine the Reef 2050 Plan (which had been revised in 2018). • Requested Australia submit a report on the State of Conservation of the GBR by 1 February 2022.

Source: UNESCO World Heritage Convention, Great Barrier Reef, Documents.

In accordance with the *Operational guidelines for implementation of the convention*, consideration of an In Danger Listing will result in:

- the joint development by the committee and Australia of a Desired State of Conservation for the Removal (DSOCR) of the GBR from the In Danger List
- a program of corrective measures to help restore the site's OUV (para 183).

If the GBR is inscribed on the In Danger List, this would establish a cycle of annual review and possible further monitoring missions by the World Heritage Centre and the IUCN. Based on this information, the committee will then decide to either retain or remove the GBR from the In Danger List, or, in the most extreme case, to delete it altogether from the World Heritage List. The latter occurs only if the committee determines a property has deteriorated to the point that it has lost the OUV for which it was first inscribed. In the 50-year history of the convention, this has only occurred for 3 sites: Arabian Oryx Sanctuary (Oman) in 2007, Dresden Elbe Valley (Germany) in 2009 and Liverpool Maritime Mercantile City (United Kingdom) in 2021.[1]

If the GBR is listed In Danger, the designation could remain for many years, as is the case with the US Everglades National Park which faces similar water quality and climate change issues.

Funding, planning and ongoing reporting

Since 2014, the GBR and its terrestrial catchments are reported to have received an 'unprecedented' level of investment (p. iv). In 2014–2015, the Reef Trust commenced and is now administered by the Commonwealth Environment Department. The Reef Trust is primarily government-funded but can also receive offset funding (from developments), as well as philanthropic and private contributions.

As part of its 2022–23 Budget, the Coalition Government announced a 9-year $1 billion investment in GBR management and protection, across 4 key areas. During its election campaign, the ALP promised an additional $194.5 million over the forward estimates on top of existing programs for the same purposes. The Greens presented a $2 billion plan that included grants to improve farming practices to address land-based run-off. Several independent parliamentarians and candidates have also called for stronger action on climate change.

At the state level, in June 2021 the Queensland Government announced close to $330 million for GBR-related programs, creating a cumulative total estimated investment of more than $700 million since 2015. In March 2022, the Queensland Government further announced that $65 million (of the $270 million for Reef Water Quality Improvement programs) would be allocated to catchment and waterways to tackle water pollution.

The *Reef 2050 water quality improvement plan 2017–2022* (RWQP) is the Queensland and Australian Government's key approach to improving water quality. The RWQP's main focus is reducing nutrient and chemical run-off from agricultural activities (grazing and sugarcane in particular), but also targets pollution from urban, industrial and public lands.

Annual *Reef water quality report cards* measure progress towards the RWQP's water quality targets. The *2020 report card* (released on 8 April 2022) details progress up to June 2020 and, among other things, concluded:

> According to the modelling we are more than halfway to the sediment target and almost halfway to the dissolved inorganic nitrogen target. Reductions are mostly due to improved nitrogen fertiliser management and mill mud

[1] While not a formal deletion, the Bagrati Cathedral and Gelati Monastery in Georgia (together, listed as one site) was 'partially deleted'. The Bagrati Cathedral was removed from the official listing in 2017 leaving just the Gelati Monastery covered by the convention.

application in the sugarcane industry and significant investment in fencing to exclude cattle from waterways (p. x).

The RWQP is ‘nested’ within the *Reef 2050 plan*, which is the overarching GBR management strategy. The *Reef 2050 plan* was developed following Australia’s largest ever Strategic Environmental Assessment in 2012–2014 (see Table 1). Annual reports under the *Reef 2050 plan* continue to track the progress of its implementation.

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The $443 million partnership with the Great Barrier Reef Foundation (2018–2024)

In 2015, the Reef Trust entered into a partnership with the Great Barrier Reef Foundation. The initiative began in July 2018 and is a 6-year, $443 million arrangement. The investment was allocated across the following programs:

- water quality control; for example, through improved farming practices, reduced fertiliser usage and uptake of new technology
- Crown-of-Thorns Starfish (COTS) management, in line with GBRMPA’s COTS Strategic Management Framework
- Reef Restoration and Adaptation Science
- Traditional Owner Reef Protection
- Integrated Monitoring and Reporting, including eReefs and the Paddock to Reef monitoring and reporting programs.

Prior to the 2022 election, the Australian Labor Party (ALP) and Australian Greens committed to terminating the funding arrangement with the foundation.

REFORM OF AUSTRALIA'S NATIONAL ENVIRONMENTAL LAW

Dr Emily Gibson, Science, Technology, Environment and Resources

Key issue

Audit reports, reviews and a statutory review into Australia's primary environmental law, the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), have found that it is not being implemented efficiently or effectively, or achieving its objectives.

Reform of the EPBC Act and effective enforcement of its provisions is fundamental to addressing the declining trajectory of Australia's environment.

The Commonwealth's environmental role

While the *Australian Constitution* does not explicitly provide the Australian Parliament with power to make laws relating to the environment, the Commonwealth can legislate on environmental matters using indirect constitutional powers. These include the external affairs power (based on Australia's obligations under international environmental agreements) and the corporations power.

The Commonwealth's primary environmental legislation, the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), is focused on the protection of 9 matters of national environmental significance (MNES). These are largely based on Australia's obligations under international agreements relating to environmental matters, such as the Convention on Biological Diversity and the Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention), and on political agreements between the Commonwealth and states. This includes the 1997 Heads of Agreement on Commonwealth and State Roles and Responsibilities for the Environment.

The current MNES are:

- world heritage properties
- national heritage places
- wetlands of international importance
- listed threatened species and ecological communities
- listed migratory species
- Commonwealth marine areas
- the Great Barrier Reef Marine Park
- nuclear actions (such as uranium mines)
- water resources in relation to large coal mining and coal seam gas developments (known as the 'water trigger').

Generally, actions (or developments) that are likely to have a significant impact on an MNES require an environmental assessment and an approval from the federal Environment Minister. Some actions, such as some nuclear-related actions, are expressly prohibited under the EPBC Act.

The EPBC Act has long been criticised for failing to address other matters that cumulatively have a significant impact on the environment. Stakeholders, such as the Places You Love Alliance (representing over 60 environmental organisations) and the Environmental Defenders Office, have argued that new MNES should be added, including for land clearing, biodiversity and ecosystems, water resources, climate change, air pollution and protected areas. The Australian Labor Party (ALP) and Australian Greens have previously indicated support for expanding MNES. During the 46th Parliament, the Australian Greens introduced a private Senators Bill proposing a climate trigger for 'emissions-intensive activities'. Conversely, the Minerals Council of Australia has argued that duplicative triggers should be rationalised, that the nuclear actions trigger should be narrowed, and, together with the Business Council of Australia, that the water trigger be reformed or removed.

Recent reviews of the EPBC Act

Second independent statutory review of the EPBC Act

The EPBC Act stipulates that an independent review of the Act be undertaken every 10 years to assess the operation of the Act and the extent to which its objectives have been achieved. The first statutory review (the Hawke Review) reported in October 2009, although many of its recommendations have not been implemented. Professor Graeme Samuel began the second independent statutory review of the EPBC Act (Samuel Review) in October 2019, with an *Interim report* released in June 2020, and the *Final report* released in January 2021.

Professor Samuel, having observed that Australia's natural environment and iconic places are in an overall state of decline and under increasing threat, concluded:

> The EPBC Act is out dated [sic] and requires fundamental reform. It does not enable the Commonwealth to effectively fulfil its environmental management responsibilities to protect nationally important matters. (p. ii)

The final report outlines an integrated suite of 38 recommendations for improving the operation and effectiveness of the EPBC Act as part of a staged pathway of reform. Ultimately the report recommends a comprehensive reworking of the Act.

Key elements of the proposed reforms – each requiring legislative amendments – include:

- the establishment of legally enforceable National Environmental Standards (NES). NES represent the touchstones for future effective environmental policy. They are intended to prescribe how activities at all scales, including actions, decisions, plans and policies, contribute to outcomes under the Act. The final report of the Samuel Review lists a proposed suite of NES – as well as providing 4 drafted Standards – covering matters of national environmental significance, Indigenous engagement and participation in decision-making, compliance and enforcement, environmental monitoring and evaluation of outcomes, and environmental restoration, including offsets.
- new independent oversight and assurance bodies and mechanisms. These include the statutory appointment of an independent Environment Assurance Commissioner who would provide independent monitoring, audit and transparent public reporting on the operation and administration of all parties operating or accredited under the Act. The review proposes the appointment of 4 new specialist committees (for Indigenous engagement and participation, biodiversity conservation, heritage and water resources) that would provide advice to decision-makers. These committees would be overseen by an Ecologically Sustainable Development Committee that would be responsible for oversight and management of monitoring, evaluation and reporting on the outcomes of the Act.
- improved Indigenous engagement and participation in decision-making, as well as comprehensively review Indigenous cultural heritage protection laws (see the *Briefing book* article, 'Protecting Indigenous cultural heritage').
- a robust process for the accreditation of states, territories or other decision-makers under the Act. The accreditation process would be based on NES, and provide for Commonwealth intervention where accredited bodies are not meeting NES, as well as independent performance monitoring and audit of regulators. This recommendation reforms and strengthens the existing ability of the federal Environment Minister to enter into bilateral agreements (for assessments and for approvals) with states and territories.
- improved data and environmental information systems to underpin more efficient and informed processes and decision-making. The review proposes amendments to the Act to provide for an information custodian with a clear legal mandate.
- provision for the assessment of cumulative impacts through national and regional plans, and for greater investment in restoration of the environment. The review recommended that the EPBC Act should be focused on matters for which the Commonwealth is directly responsible, with amendments to the 'water trigger' so that it would apply only to cross-border water resources. The review proposes that national plans would be prepared for pervasive cross-jurisdictional issues (such as feral animal control), while regional plans would support a shift in focus

from project-by-project development transactions to effective planning at a larger scale. The review proposes 3 regional planning tools, each of which would be consistent with NES and support the protection of MNES.

Reform efforts to date

Following the release of the Samuel Review's *Interim report*, the Minister for the Environment committed to developing national environmental standards, progressing bilateral agreements with willing states for 'single touch' approvals, commencing a national engagement process for modernising the protection of Indigenous cultural heritage, and exploring market-based solutions for habitat restoration. The Government later released *A pathway to reforming national environment law*.

In August 2020, the Morrison Government introduced a Bill to support 'single-touch environmental approvals' (see the Parliamentary Library's Bills Digest). This followed a similar Bill introduced by the Abbott Government in 2014. The new Bill aimed to expand and clarify existing provisions in the EPBC Act that allow the Commonwealth to delegate environmental approval powers to states and territories through bilateral agreements. Existing provisions allow the Environment Minister to enter into:

- assessment bilateral agreements, where the minister accredits a state or territory assessment process and the relevant state or territory assessment body makes a recommendation to the minister who then makes an approval decision or
- approval bilateral agreements, where the minister accredits a state or territory assessment *and* approval process and no further approval by the minister is required.
- [2]

Separate approvals may still be required under relevant state and territory legislation (for example, Indigenous cultural heritage protection or native vegetation clearance). To date, the minister has accredited assessment bilateral agreements with each state and territory and is progressing approval bilateral agreements.

The new Bill was not supported by the ALP, Australian Greens or crossbench senators, or by environment, legal and science stakeholder groups. The Bill did not require the delegation of approval powers to be supported by legally enforceable NES, or for the accreditation of bilateral agreements to be subject to rigorous, transparent oversight by the Commonwealth or an independent Environment Assurance Commissioner, as recommended by the Samuel Review.

In February 2021 the Government introduced a Bill to provide for NES and an Environmental Assurance Commissioner (see the Parliamentary Library's Bills Digest). The Bill sought to establish a framework for making, varying or revoking and applying NES. It also sought to establish an Environmental Assurance Commissioner to monitor and audit the operation of bilateral agreements, and to oversee Commonwealth processes for making and enforcing approval decisions.

A Senate Committee recommended that the Bill be passed with amendments; however, the ALP, Australian Greens and crossbench senators issued dissenting reports. While industry and agriculture stakeholders broadly supported the Bill, environmental, legal and science organisations did not. These stakeholders expressed concern that the Bill did not properly reflect the recommendations of the Samuel Review (see the Bills Digest for more information).

In 2021, the Department of Agriculture, Water and the Environment (DAWE) published a final draft National Environmental Standard on Matters of National Environmental Significance, but the draft standard was criticised as failing to reflect the standards proposed by the Samuel Review.

The Morrison Government's 2022–23 Budget provided funding for a review of DAWE's *Environmental offsets policy*, and a review of statutory committees. This review will scope a new advisory committee to provide expert industry and technology advice to government.

The Morrison Government also progressed regional plans, with an intention to use them to streamline the approvals process, including for 'crucial resources projects'. The EPBC Act currently provides for 2 forms of regional planning: bioregional plans and strategic assessments.

[2] The EPBC Act does not allow for accreditation of assessments or approvals of proposals assessed under the 'water trigger' (sections 24D and 24E).

[3] The Minister may prepare a bioregional plan for a bioregion that is *within* a Commonwealth area, or cooperate with a state or self-governing territory to prepare a bioregional plan for a bioregion that *is not wholly within* a Commonwealth area. The minister is required to have regard to a bioregional plan in making decisions under the Act. To date, bioregional plans have only been made for 4 of the 6 Commonwealth marine areas. The minister may make a declaration that certain actions or classes of action, undertaken in accordance with a bioregional plan, do not require approval under Part 9 of the EPBC Act.

The EPBC Act also provides for strategic assessments. Under a strategic assessment, the minister enters into an agreement with a partner (for example, a state or territory, government agency, or a private proponent) to allow for the impacts of a class of actions on protected matters to be assessed in accordance with an approved policy, plan or program. The minister may determine that a less onerous approach to assessment is required for actions assessed in accordance with a strategic assessment, or may declare that actions approved in accordance with the agreement do not require a separate approval under Part 9 of the EPBC Act.

The Morrison Government considered the following areas as potential locations for regional plans: south-east Queensland, Cape York, the Beetaloo Basin, the Pilbara, and parts of Tasmania (p. 65). Stakeholders such as the Australian Conservation Foundation raised concerns that a move to regional plans – independent of the comprehensive reforms recommended by the Samuel Review – would weaken environmental protections.

Policy commitments

The ALP has committed to providing a full response to the Samuel Review, to working with stakeholders to reform the EPBC Act and to establishing an independent environment protection agency (EPA). The agency would have 2 divisions: a compliance and assurance division, and an environmental data, information and analysis division. The ALP committed to consulting with stakeholders on an EPA funding model, with contributions from industry likely. It has also committed to providing an annual ministerial statement on Australia's role in international negotiations on environmental issues.

These commitments have been welcomed by environment stakeholders and are broadly consistent with policies the Australian Greens and some 'teal' independents took to the 2022 election. The Australian Greens will also seek to establish a 'climate trigger' to ensure that the climate impact of all large projects is thoroughly assessed.

Other reviews

The Samuel Review followed several other audits and reviews since the Hawke Review, as summarised in Table 1.

A new framework for National Environment Protection Measures

The Commonwealth, states and territories agreed, in the 1992 Intergovernmental Agreement on the Environment (IGAE), to facilitate a cooperative national approach to the environment. The IGAE provides for the establishment of the National Environment Protection Council (NEPC, originally called the National Environment Protection Authority), comprising Commonwealth, state and territory environment ministers, and the making of national environment protection measures (NEPM). The arrangements are implemented by the *National Environment Protection Council Act 1994* (Cth) and mirror state and territory legislation (NEPC Acts).

[3] Recovery plans may be prepared for listed threatened species and ecological communities (section 269A).

Table 1 – Audits and inquiries relating to the EPBC Act, and key findings, since 2014

Report	Summary of key findings or recommendations
Monitoring compliance with EPBC Act 1999 conditions of approval (Australian National Audit Office (ANAO), 2014)	• the department has limited assurance regarding approval of holders' compliance with approval conditions and was generally passive in its approach to managing non-compliance with conditions of approval
Managing compliance with the wildlife trade provisions of the EPBC Act 1999 (ANAO, 2015)	• the department lacks a risk-based approach to compliance
Monitoring compliance with EPBC 1999 conditions of approval: Follow-on audit (ANAO, 2017)	• while some progress had been made in addressing issued identified in the 2014 Audit, the department has made limited progress in implementing broader strategies to strengthen regulatory performance
Independent review of the water trigger legislation (Stephen Hunter, 2017)	• the water trigger is an appropriate measure to address the regulatory gap that was identified at the time of its enactment
Independent review of interactions between the EPBC Act and the agriculture sector (Wendy Craik, 2018)	• while agricultural referrals have made up only 2.7% of all referrals since the inception of the Act, farmers perceive the Act to be complex, difficult to follow, and a barrier to development • the review made 21 recommendations, including harmonisation of Commonwealth and state legislation, use of regional plans, reform of offsets requirements, and improved communication
Australia's faunal extinction crisis, Interim Report (Senate Environment and Communications References Committee, April 2019)	• concluded that there were serious questions as to whether the EPBC Act was still fit for purpose and achieving its objectives; the majority report recommended replacement of the Act, as well as the establishment of an independent environment protection agency
Referrals, assessments and approvals of controlled actions under the EPBC Act 1999 (ANAO, July 2020)	• the administration of referrals, assessments and approvals of controlled actions is not effective or efficient • conditions of approval are not assessed with rigour, are non-compliant with procedural guidance and contain errors
Management of threatened species and ecological communities under the EPBC Act 1999 (ANAO, 2022)	• the administration of threatened species and ecological communities under the Act is partly effective and inefficient • the department does not effectively review or support the implementation of conservation advice, recovery plans, or threat abatement plans

Note: reference to the EPBC Act in report titles has been abbreviated.

NEPMs are a special set of national objectives to assist in protecting or managing particular aspects of the environment. The NEPC has made 7 NEPMs (including for ambient air quality, diesel vehicle emissions, national pollutant inventory, and used packaging), while national guidelines for fresh and marine water quality have been made separately under the National Water Quality Management Strategy. The states and territories have discretion as to how NEPMs are implemented, potentially resulting in variation in uptake, including more stringent measures in some jurisdictions.

NEPMs may be reviewed, but this has proven a lengthy process. For example, a review of parameters of the ambient air quality NEPM commenced in 2005 with a variation of the NEPM finalised in April 2021, and a review of the national pollutant inventory commenced in 2017 and was completed in 2018–19, but the review report was not released until 1 April 2022.

The fourth statutory review of NEPC Act, released in July 2019, found that administration of the Act was inefficient and ineffective, resulting in significant delays or avoidance practices, and that the implementation of some NEPMs was ineffective. The review recommended the repeal and remaking of (or at least amendments to) the Act, clarifying the objects of the Act as providing for the protection of the community *and* the environment, and proposed a new framework with 3 categories of NEPMs (guidelines, protocols, standards), depending on the subject matter.

The NEPC's response to the review incorporates the decision of the National Cabinet – following the Conran Review of COAG Councils and Ministerial Forums – to disband the NEPC. The regulatory functions of the

NEPC have been assumed by the ad hoc Environment Minister's Meeting and will be dealt with out of session wherever possible. The NEPC agreed to pursue amendments to the NEPC Acts (see Appendix A of the response), broadly relating to consultation, delegations, and reporting. It also agreed to broaden the scope of NEPMs to any environment protection matters as agreed by the NEPC, and to consider redrafting the object of the Act. At their April 2021 meeting the environment ministers endorsed the NEPC's response and tasked the Senior Officials Group with considering potential legislative amendments and their implications.

Further reading

Sophie Power, *Environment Protection and Biodiversity Conservation Act 1999: a Quick Guide*, Research paper series, 2018–19, (Canberra: Parliamentary Library, 2019).

Graeme Samuel, *Independent Review of the EPBC Act – Final Report*, (Canberra: Department of Agriculture, Water and the Environment, 2020).

Senate Environment and Communications Legislation Committee, *Environment Protection and Biodiversity Conservation Amendment (Standards and Assurance) Bill 2021 [Provisions]* (Canberra: The Senate, 2021).

Senate Environment and Communications Legislation Committee, *Environment Protection and Biodiversity Conservation Amendment (Streamlining Environmental Approvals) Bill 2020* (Canberra: The Senate, 2020).

Terry Bailey, *Independent Review of the National Environment Protection Council Acts*, (Canberra: Commonwealth of Australia, 2019) [incorporating] Department of Agriculture, Water and the Environment, *National Environment Protection Council Response to the Fourth Review of the National Environment Protection Council Acts (Commonwealth, State and Territory)*, (Canberra: Commonwealth of Australia, 2021).

WATER, INCLUDING THE MURRAY–DARLING BASIN

Dr Emily Gibson, Science, Technology, Environment and Resources

Key issue

Integrated and sustainable management and use of Australia's water resources is essential for national water security.

The Murray–Darling Basin, Australia's most important river system, continues to face critical threats to its health. The Basin Plan, to be jointly implemented by the Australian and Basin state governments, still needs to be implemented in full to secure environmental, social, and economic outcomes for the benefit of all Australians.

Australia is the world's driest inhabited continent and experiences high variability in rainfall. Around 10% of annual rainfall reaches waterways, water storages or groundwater aquifers, while the rest evaporates, mainly through vegetation (p. 2). Much of the country is vulnerable to drought, which affects agriculture, natural ecosystems, human health, communities and our national economy.

The Millennium drought affected most of southern Australia (other than parts of central Western Australia) over the period 1997 to 2009, while the return of drought conditions over much of the country during 2017–19 culminated in severe bushfires in the summer of 2019–20. Conversely, while drought conditions currently persist in parts of Tasmania, the Northern Territory, South Australia, and Victoria, southern Queensland and NSW received a year's worth of rainfall from February to early April 2022 and were impacted by severe flooding.

The variability in Australia's rainfall is strongly influenced by climate drivers including El Niño, La Niña, the Indian Ocean Dipole and the Southern Annular Mode. However, the *State of the climate report 2020* identifies concerning long-term trends in Australia's rainfall record (see Figure 1):

> There has been a shift towards drier conditions across the southwest and southeast, with more frequent years of below average rainfall, especially for the cool season months of April to October. In 17 of the last 20 years, rainfall in southern Australia in these months has been below average. This is due to a combination of natural variability on decadal timescales and changes in large-scale circulation caused by increased anthropogenic greenhouse gas emissions. (p. 6)

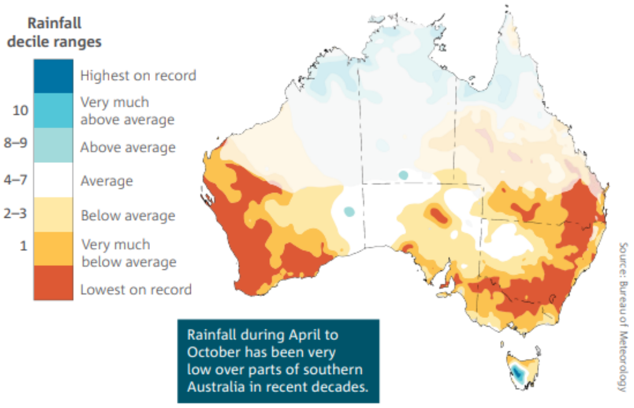
According to the Intergovernmental Panel on Climate Change's (IPCC) *Sixth assessment report*, climate change projections indicate there will be less winter and spring rainfall in southern Australia, more winter rainfall in Tasmania, less autumn rainfall in south-western Victoria and less summer rainfall in western Tasmania, with uncertain rainfall changes in northern Australia (p. 11-4).

Management of Australia's water resources is often viewed solely through the prism of its production value. For example, 67% of water taken for consumptive use in 2019–20 was used for agriculture (p. 5). In that year, the gross value of Australia's agricultural production was $61 billion, with $16.5 billion generated from irrigated agriculture. Around 70% of agricultural production is exported, contributing 12% of Australia's total goods and services exports (pp. 2; 7). In 2019–20, water markets in Australia had an estimated turnover of $7 billion (p. 4), while the value of water entitlements in the southern Murray–Darling Basin doubled from $13.5 billion to $26.3 billion in the 5 years to 2019–20 (p. 30).

However, water's value is not limited to economic impacts. Integrated and sustainable management of Australia's water resources underpins broader concerns about water security and ecological significance. Observing that water security involves complex and interconnected challenges, UN-Water

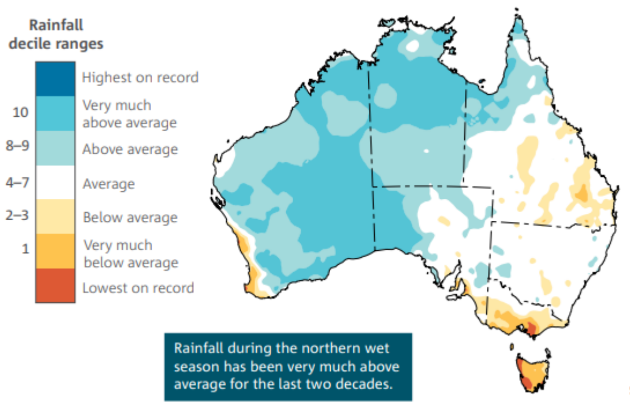
Figure 1 – Rainfall deciles over the last 20 years

(a) April to October



April to October rainfall deciles for the last 20 years (2000–19). A decile map shows where rainfall is above average, average or below average for the recent period, in comparison with the entire rainfall record from 1900. Areas across northern and central Australia that receive less than 40 per cent of their annual rainfall during April to October are faded.

(b) the Northern wet season



Northern wet season (October–April) rainfall deciles for the last 20 years (2000–01 to 2019–20). A decile map shows where rainfall is above average, average or below average for the recent period, in comparison with the entire national rainfall record from 1900.

Source: CSIRO and Bureau of Meteorology, *State of the Climate 2020*, (Canberra: Australian Government, 2020), 6–7; reproduced by permission of the Bureau of Meteorology, © 2022 Commonwealth of Australia.

defines water security as:

> … the capacity of a population to safeguard sustainable access to adequate quantities of acceptable quality water for sustaining livelihoods, human well-being, and socio-economic development, for ensuring protection against water-borne pollution and water-related disasters, and for preserving ecosystems in a climate of peace and political stability. (p. 1)

The Australian Government does not have direct constitutional powers for managing water resources; these powers lie with the states and territories. However, the Australian Government still has an important role in water policy. The Council of Australian Governments (COAG) water reform framework was agreed in 1994, followed by the *National water initiative* in 2004, and the Howard Government's $10 billion *National plan for water security* in 2007.

There remains, however, no nationally agreed definition of water security in Australia and, over the past decade, Australian Government engagement in water policy has been oriented to the augmentation of supply (that is, developing dams) and reducing the impact of existing regulation on private sector water users (p. 33). The Productivity Commission's report, *National water reform 2020*, which recommends renewal and modernisation of the *National water initiative*, identifies several opportunities for adopting a more holistic approach to water security. These include (among others) (pp. 9–12):

- the adoption of best practice water planning, which takes into account all water uses (including floodplain harvesting) and provides for the rebalancing of environmental and consumptive uses as a result of climate change
- improved arrangements to make the best use of environmental water to achieved agreed (or where possible, better) environmental outcomes
- securing Aboriginal and Torres Strait Islander peoples' interests in water, supporting the achievement of the 2020 National Agreement on Closing the Gap, including adopting management measures to achieve cultural flows and economic outcomes for Aboriginal and Torres Strait Islander communities
- the adoption of best practice urban water system planning, supported by community-driven objectives for water security, and additional support to ensure small rural water utilities provide acceptable levels of service.

Urban and rural water use

Urban uses account for 22% of Australian water consumption. Households paid an average of $3.46 per kilolitre and industry $0.46 per kilolitre in 2019–20, with the difference driven by factors including the cost of treating water so that it is suitable for human consumption. Most water, especially for supply to major urban areas, is sourced from surface water sources such as rivers and lakes (75%), with the remainder sourced from groundwater (aquifers), desalination plants, recycling (including groundwater replenishment) and stormwater harvesting.

Water scarcity may become an increasing issue for urban water supplies in the future. For example, groundwater provides two-thirds of all water used in urban Western Australia. However, winter rainfall has declined 28% since 2000, with reduced groundwater recharge, while demand is increasing due to population growth. This is prompting a focus on water-sensitive urban design and climate-resilient water sources, including desalination in some areas. Perth, along with other state capitals (Adelaide, Brisbane–Gold Coast, Melbourne and Sydney) now have large seawater desalination plants.

The quality of drinking water in urban areas is usually high, but can be more variable in regional and remote areas due to the presence of natural-occurring contaminants (such as nitrates and uranium) and more limited capacity to treat the water. Water service provision in regional and remote communities can be more complex, and costly, due to poor water quality sources, water distribution and treatment challenges, and fragmented arrangements for delivery (p. 162).

Independent audits have found that water service provision in remote Aboriginal and Torres Strait Islander communities often fails to meet the Australian Water Quality Guidelines. Poor standards of water and wastewater services compound historical hardships and reinforce disadvantage, can worsen existing health issues and increase risks of disease and infection. Infrastructure Australia states 'there is clear evidence that services in many … remote communities do not meet United Nations' Sustainable Development Goal (SDG) 6: clean water and sanitation for all' (p. 619).

Urban waterways, and their associated ecosystems, also provide important habitat for native animal and plant species as well as a myriad of recreational opportunities. The Australian Labor Party (ALP) has committed $200 million to an Urban Rivers and Catchments Program that will provide community grants supporting wetland restoration, naturalisation of riverbanks, and revegetation.

Water storage and irrigation schemes

With over 500 major water storages, several thousand small storages, and in excess of 2 million farm dams (p. 21), Australia has the highest per capita surface water storage capacity in the world. According to the Bureau of Meteorology, the capacity of Australia's accessible storage capacity is about 81,000 GL. At the end of May 2022, they were 69.3% full.

Water harvesting, storage and distribution schemes have been central to urban and regional development in Australia. While dams and associated irrigation schemes have increased water availability, infrastructure and works interrupt natural flow regimes, waterscape connectivity and the operation of aquatic ecosystem processes that require the run of the river.

Water resources assessments have suggested that a combination of groundwater, large dam and farm-scale water storages have the potential to support the development of irrigable agriculture in some areas across Australia's north. However, large-scale developments face significant hurdles, including economic viability, environment sustainability, and heritage concerns.

Over the last decade the Australian Government has announced numerous initiatives to support regional water infrastructure, including the:

- $500 million National Water Infrastructure Development Fund (NWIDF)
- $2 billion National Water Infrastructure Loan Facility (abolished in 2020)
- $5 billion Northern Australia Infrastructure Facility
- National Water Grid Fund (NWGF), established in 2020. It is administered by the National Water Grid Authority.

In May 2020, the NWGF replaced the NWIDF, with the $2 billion in unspent funding from the Loan Facility transferred to the NWGF (p. 140). The Morrison Government's 2022–23 Budget provides an additional

$6.9 billion over 12 years for investments through the NWGF (p. 147). This includes commitments for water infrastructure projects such as the Hells Gate and Urannah dams in Queensland and the Dungowan Dam in NSW. This brings total investment available under the NWGF to $8.9 billion.

The ALP's *Water for Australia plan* includes re-establishing a National Water Commission, supporting renewal of the *National water initiative*, and broadening the National Water Grid Investment Framework (which sets out how investment from the NWGF will be targeted) to allow it to fund a wider range of water supply projects (rather than only agriculture projects). The ALP has indicated water infrastructure projects will only proceed if they provide value for money.

Murray–Darling Basin

The Murray–Darling Basin (MDB) covers an area of 1 million km^2, is home to more than 40 First Nations, and hosts a wider population of 2.3 million people. The MDB produces food and fibre worth $22 billion and provides tourism services worth $11 billion each year. Two-thirds of Australia's irrigation water is used in the MDB. However, evaporation rates in the MDB are high, with 94% of rainfall used by plants or evaporating. The demand for water has resulted in significant pressures on freshwater ecosystems and degradation of water quality. Water storage levels across the MDB increased from 58% to 90% between May 2021 and May 2022.

In January 2007, in the midst of the Millennium drought, the Howard Government announced a $10 billion *National plan for water security* to improve water efficiency and address the over-allocation of water in rural Australia, including in the MDB. In August 2007, the Australian Parliament passed the *Water Act 2007* which establishes the legislative framework for managing water in the MDB in the national interest and for providing information on Australia's water resources. The Basin states (Qld, NSW, Vic, ACT and SA) subsequently referred limited powers to the Commonwealth to allow for new arrangements in the MDB to take effect, including the establishment of the Murray–Darling Basin Authority (MDBA).

The Basin Plan

The Water Act is implemented through the Basin Plan 2012, which was legislated in November 2012 following a multi-year negotiation process. The Basin Plan specifies the surface water and groundwater long-term average sustainable diversion limits (SDL) for the entire MDB, as well as for each surface water and groundwater unit and water resource plan area.

The SDLs are essentially the maximum amount of water that can be extracted in a year. The original surface water SDL for the whole basin was set at 10,873 gigalitres per year (GL/y). In July 2018, the SDL was increased by 70 GL/y to 10,945 GL/y after the *Northern Basin review*. The SDLs came into operation on 1 July 2019, along with a mechanism for their adjustment.

The establishment of the SDL was accompanied by the setting of a water recovery target of 2,750 GL/y (also referred to as the 'bridging the gap' target). This represented the gap between the water being used prior to implementation of the Basin Plan and the SDL.

Under the Basin Plan, the Basin states manage water resources within their jurisdiction using their own respective water legislation. States were required to prepare water resource plans (WRP) for specific areas that are consistent with the Basin Plan and relevant SDLs by 30 June 2019. WRPs set out how water will be used, how much water will be made available for the environment, how water quality standards will be met, and how water resources will be managed in extreme dry periods.

The WRPs of all Basin states – other than NSW – have been accredited by the MDBA. The MDBA and NSW have entered into a bilateral agreement to ensure that key elements of the Basin Plan are implemented while NSW's WRPs are being prepared. In June 2022, the Inspector-General for Water Compliance (IGWC) argued that the Commonwealth Water Minister should utilise 'step-in powers' in the Water Act to ensure that NSW's WRPs are completed as soon as possible. In August 2021, the compliance and enforcement powers of the MDBA were transferred to the IGWC. This followed numerous reviews, including the *Five-year assessment* of the Murray–Darling Basin Plan (see Box 12.1 at p. 301), to assess water management compliance across the Basin.

The Basin Plan also provides for:

- an environmental watering strategy
- a water quality and salinity management plan

- matters relating to critical human water needs
- water trading rules

The Basin Plan will not be fully implemented until 30 June 2024, when the agreed constraints measures and 'supply' and 'efficiency' measures under the SDL Adjustment Mechanism are completed.

SDLs and water buybacks

The establishment of SDLs – at an environmentally sustainable level of water use or take – has been one of the most contentious elements of the Basin Plan. The 2010 *Guide to the proposed Basin Plan* considered that water recovery 'needed to ensure a sustainable level of take, is between 3,000 GL/y and 7,600 GL/y, on a long-term average basis' (Volume 2, p. 166). This became politically untenable: South Australia argued for at least 3,200 GL/y to be recovered as environmental water, while NSW and Victoria wanted less than 2,750 GL/y to be recovered.

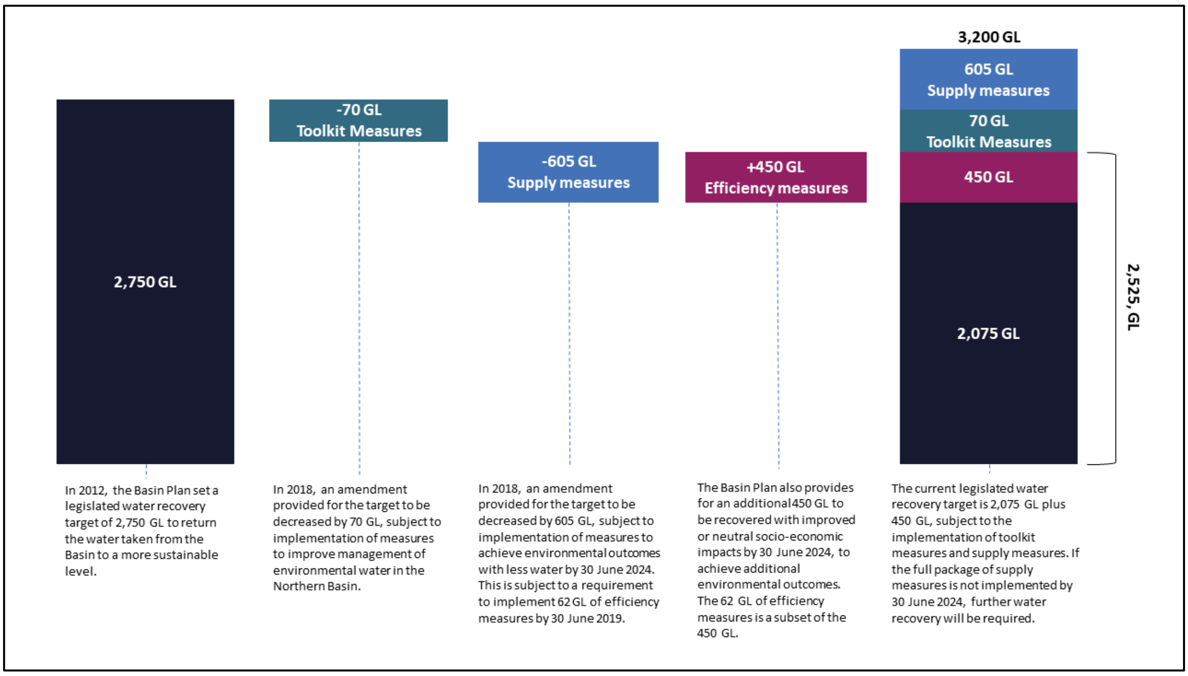
As a compromise, the Australian Government established 2 mechanisms:

- the SDL Adjustment Mechanism, permitting the raising or lowering of the SDLs by up to 5% (approximately 543 GL)
- the provision of $1.77 billion over 10 years (to 2023–24) in the Water for the Environment Special Account, to fund efficiency projects which will generate an additional 450 GL/y to achieve 'enhanced environmental outcomes', on the proviso that there are neutral or positive socio-economic impacts on Basin communities and industries.

Australian Government funding is supporting 3 types of measures or projects in the MDB. Supply measures deliver water for the environment more efficiently so less water is needed. Efficiency projects change water practices, such as improved irrigation methods, and save water for the environment. Constraints projects overcome some of the physical barriers that impact water delivery.

In January 2018, the Basin Plan was amended to provide for the implementation of supply projects to

Figure 2 – Water recovery under the Basin Plan



Source: Parliamentary Library adaptation from Sally Farrier, Simon Lewis and Merran Kelsall, *First Review of the Water for the Environment Special Account*, Report to the Commonwealth Minister for Water Resources as required under Section 86AJ of the *Water Act 2007*, (Canberra: Australian Government, March 2020), Figure 1, 10.

allow 605 GL/y of additional water to remain available in the system (altering the water recovery target to 2,075 GL/y), while still achieving the same or better environmental outcomes. This was dependent on the recovery of a minimum of 62 GL/y through efficiency projects by 30 June 2019. The 62 GL/y is a subset of the larger 450 GL/y target.

Progress on water recovery

Substantial progress towards water recovery targets has been made, however, as at 30 April 2022, there was a significant shortfall in the recovery of water for the environment. Only 2 GL of the required 450 GL/y water recovery for enhanced environmental outcomes has been delivered, although 23.9 GL/y has been contracted.

The MDBA's annual progress reports for the SDL Adjustment Mechanism and the *First review of the water for the environment special account* indicate that it is unlikely the full amount of 450 GL will be recovered by 30 June 2024, putting the overall SDL adjustment at risk. The Water Act makes provision for the MDBA to recalculate (reconcile) an appropriate adjustment amount and prepare an amendment to the Basin Plan in these circumstances. The Australian Government would then need to consider the best options for bridging the water recovery gap to ensure the outcomes of the Basin Plan are achieved.

The Australian Government initially purchased water entitlements directly from landholders ('buybacks') to support the achievement of the 2,075 GL/y water recovery target; 1,227 GL had been purchased by the Commonwealth at a cost of $2.7 billion by October 2017 (p. 4). In September 2015, the Water Act was amended to cap the volume of water that can be purchased at 1,500 GL (subject to exceptions). The relevant provisions will cease to operate when the first 10-year review of the Basin Plan is completed (p. 7). In September 2020, the Morrison Government ruled out further buybacks; however, a substantial shortfall in water recovery raises the prospect that the targets will not be met by 2024 and further action will be required.

Policy commitments

The Morrison Government had committed to delivering the Basin Plan in full, including the 450 GL water for the environment. However, in July 2021, National Party senators attempted to move amendments to the Water Act that would have removed a requirement to deliver the 450 GL of water for the environment, prohibited further water buybacks, and extended the deadline for delivery of water recovery projects.

The incoming Albanese Government's *Water for Australia plan* includes a 'five-point plan to safeguard the Murray-Darling Basin'. This includes:

- delivering on water commitments – including the 450 GL for environmental water
- increasing compliance, and improving metering and monitoring
- restoring transparency, integrity and confidence in water markets and water management
- increasing Aboriginal and Torres Strait Islander peoples' ownership and involvement in decision-making, including delivering the $40 million of cultural water
- updating the science, including data on climate change, evaporation and inflows.

Further reading

Infrastructure Australia, *An Assessment of Australia's Future Infrastructure Needs –The Australian Infrastructure Audit*, (Infrastructure Australia, 2019).

Productivity Commission, *Murray–Darling Basin Plan: Five-Year Assessment*, Inquiry Report no. 90, (Canberra: Productivity Commission, 19 December 2018).

Productivity Commission, *National Water Reform 2020*, Inquiry Report no. 96, (Canberra: Productivity Commission, 28 May 2021).

3 AUSTRALIAN PROSPERITY

AUSTRALIAN GOVERNMENT DEBT IN HISTORICAL AND INTERNATIONAL PERSPECTIVE

Gregory O'Brien, Statistics and Mapping

Key issue

Australian Government debt has increased to levels not experienced since the 1950s as economic support during the COVID-19 pandemic led to increased budget deficits. As interest rates in Australia and globally have started to increase in response to recent inflationary pressures, both the size and servicing of this debt will be an issue for future Australian governments.

In Australia, and in countries around the world, government economic support packages in response to the COVID-19 pandemic have led to large increases in government debt, continuing a trend of increasing government debt since the global financial crisis (GFC). Over the pandemic, Australian Government gross debt increased from $534.4 billion in March 2019 to $885.5 billion in April 2022 and is now at the highest level relative to GDP (gross domestic product) since the 1950s when debt accrued during the Second World War was still on the Australian Government balance sheet (p. 8).

This article provides an overview of the structure of Australian Government debt, recent trends in the total amount of Australian Government debt outstanding, international comparisons of government debt, and the relationship between government debt and interest rates.

Australian Government debt issuance and key terms

Australian Government debt is closely linked with the Australian Government Budget. Government spending is funded either through receipts – primarily taxes – or through borrowing. In the Budget, the difference between receipts and payments is referred to as the cash balance and has been in deficit (payments have exceeded receipts) since 2007–08. These deficits have led to a steady increase in the level of Australian Government debt.

The Australian Office of Financial Management (AOFM) manages Australian Government debt issuance. The AOFM issues 3 types of debt securities, collectively known as Australian Government Securities (AGS):

- **Treasury bonds**: medium to long-term debt securities that pay interest at a fixed annual rate every 6 months. These are the largest type of AGS, representing 92.8% of AGS on issue as of 20 May 2022.
- **Treasury indexed bonds**: medium to long-term debt securities that include adjustments for inflation, as measured by the Consumer Price Index (CPI). Both the capital value and the interest payments are adjusted quarterly based on changes in inflation. These represented 4.1% of AGS on issue as of 20 May 2022.
- **Treasury notes**: short-term debt securities with maturations up to one year. These represented 3% of AGS on issue as of 20 May 2022.

The total face value of AGS on issue at a given point in time, which represents the total amount that will need to be repaid when all extant AGS mature, is used as a measure of **gross debt** in the Budget. The AOFM publishes a weekly figure for total AGS on issue, broken down into the 3 types described above, as well as more detailed information in its data hub.

While gross debt is a good representation of the total magnitude of outstanding debt, it may not be the best measure for analysing debt sustainability depending on the financial assets available to service or pay off this debt. For this reason, the Budget also provides figures for Australian Government **net debt**, defined as 'the sum of interest-bearing liabilities less the sum of selected financial assets (cash and deposits, advances paid and investments, loans and placements)' (p. 347). These financial assets are primarily held in government investment funds, such as the Future Fund.

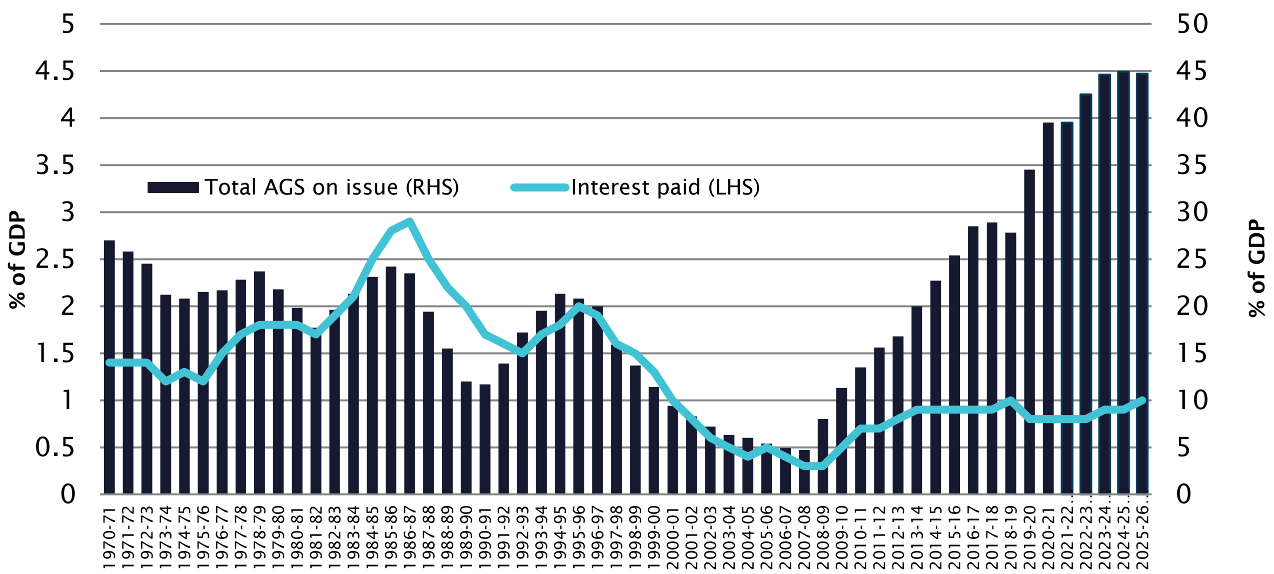
Whether gross debt or net debt is a better measure of government indebtedness will depend on the context of the analysis. The difference between these measures is described in more detail when looking at international comparisons of government debt below.

Trends in Australian Government debt

The Budget provides historical data for a range of budget aggregates back to 1970–71 in the Historical Australian Government Data statement of Budget paper no. 1 (Statement 10 in 2022–23). When comparing levels of debt across long periods of time, it is useful to convert the dollar values of debt into a relative measure, usually the ratio to GDP, to control for the impacts of price changes across the economy. Figure 1 below shows gross debt, represented by the total face value of AGS outstanding, as a ratio to GDP over the last 50 years with the Budget estimates through to 2025–26 and the interest payments on this debt for the same period, also as a ratio to GDP.

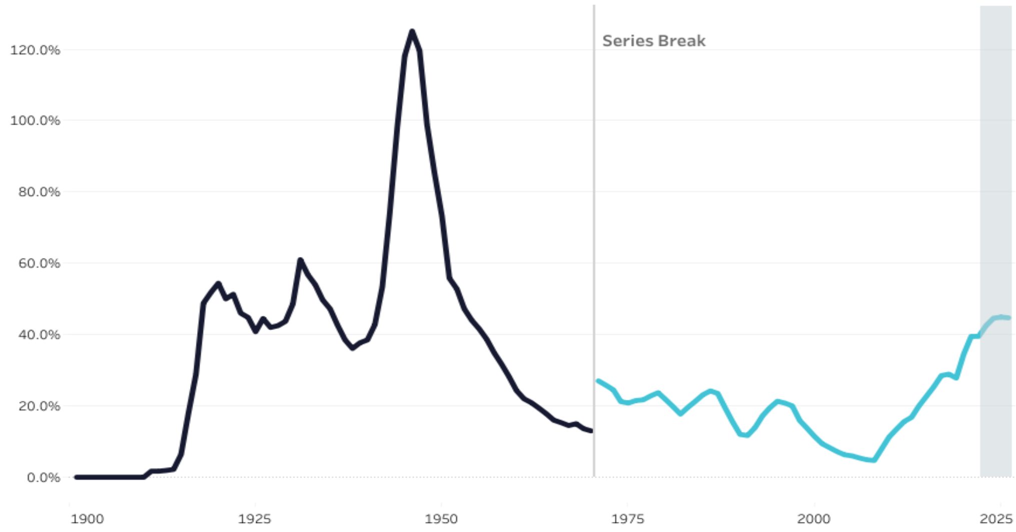
This graph shows that Australian Government debt fluctuated around 20% of GDP from the early 1970s to the mid-1990s with one period of substantial falls in the late 1980s. Government debt then trended down between the mid-1990s and the GFC in 2007–08, as the Howard Government prioritised debt repayment and budget surpluses. From 2008–09 in the wake of the GFC and associated government economic support packages, government debt has steadily increased as a ratio to GDP, with 2018–19 the only financial year over this period which saw a fall in this measure. The 2022–23 Budget forecasts government debt to increase over the next few years before falling slightly in 2025–26 (p. 348). In dollar terms, gross debt is forecast to increase to over a trillion dollars in 2023–24, reaching a peak over the forward estimates of $1.193 trillion in April 2026. While current and forecast debt to GDP ratios are high relative to recent history, they are still well below the peak reached following the Second World War of over 120% of GDP (p. 8) (see Figure 2).

Figure 1 – Australian Government total AGS on issue (gross debt) and interest paid



Source: Australian Government, *Budget Strategy and Outlook: Budget Paper No. 1: 2022–23, p. 348.*

Figure 2 – Australian Government gross debt to GDP ratio



Sources: pre-1970: A. Barnard, Source Papers in Economic History via Treasury and *The Conversation*; post-1970: Australian Government, *Budget Strategy and Outlook: Budget Paper No. 1: 2022–23, p. 348*. Interactive version.

Note: There are differences in methodology between the sources, so some care should be taken in comparing recent and historical figures. The figures for 2021–22 to 2024–25 are Budget estimates.

These increases in the level of Australian Government debt since the GFC have not seen a commensurate rise in the amount of interest paid on this debt because interest rates on Australian Government debt fell over the period, largely offsetting the increase in the level of debt. This period of low interest rates has seen interest payments stay at historically low levels, around 1% of GDP, which is less than half the amount paid in the 1980s, despite the current level of debt being twice the level of that period.

Interest rates on Australian Government debt have started to rise in 2022 and have continued to rise since the 2022–23 Budget was released in March. This increase has been common to many countries globally in response to inflationary pressures and tightening of monetary policy by central banks. If interest rates stay above the level forecast in the Budget, interest payments will increase over time as new debt is issued at these higher rates and existing debt that was issued at lower historical interest rates matures and is refinanced.

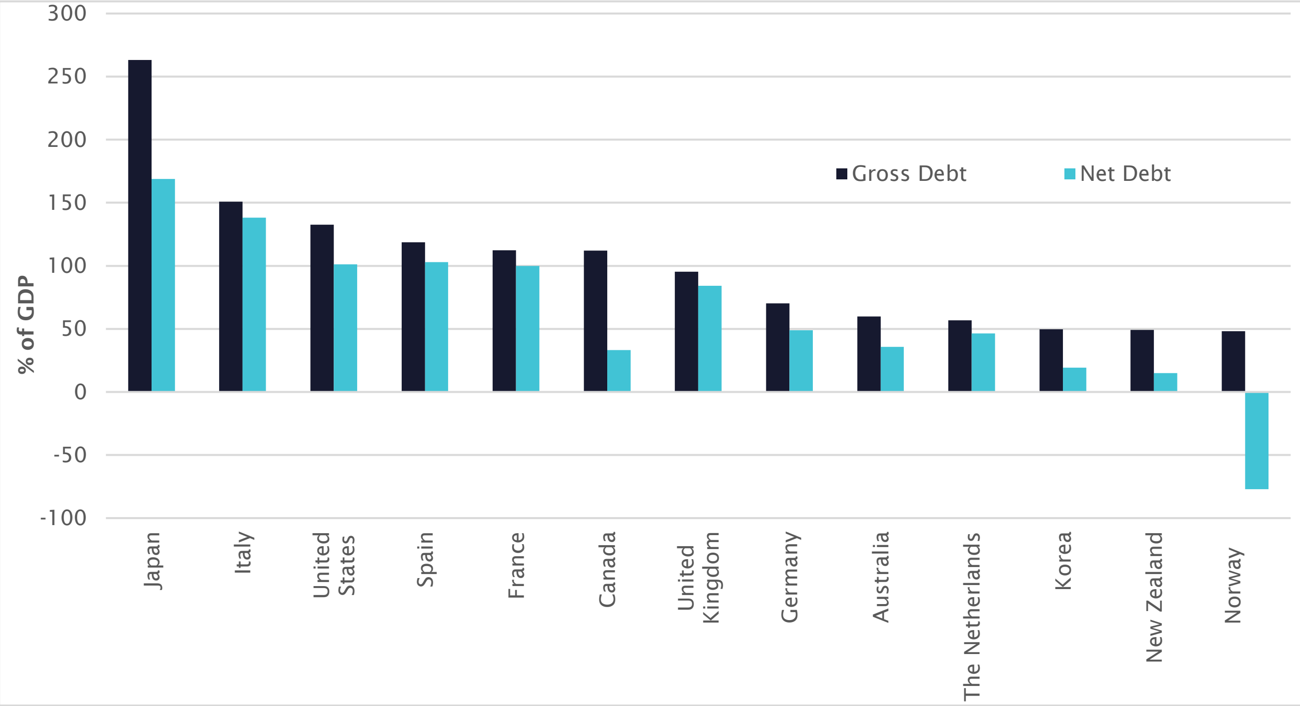
International comparison of General Government debt

Despite increases in Australian Government gross and net debt since the GFC, levels of both remain relatively low when compared to other countries. The International Monetary Fund (IMF) publishes data on General Government sector gross and net debt across countries. The IMF approach includes all levels of government (which, in Australia, includes Commonwealth, state and local governments), which allows more meaningful comparison across countries with different structures of government. Figure 3 shows IMF estimates of gross debt and net debt for 2021 across several advanced countries from the *IMF's fiscal monitor 2022* publication.

Figure 3 shows the important difference between gross debt and net debt when comparing across countries. Countries with significant financial assets, such as Canada (held by public pension plans) and Norway (held in a sovereign wealth fund) have much lower levels of net debt than gross debt once these financial assets are incorporated. This is also relevant to a lesser extent for Australia, where the $200 billion Future Fund and other smaller government investment funds have contributed to a widening gap between gross debt and net debt over time (p. 1).

There is variation across countries in the degree to which these financial assets are held to meet future specified expenditure purposes, and some debate as to whether it is appropriate to consider these assets as offsetting government debt. Gross debt is a more

Figure 3 – IMF General Government gross and net debt (% of GDP) estimates, 2021



Source: International Monetary Fund (IMF), *Fiscal Monitor: Fiscal Policy from Pandemic to War*, (Washington, DC: IMF, April 2022).

consistent measure across countries, as there is less variation due to different social security regimes.

As Figure 3 shows, despite the increase in both Australian Government net debt and gross debt since 2007–08, the level of government debt compared to international peers remains relatively low. At just below 60%, the Australian Government gross debt to GDP ratio is less than half that of the US, and less than a quarter that of Japan. Both gross debt to GDP and net debt to GDP ratios are lower than any G7 members, and similar to mid-sized economies, including Korea and New Zealand.

Holdings of Australian Government Securities

Australian Government debt is owned by a range of Australian and international investors. The AOFM provides information on the share of AGS on issue owned by non-residents. Under the *Guarantee of State and Territory Borrowing Appropriation Act 2009,* the AOFM was tasked with establishing a Public Register of Government Borrowings. As the AOFM has no powers to compel financial intermediaries to disclose the beneficial owners of AGS they administer, the register has limited information on the countries of residence of foreign owners of AGS.

The Reserve Bank of Australia (RBA) started purchasing significant amounts of AGS on the secondary market as part of its monetary policy response to the COVID-19 pandemic in order to lower yields on government bonds and maintain liquidity in bond markets. This has led to the RBA holding a growing share of the total AGS on issue. The RBA ceased purchasing AGS in February 2022, and in its May 2022 *Statement on monetary policy* decided:

> […] the Board will not reinvest the proceeds of maturing government bonds and expects the Bank's balance sheet to decline significantly over the next couple of years as the Term

> Funding Facility comes to an end. The Board is not currently planning on selling the government bonds that the Bank has purchased during the pandemic. (p. 3)

This decision means that RBA ownership of AGS should slowly recede as the existing AGS owned by the RBA mature. As total outstanding AGS is not forecast to decline, these maturing bonds will need to be absorbed by the resident and non-resident markets for AGS. Given the duration of these bonds, this process is likely to slowly occur over the next decade.

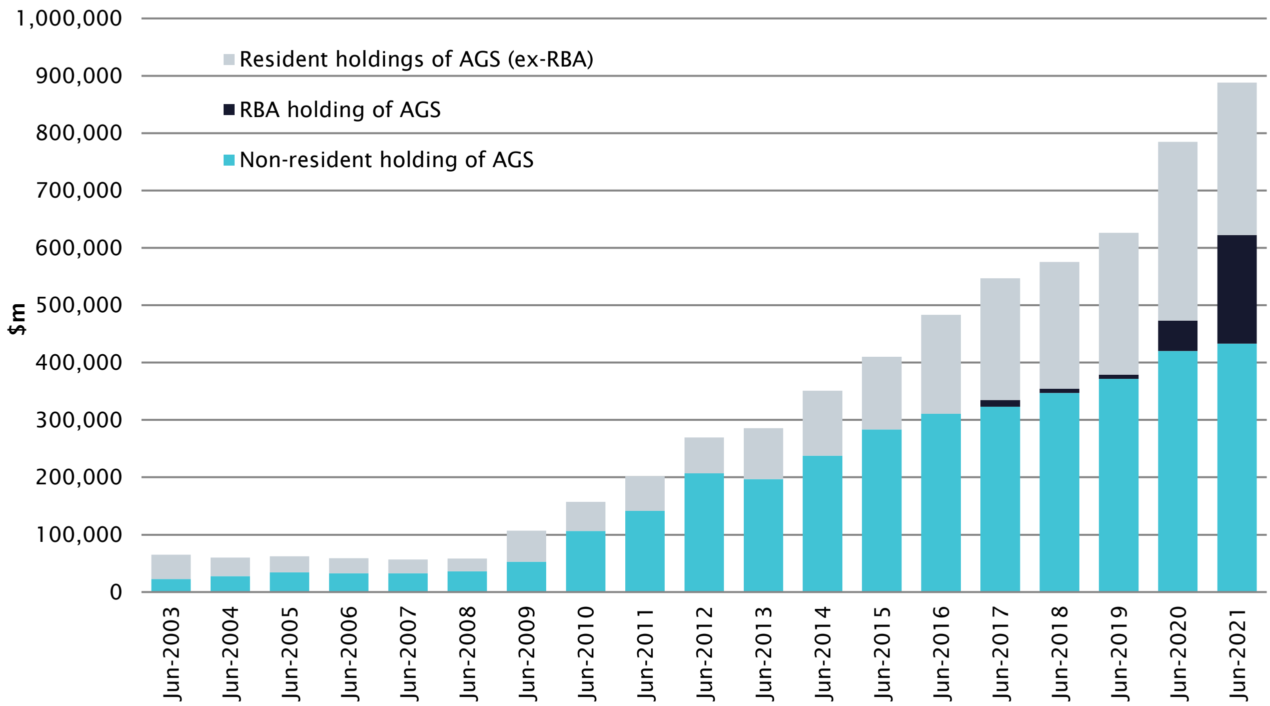
Figure 4 below shows the ownership of AGS by non-residents, the RBA, and other domestic owners. The chart shows resident holdings of AGS have steadily increased over the last decade, while non-resident holdings have fallen as a proportion of the total, and RBA holdings increased. The reduction in the proportion of AGS held by non-residents reduces the risk of interest rate volatility associated with capital flight, when non-resident investors sell overseas assets and repatriate the money, often in response to market volatility.

Government debt sensitivity to interest rate changes

The Australian Government Budget provides sensitivity analyses to show how varying certain important assumptions (particularly the iron ore price and yields on 10-year government bonds) would impact on the economic and fiscal forecasts contained in the Budget. For the 2022–23 Budget, the sensitivity analysis is contained in *Budget paper no. 1, statement 7: forecasting performance and sensitivity analysis*.

Yield sensitivity analysis models the impact on the gross debt to GDP ratio if interest rates over the medium term differ from those assumed in the Budget (the baseline forecast) while maintaining all other forecasts. The interest rate on 10-year treasury bonds

Figure 4 – Resident, RBA, and non-resident holdings of AGS, 2003–2021



Source: Parliamentary calculations based on Australian Office of Financial Management, *Non-Resident Holdings of AGS*, and Reserve Bank of Australia, *Holdings of Australian Government Securities and Semis*.

is used as the benchmark rate. Figure 5 below shows the path of interest rates used by Treasury in the higher yield and lower yield scenarios in the left panel, and the impact these higher or lower yields would have on the forecast gross debt to GDP ratio in the right panel. If interest rates follow a higher yield path than the Budget forecasts, then the gross debt to GDP ratio will continue to rise for longer and fall slower than is forecast in the Budget.

The market interest rate on 10-year Treasury Bonds in mid-May 2022 is over 3.25% and reached 3.5% for several days in early May 2022. If interest rates stay at levels above the level of 2.2% forecast in the Budget in March 2022, the gross debt to GDP ratio would be expected to be higher than the levels forecast in the Budget. However, it is important to note that the weighted average cost of borrowing on Australian Government debt responds slowly to changes in market interest rates, as the fixed-term nature of treasury bonds means that only new issuance (including the rolling over of maturing bonds) pays the higher current interest rate while the existing stock of debt continues to pay interest at the rate set when that debt was issued.

The sustainability of government debt

The increase in government debt to levels not experienced in generations raises questions about the sustainability of this level of debt. While there is no objective level of government debt to GDP which is problematic, there are several factors worth considering when analysing the sustainability of government debt.

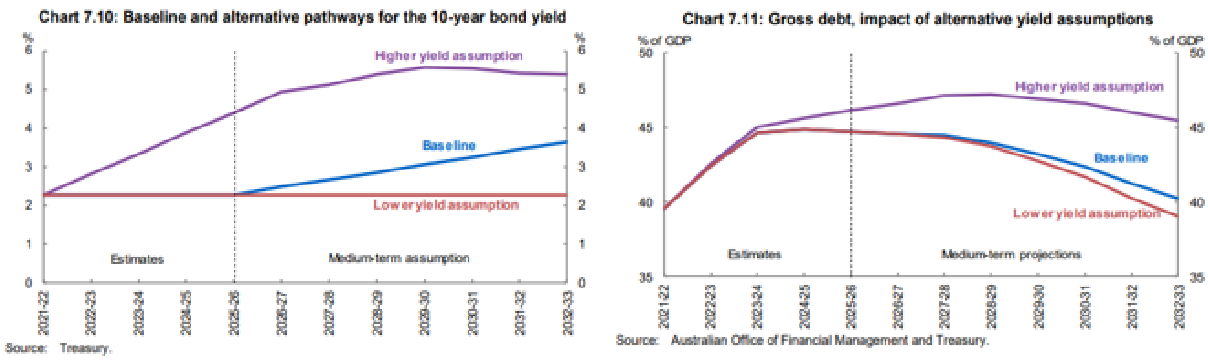
When considering the Budget ramifications, reducing the debt to GDP ratio does not necessarily require Budget surpluses. If economic growth outstrips growth in the level of debt, then the debt to GDP ratio will fall even if the Budget is in deficit. As the Budget notes:

> From a fiscal sustainability perspective, it is the difference between nominal yields and nominal economic growth that matters. If higher yields are accompanied by an economy growing at a faster rate than the rate on government borrowing, this may be sufficient to improve debt as a share of the economy over time, all else being equal. (p. 215)

The Parliamentary Budget Office (PBO) provides a Fiscal Sustainability dashboard as part of its fiscal projections and sustainability publications, which models gross debt to GDP ratios out to 2061 based on various scenarios for GDP growth, the Budget cash balance, and interest rates.

Whether Australian Government debt is, or will become, a problem depends on the future path of interest rates, economic growth, and the Budget balance. Interest payments on Australian Government debt reduce the amount of money available in the Budget for expenditure on government services, or

Figure 5 – Yield sensitivity analysis from Budget 2022–23



Source: Australian Government, *Budget Strategy and Outlook, Budget Paper No. 1: 2022–23*, pp. 215–216.

requires additional debt to be raised to fund these activities. However, both international experience and Australian history show that countries can have higher levels of government debt than are currently prevalent in Australia for long periods of time without risking default or seeing a substantial decline in their credit ratings.

Further reading

Australian Government, *Statement 6: Debt Statement*, and *Statement 7: Forecasting Performance and Sensitivity Analysis*, *Budget Strategy and Outlook: Budget Paper No. 1: 2022–23*.

Parliamentary Budget Office (PBO), *Fiscal Sustainability*, (Canberra: PBO, 2021).

PBO, *Beyond the Budget 2021–22: Fiscal Outlook and Scenarios*, (Canberra: PBO, 2021).

PBO, *Net Debt and Investment Funds – Trends and Balance Sheet Implications*, (Canberra: PBO, 2019).

Katrina Di Marco, Mitchell Pirie and Wilson Au-Yeung, *A History of Public Debt in Australia*, (Canberra: Treasury, 2009).

AUSTRALIAN TRADE IN FIGURES

Gregory O'Brien, Statistics and Mapping

Key issue

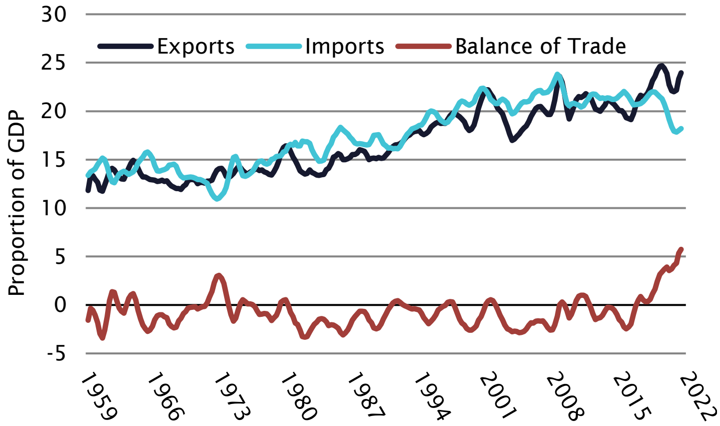
Trade has been a key issue for the Australian Parliament ever since the Protectionist Party led by Edmund Barton in government faced an opposition led by the Free Trade Party in the first Federal Parliament. Trade continues to be central to the Australian economy and has grown as a proportion of national income in recent decades as transport, communications technologies and rising living standards in Asia have increased regional markets for Australian exports. However, recent trade tensions with China, Australia's largest export market, and global trade disruptions brought on by the Russian invasion of Ukraine shows that the debate over trade policy is never settled and each new Parliament must contend with the latest trade issues.

The importance of trade to the Australian economy

One way of visualising the importance of trade to the Australian economy over time is by looking at the proportion of gross domestic product (GDP) represented by trade. Figure 1 shows exports and imports on a balance of payments basis since the introduction of the National Accounts in 1959 and Australia's trade balance over the period (the difference between Australian exports and imports in a quarter).

Throughout the 1960s and 1970s, trade represented a reasonably steady proportion of gross domestic product (GDP), staying broadly within a 11–16% range. Since the early 1980s, trade steadily increased relative to GDP facilitated by economic deregulation and the globalisation of trade supply chains (p. 3). Exports

Figure 1 – Australian trade as a proportion of GDP



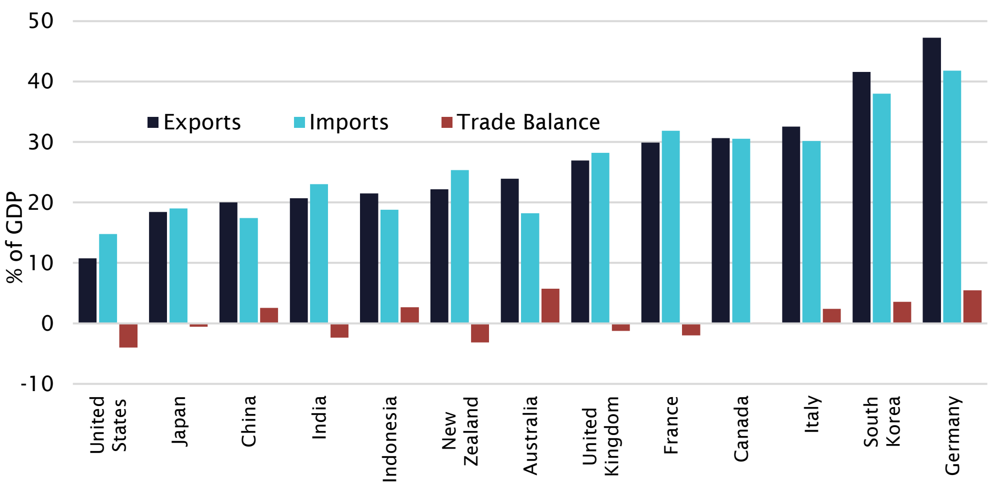
Source: Australian Bureau of Statistics (ABS), *Australian National Accounts: National Income, Expenditure and Product* (Canberra: ABS, Dec 2021).

relative to GDP have continued to increase, while imports have been more heavily impacted by COVID-19 related disruptions. Since 2017 the divergence between exports and imports has created Australia's largest trade surpluses relative to GDP during the National Accounts era.

While Australia is often thought of as a trading nation, these proportions are not particularly high by international standards. One reason for this is that, as an island nation, Australia's lack of land borders reduces the amount of local or short-distance international trade. Trade represents a larger proportion of GDP for Australia than the large economies of the US, Japan, and China, and is on par with Indonesia and New Zealand (countries similarly without major land borders). However, major European economies, including the UK, and export-oriented economies including South Korea and Germany, show much higher levels of trade relative to GDP (see Figure 2).

Figure 2 also shows Australia had a historically large trade surplus, at 5.7% of GDP in 2021. This was the highest reported amongst these countries, which includes the export-oriented economies of South Korea and Germany that historically report consistent trade

Figure 2 – International comparison of trade as a proportion of GDP, 2021



Source: Oxford Economics, *Global Macroeconomic Databank* (subscription).

surpluses. In contrast, the US and India reported large trade deficits.

It is important to note when comparing across countries that while international trade balances must balance globally (that is, total global exports must equal total global imports), for any single country trade surpluses or deficits can persist over many years or decades. For example, Australia persistently recorded trade deficits between the 1970s and 2017, as shown in Figure 1, with imports greater than exports. Since 2017 this long-term trend has reversed as demand for Australian exports grew while imports fell during the COVID-19 lockdowns. How long this persists will depend on the trajectory of commodity prices, which underpin the value of Australian exports.

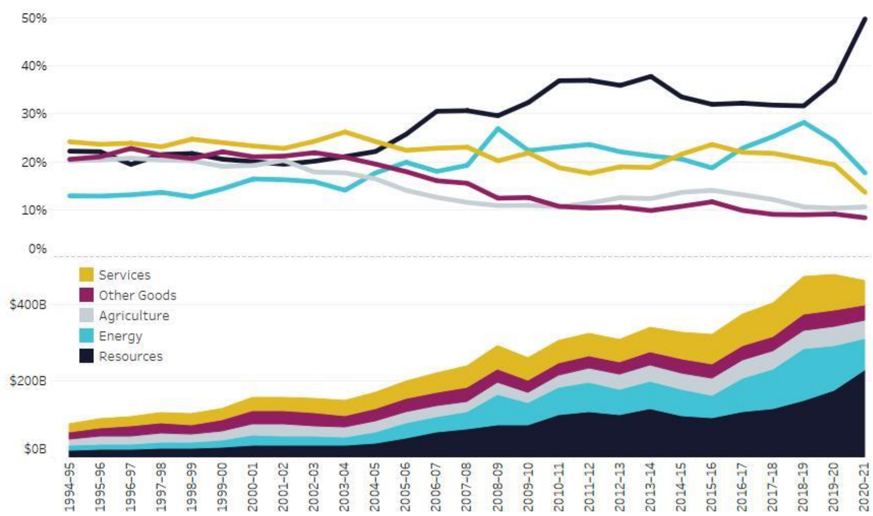
The composition of Australian exports

While the importance of services exports such as tourism and education has increased over time, Australia remains primarily an exporter of resources, energy, and agricultural commodities. Figure 3 presents the value of Australian exports by major category over the last 25 years and the respective proportions of total Australian exports.

As Figure 3 shows, Australian resource exports were valued at $229 billion in 2020–21, representing almost half of total Australian exports. This particularly high proportion was due to elevated resource prices compared with subdued energy prices.

Energy exports fell in 2020–21 to $81 billion from $116 billion in 2019–20, representing 18% of total Australian

Figure 3 – Australian exports by major category, financial years



Sources: Department of Industry, Science, Energy and Resources (DISER), *Resources and Energy Quarterly, March 2022* (Canberra: DISER, 2022), Department of Agriculture, Water and the Environment (DAWE), *Agricultural Commodities, March 2022* (Canberra: DAWE, 2022), ABS, *International Trade in Goods and Services, Australia* (Canberra: ABS, 2022). Interactive version.

exports. However, coal and natural gas prices have risen dramatically in the 2021–22 financial year to date, which should increase the share of total exports represented by energy (and decrease the share represented by resources). Over the 4 years prior to 2020–21, energy exports were around a quarter of total Australian exports.

Agricultural exports averaged $49 billion a year over the past 5 financial years and remain an important source of Australian export revenue. While the value of agricultural exports has remained steady over this period, the proportion of total exports fell from 13% in 2016–17 to 11% in 2020–21 (as total exports grew faster than agricultural exports). Prices for many agricultural products, including wheat and barley, have notably strengthened so far in 2021–22.

Of all Australia's exports, services have been most heavily impacted by COVID-19, particularly tourism. From 2018–19 to 2020–2021, total services exports reduced by more than a third, from $97 billion to $63 billion. Border restrictions severely limited the tourism industry with total travel exports falling from $59.7 billion in the year to March 2020 to $21 billion in the year to March 2022. Over this period, education-related travel fell from $38.8 billion to $20.4 billion, a fall of almost half, while other personal travel fell from $20.9 billion to just $686 million, a fall of over 96%.

The Department of Foreign Affairs and Trade (DFAT) publishes an annual list of Australia's top 25 exports and imports as part of its suite of trade publications. As these are partly based on the (COVID-19 delayed) ABS *International trade: supplementary information* publications, the most recent data is from the 2019–20 financial year or 2020 calendar year.

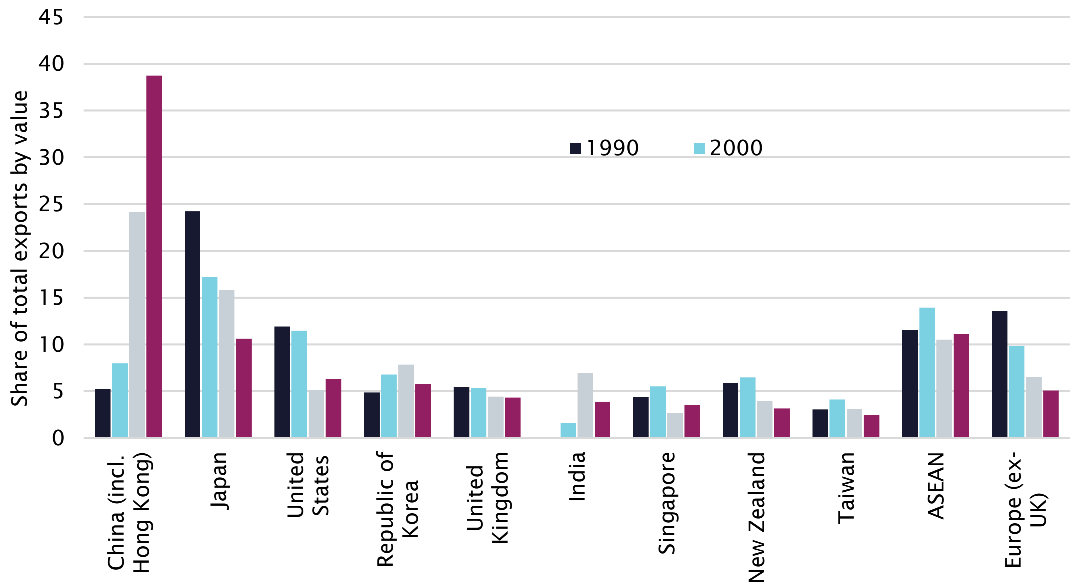
Iron ore remains Australia's largest export, valued at $153 billion in 2020–21. Coal and natural gas are the next largest export commodities, with exports valued at $39 billion and $30 billion respectively in 2020–21. Other major export commodities include education-related travel services ($40 billion in 2019–20, prior to COVID-19 disruptions); gold ($26 billion in 2020–21); beef ($8 billion in 2020–21); aluminium ores ($8 billion in 2020–21); copper ores ($7 billion in 2020–21); crude petroleum ($7 billion in 2020–21); and wheat ($6.8 billion in 2020–21).

Australia's major export markets

Over the long-term Australia's major export markets have shifted from Europe to East Asia. Figure 4 shows the proportion of total Australian exports to major markets over the past 30 years.

Figure 4 shows some of the trends driving Australian export growth. The rise of China as a key export

Figure 4 – Australian exports of goods and services, share of total by country and country group



Source: DFAT, *Direction of Goods and Services Trade, Financial Years* (Canberra: DFAT).

market is clear, with 36.7% of Australia's exports being destined for China in 2020. Remarkably, the value of Australian exports to China grew from under $7 billion in 2000 to over $169 billion in 2020. The concentration of Australian export markets is also evident, with the top 4 markets (China, Japan, US and South Korea) accounting for almost 60% of all exports. While exports to Japan have fallen in relative terms it remains an important export market, receiving over 10% of Australian exports in 2020.

Recent trends in Australian trade with China

China is Australia's largest trade partner, so recent tensions between Australia and China have led to trade sanctions on a range of Australian exports and caused widespread concern amongst Australian exporters. These trade sanctions have been placed on major Australian exports including coal, barley, beef, wine, cotton, lobsters and timber.

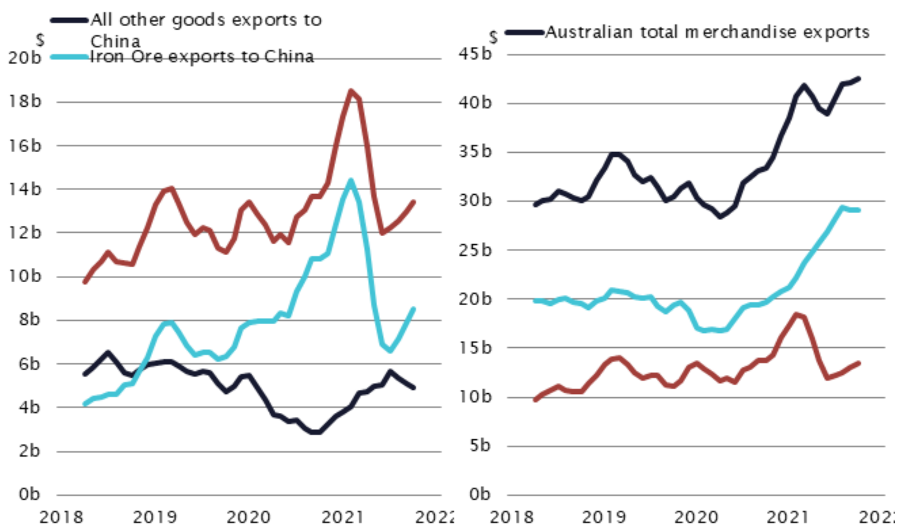
While these trade sanctions have had a limited impact on Australia's aggregate exports to China, since higher exports of iron ore offset the declines in other export categories (see Figure 5 below), they have led to significant disruption in the products targeted. This disruption has led to trade diversion in the products sanctioned by China, with many of the exports previously sent to China being redirected to existing or new export markets.

Figure 5 shows the 2 broad factors that mitigated the impact of China's trade sanctions on overall Australian merchandise (goods) exports – increased iron ore exports offsetting falls in other export categories during the second half of 2020, and exports to the rest of the world offsetting falls in exports to China since July 2021 as iron ore exports started to fall back from the spike in the first half of 2021.

The left-hand panel of Figure 5 shows Australian merchandise exports to China broken down into iron ore exports and all other goods exports. The chart shows the importance of iron ore exports to China, with over 75% of the total value of Australian goods exports to China coming from iron ore exports at the peak in mid-2021. The strength of iron ore exports to China between May 2020 and July 2021 meant that total Australian merchandise exports to China continued to grow despite the trade sanctions imposed by China. Iron ore exports to China have fallen since July 2021 as issues in China's domestic construction industry and COVID-19 related lockdowns have slowed construction activity. However, Australian exports of other goods have recovered from their lows, leaving total exports to China at a similar level to that prior to the COVID-19 pandemic.

The right-hand panel of Figure 5 shows total Australian merchandise exports broken down by those to China and those to all other export markets. This clearly shows the strong increase in Australian exports to the rest of the world across 2021, which has driven an increase in Australian exports despite the fall in exports to China since the peak in July 2021.

Figure 5 – Australian total merchandise exports to China and the rest of the world (3-month rolling average)



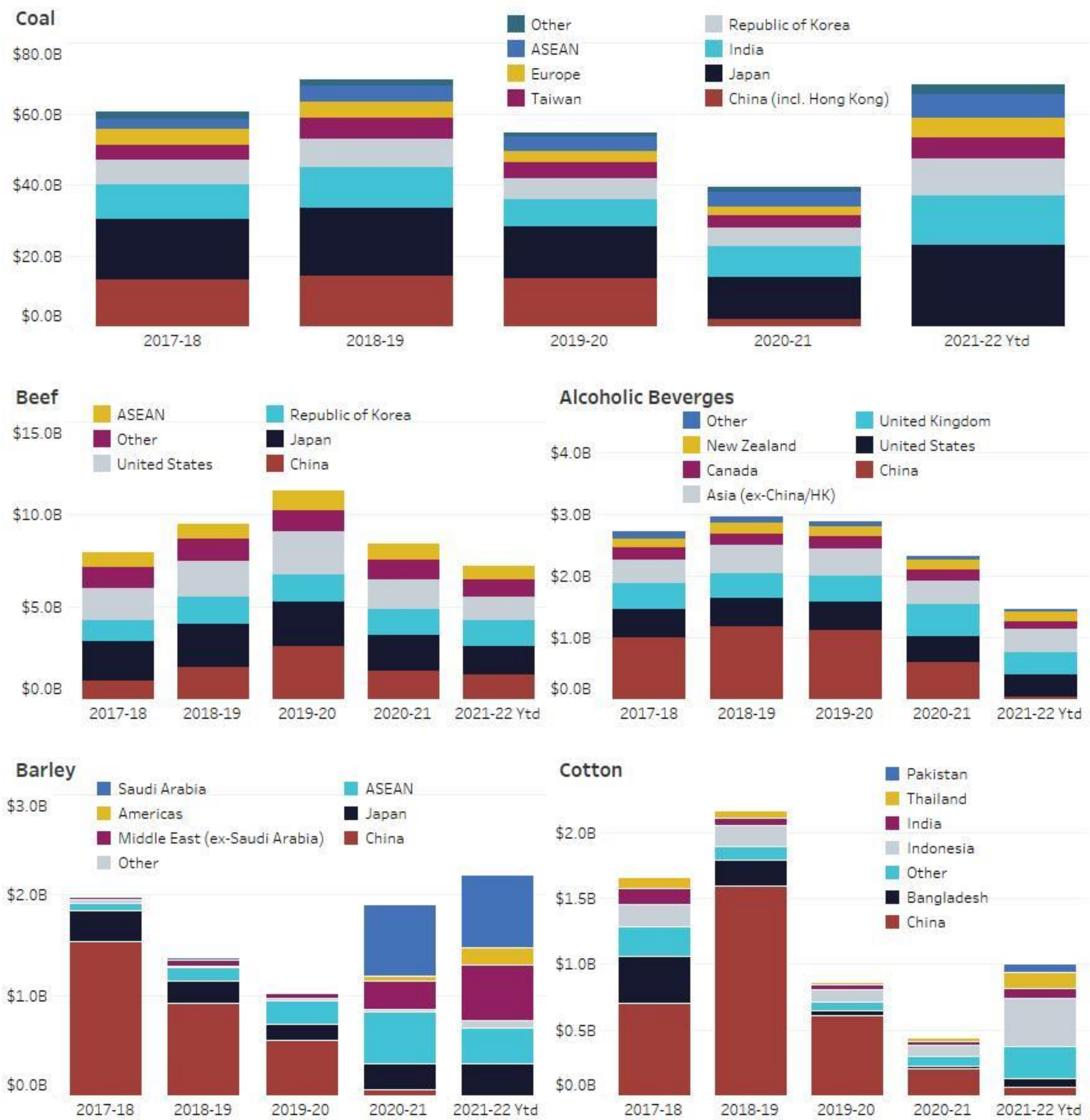
Source: Source: DFAT, *Trade Statistical Pivot Tables* (Canberra: DFAT, 2022). Interactive version.

Trade diversion for exports sanctioned by China

As noted above, trade diversion – diverting exports which would have been sold to China to other existing and new export markets – has helped somewhat to mitigate the impact of China's trade sanctions on Australian exports of targeted goods. Figure 6 below shows the composition of exports by destination for 5 of the largest commodities subject to sanctions: alcoholic beverages (including wine), barley, beef, coal, and cotton.

Alcoholic beverage exports are the category which has seen the least trade diversion, with exports for 2020–21 and over the first 9 months of 2021–22 showing steep falls compared with the 3 years prior to COVID-19. Exports of alcoholic beverages to China, which had

Figure 6 – Australian exports by destination, selected commodities



Source: DFAT, *Trade Statistical Pivot Tables* (Canberra: DFAT). Interactive version.

been worth over a billion dollars a year between 2017–18 and 2019–20, halved in 2020–21, and have been very low over the first 3 quarters of 2021–22. While exports to the UK increased in 2020–21, sales to other major markets have not offset the fall in sales to China.

Barley has been much more successful in redirecting exports to new markets. The reopening of the Saudi Arabian market, and increased exports to other Middle Eastern markets, ASEAN countries, Japan, and Mexico, have helped Australian exports of barley rebound strongly since the lows of 2019–20. While the price paid by Chinese buyers was often at a premium to the global market price, meaning the barley industry has lost money because of the sanctions, the successful trade diversion program has seen exports over the first 3 quarters of 2021–22 already exceed full financial year exports for the 4 prior years.

Beef was subject to limited sanctions, and exports to China have not fallen to the degree seen in other commodities, but the growth in exports to China has reversed. Exports of beef were already quite diversified and exports to China have fallen in line with exports to other major markets.

Coal, the largest export industry to face Chinese sanctions, has primarily diverted exports to major existing customers such as Japan, India, Korea, and Taiwan. The rebound in the price of coal, particularly since the Russian invasion of Ukraine, has increased the total value of coal exports to levels seen prior to the pandemic.

Cotton was hit particularly hard by Chinese sanctions. Total Australian exports of cotton fell from over $2 billion in 2018–19 to under $500 million in 2020–21, with cotton exports to China falling from $1.6 billion to $200 million over the period. Over the first 3 quarters of 2021–22, the cotton industry has started to divert cotton shipments to new and existing markets, with large increases in exports to Indonesia, Thailand, Bangladesh, and Pakistan. This trade diversion has helped recover some of the export revenue lost from reduced exports to China, but total exports are still well below the levels in 2017–18 and 2018–19.

Looking at the industries disrupted by the trade dispute with China shows that any government response will benefit from being tailored to the industry. Some industries with existing diverse export markets may be able to redirect exports to existing markets with limited government support, while other industries may require more extensive government assistance to open new markets, provide industry support to transition into other products, or promote increased domestic consumption.

Further reading

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Department of Foreign Affairs and Trade (DFAT), *Australia's Trade in Goods and Services*, (Canberra: DFAT, released biannually).

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RISING INFLATION AND MACRO-ECONOMIC BALANCE

Dinty Mather, Economic Policy

Key issue

After decades of low inflation (see the article, 'Australia's cost of living', in this *Briefing book*) and low interest rates, a number of OECD (Organisation for Economic Co-operation and Development) countries – perhaps most notably the US and European countries – are grappling with sharply rising inflation. Australia has also recorded rises, albeit less dramatic.

Rising inflation is typically understood as increasing consumer prices. However, there are a range of prices in the macroeconomy like consumer prices, producer prices, wages, and interest rates. The relationships between these prices impact on wellbeing.

An event can lead to a change in one macro-economic price (for example, consumer prices) and then leave the broader economy out of balance (for example, lowering real incomes).

Parliament and government have several policy measures to rebalance macro-economic prices. But these come with risks; for example, causing inflationary spirals. Persistent imbalances may occur when one of the macro-economic prices, like wages rates, cannot rebalance under normal economic policy.

Abrupt and disruptive changes can destabilise what economists call 'macro-economic systems' and what we conventionally understand as the economy. As the International Monetary Fund Managing Director, Kristalina Georgieva, recently stated:

> Russia's invasion of Ukraine has "compounded" the effects of the Covid-19 pandemic, weighing on the economic recovery and fanning inflation as the cost of food and fuel jumps.
>
> Rising interest rates are adding to pressure on countries, companies and households with big piles of debt. Market turbulence and ongoing supply chain constraints also pose a risk.
>
> And then there's climate change.

Governments can influence domestic macro-economic prices to some extent, mainly through targeted fiscal and monetary policy, and thus how the economy adapts and rebalances.

This article explains what inflation is and how it interacts with other prices in the economy. It then examines the tools available to Parliament and government to manage inflation – but with the caution that poorly designed government interventions can result in a prolonged and disruptive inflationary spiral. Also, the failure of one macro-economic price to rebalance might indicate structural problems requiring a regulatory policy response.

Macro-economic prices and stability

Very broadly, prices can be very good coordination mechanisms that balance the opposing forces of demand and supply and bring about stable market conditions. Macro-economics deals with the aggregate of all goods and services produced in an economy (usually represented by gross domestic product, or GDP) and consequently talks about aggregate demand and aggregate supply. 'Macro-economic' prices are related to these aggregate settings, in particular by coordinating and supporting major purchase, investment and production decisions. The 3 most common macro-economic prices are:

- commonly understood prices: including aggregated consumer prices (like CPI) and aggregated producer prices
- the price of labour: general wage prices that impact production costs and consumer income

- the price of capital or 'money': things like interest rates that affect asset pricing (and the cost of borrowing by firms to expand production or as a cost for consumer credit and an incentive to save).

On a simplistic level, with a stable general price level (a constant inflation rate) aggregate demand is balanced to aggregate supply with no excessive upward pressure on wage rates through the labour market and the aggregate demand for investable funds is balanced with the aggregate supply of savings under stable real interest rates.

Quite often disruptions outside a government's control (exogenous shocks) impact on macro-economic price stability. The market distortion from these shocks is most noticeable to the public as rising consumer prices (or 'headline inflation'), higher interest rates, stagnant wages and falling standards of living. The traditional or theoretical way of thinking about rising inflation is that it can start when:

- the aggregate demand for goods and services exceeds the aggregate supply ('demand pull inflation'), usually due to some stimulus to demand like expansionary monetary and fiscal policies
- the aggregate supply for goods and services declines ('cost push inflation') caused by, for example, rising energy prices and/or rising wage costs.

Disruptive inflation occurs when inflationary spirals emerge. As a simple example, if a 'shock' results in consumer price increases, wages may rise in response. The increasing wage costs then drive up consumer prices, leading to second-round price rises. This process creates an inflationary spiral, exacerbated when people pre-emptively demand higher wages by expecting higher prices; that is, inflationary expectations drive inflationary spirals.

Rising inflation requires upward adjustments of the other 2 macro-economic prices to maintain a stable macro-economic system:

- nominal interest rates should rise in line with inflation to keep real interest rates (inflation adjusted interest rates) stable
- nominal wages should rise with inflation to keep real wages (inflation adjusted wages) stable.

If nominal interest rate policy adjustments are below the level of inflation, then the real interest rate falls.

Falling real interest rates can become problematic because they create incentives for individuals and firms to borrow more, asset prices to rise, and individuals to save less. Falling real wages result in lower standards of living and possible social disruption depending on how rapidly and by how much living standards drop. A government's ability to rebalance only one macro-economic price when general prices rise points to potential regulatory problems.

Policy tools

Government can use 3 broad sets of policy tools to influence prices and economic outcomes: monetary policy, fiscal policy, and regulatory policy. All 3 can be used to stimulate (speed up) or contract (slow down) the economy and are distinguished by their effective timeframe and how quickly the measures can be reversed or changed. The selection of policy tools to deal with rising inflation depends largely on:

- what caused inflationary pressure in the first place (the type of shock)
- how long inflationary pressure is expected to last
- whether inflation has exposed, or created, structural problems that need to be addressed.

Monetary policy includes setting the cash rate (which influences interest rates) and other measures (for example, quantitative easing (see text box)). Monetary policy decisions are made independently by the Reserve Bank of Australia (RBA), can be changed quickly, and are effective in a relatively short time. Monetary policy is most applicable if the shock is expected to have a limited price effect and short duration.

Australian fiscal policy settings are normally set out in the Budget and include setting tax rates, government spending and borrowing. For shocks that are expected to have a limited time span, a temporary expansion in government spending and/or a lowering of tax rates (stimulatory fiscal policy) can be financed out of government borrowing, but at the expense of rising government debt. Temporary fiscal policy measures usually last at least a year, take longer to be effective, are more difficult to reverse, and often display lingering consequences.

Quantitative easing and quantitative tightening

Quantitative easing is when the RBA purchases a targeted quantity of assets (usually government bonds purchased from private institutions) to lower a range of interest rates. The RBA pays for these purchases by creating 'central bank reserves'.

In response to the COVID-19 slowdown, the RBA instituted quantitative easing from November 2020 to February 2022. In the face of rising inflation, the RBA, starting in March 2022, entered a phase of what it calls quantitative tightening in the sense that it would not create additional 'central bank reserves' to purchase any more government bonds.

Regulatory policy (for example, competition policy) can impact all aspects of the economy. However, regulations affecting business profitability and labour markets have important impacts on macro-economic prices. Regulatory policy tends to create long-lasting, or structural, effects on the economy and can be difficult to change.

Policy responses to inflation

Recently the world has experienced 2 wide-reaching exogenous shocks in the form of COVID-19 lockdowns and the Russian invasion of Ukraine. The effects of COVID-19 stimulatory policies on inflation were expected to taper off when lockdowns ended, and stimulatory policies were removed. However, inflationary pressure has continued and short-term estimates have been consistently reviewed upward, largely due to the possibility of a prolonged Russian war in Ukraine.

COVID-19 induced inflation

The COVID-19 'lockdown' measures resulted in an unexpected disruption in the supply chains which coordinate the distribution of goods and services (supply) sought by businesses and consumers (demand). These coordination problems led to supply chain disruptions and lost trading opportunities. Together, these problems created excess (pent-up) demand which could not be fulfilled. In addition, governments embarked on stimulatory fiscal and monetary policy to counter the economic and social impacts of COVID-19 lockdowns.

These circumstances led to upward pressure on consumer and producer prices, leading to increasing headline inflation. Because the drivers of inflationary pressure were COVID-19 dependent, once the cause (lockdowns) was removed, then the inflationary pressure was expected to subside. The danger was that inflationary expectations could spark an inflationary spiral.

Australia's policy response intended to stem rising inflation and calm expectations of inflationary spirals by implementing:

- low cash rates in an attempt to hold interest rates steady (monetary policy)
- a substantial reduction in stimulatory policy by reigning back COVID-19 support packages (fiscal policy).

Together, these policies were designed to simultaneously remove the causes of inflation and retard wage cost inflationary spirals. However, just as the economy was recovering, the Russian invasion of Ukraine resulted in a major supply shock needing a revised policy response.

Russian invasion of Ukraine and inflationary expectations

Russia is a major oil, gas, and metal supplier, and both Russia and Ukraine supply significant amounts of wheat and corn. The Russian invasion of Ukraine led to a continuing decline of these commodities into world markets. The supply shortages (supply shocks) have driven up prices in world markets and slowed economic recovery and have affected almost all countries in the world. The impact across countries has been unequal.

These supply shocks have challenged temporary inflationary expectations. The uncertainty as to when the conflict will end, and food and energy supplies normalise, has led to persistently rising headline inflation, renewed inflationary expectations, and possible inflationary spirals.

An important component of rising consumer prices in Australia is increased fuel prices and the increased cost of transporting goods. However, because Australia is a net exporter of agricultural goods and hydrocarbon fuels, the Russian invasion of Ukraine has also had some positive results for Australia. Higher agricultural prices and mining and energy prices leave farmers and miners potentially better off, but may be offset by rising input costs. It also exerts upward pressure on domestic food prices.

The Russian invasion of Ukraine extended inflationary stress, leading to more persistent inflationary pressure globally. Whether or not rising inflation will become entrenched and become ‘stagflation’ (high inflation and low growth) is still uncertain. What is certain is that consumer prices have continued to rise, and the policy challenge is to manage inflationary expectations while at the same time ensuring that firms remain viable and living standards are maintained.

Although Budget 2022–23 introduced a cost of living support package, fiscal stimulatory spending had already been substantially reduced in response to COVID-19 induced inflation. The RBA was initially reluctant to increase the cash rate because of its influence on inflationary expectations and uncertainty around the Russian–Ukrainian war.

Subsequently, the RBA signalled further regular cash rate increases, most recently increasing the target by 50 basis points in June 2022. This is expected to flow through to higher nominal interest rate rises, including mortgage rates. The pace and quantum of the increases are important in moderating inflationary expectations. The RBA has already started quantitative tightening, although it expects this measure to have a minimal effect in the short-term.

Policy futures

The war in Ukraine will continue to put upward pressure on wages and raise the possibility of an inflationary spiral. This rising inflation can potentially erode real wages and reduce living standards, particularly among the poor and vulnerable. Falling real wages in the face of rising inflation can indicate a transfer from wages to profits. However, real wages can remain constant during rising inflation (nominal wages increase at the same rate of inflation) without causing inflationary spirals because inflationary spirals are caused by inflationary expectations, not constant real wages.

Stagnant nominal wages (where inflation is greater than or equal to wage growth) are not typical of a well-functioning labour market, which adjusts to inflationary pressure through increased nominal wages. Situations where this is not the case indicate possible:

- structural problems in the labour market arising from, for example, weakened collective bargaining (regulatory policy)
- emerging labour market problems, such as those associated with insecure or under-employment.

These structural and emerging problems, which are evident in current Australian pricing, have resulted in an erosion of wages and living standards, but increased profits. Rising inflation is expected to exacerbate this problem.

In addition to labour market problems, welfare transfers and benefits are considered stimulatory, particularly if kept in line with inflation. Slowing inflation with policies to reduce nominal welfare transfers and benefits (particularly when coupled with lower or constant company taxes and a transfer of wages to profits) creates socio-economic imbalances, including increased intergenerational inequity, in addition to price imbalances.

Policy approaches to achieve macro-economic price balance, and by implication social and political stability, are formed within a contextual framework about how the economy works. These frameworks, of which there are many examples, create vested interests and seem only to change in times of crisis. The COVID-19 pandemic, a worsening geopolitical landscape, fracturing international trade and climate change may be the trigger for an innovative re-evaluation of the contextual frameworks within which Australian economic policy is thought about.

Further reading

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EXTENT OF INEQUALITY AND DISADVANTAGE IN AUSTRALIA

Geoff Gilfillan, Statistics and Mapping

Key issue

Although data sources show income inequality in Australia has fallen slightly in recent years, wealth is distributed much less equally than income among Australian households.

Australia's highly targeted and progressive tax and transfer system acts to re-distribute income from higher income households to income poor households. This has reduced the extent of income inequality.

Temporary measures introduced to assist people on income support through the COVID-19 pandemic in 2020 contributed to a temporary lowering of income poverty rates. Prior to this, the relative poverty line in Australia fell from 13.2% in 2007 to 9.8% in 2016, but then increased to 11.3% in 2019.

Australia has experienced almost a decade of slowing wage growth and relatively weak annual growth in household incomes in real terms. This has contributed to relatively modest growth in living standards in historical terms. On top of this, Australia is now facing an environment of increasing interest rates and inflation. Households now face a period of rising mortgage debt repayments and the prospect of declining real wage growth. While income inequality has fallen slightly nationally in recent years, some regions have experienced weaker growth in household incomes than others. And while Australia's tax and transfer system has succeeded in redistributing income from wealthier to poorer households, Australia recorded the 12th highest relative income poverty rate out of 33 OECD (Organisation for Economic Co-operation and Development) countries that provided information in 2018.

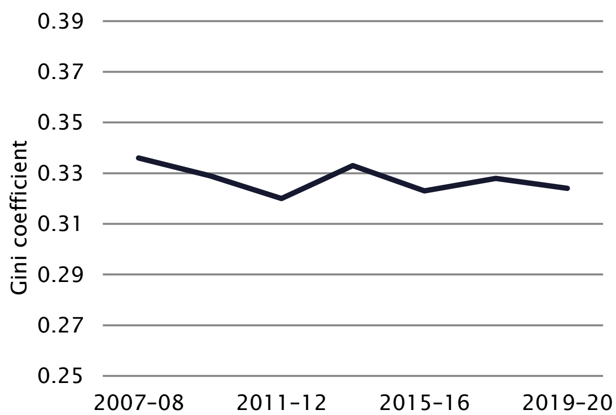
Income inequality and how it is measured

Income inequality is the extent to which total household income is unevenly distributed among its population. The Gini coefficient is the most frequently used summary measure of inequality. The Gini coefficient is a mathematical summary measure that incorporates detailed shares of income data into a single statistic. The measure summarises the extent of dispersion or spread of income across the entire household income distribution.

Estimates for the Gini coefficient for equivalised disposable household income range between zero and one. Values closer to zero represent lower income inequality and values closer to one represent higher income inequality. The measure also allows comparisons on relative income inequality with other OECD countries.

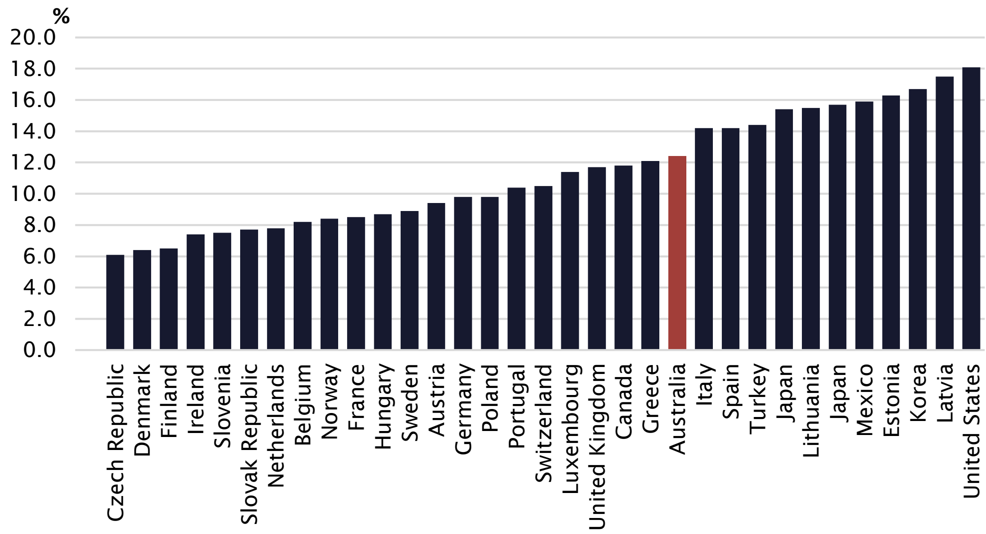
Equivalised disposable household income is gross

Figure 1 – Gini coefficient for equivalised disposable household income, Australia, 2007–08 to 2019–20



Source: Australian Bureau of Statistics (ABS), *Household Income and Wealth, Australia, 2019–*

Figure 2 – Gini coefficients of OECD countries, 2018



Source: *OECD.Stat*

household income (less tax) that has been adjusted using a weighting process to account for differences in household size and composition (that is, the number of adults and children who live together in the same household). Younger children tend to consume fewer resources than older children and adults.

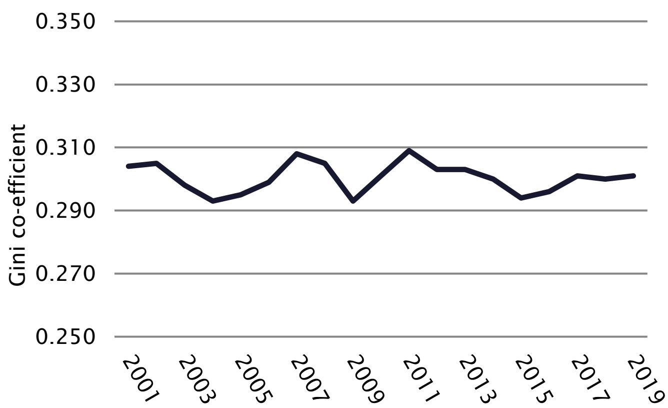
Australian Bureau of Statistics' (ABS) *Survey of income and housing, 2019–20* data shows the Gini coefficient for equivalised disposable household income in Australia fell slightly from 0.336 in 2007–08 to 0.324 in 2019–20, which indicates a slight reduction in income inequality (Figure 1).

OECD data collected from member countries shows Australia, with a Gini coefficient of 0.325 in 2018, was ranked 22nd lowest out of 34 OECD countries that provided data in 2018. The Slovak Republic was ranked first as the most equal OECD country in terms of income distribution at 0.236, while Mexico was ranked last as the most unequal at 0.418.

Nordic countries, including Norway, Denmark, Finland and Sweden, along with Germany and France, had lower coefficients (more equal income distribution) than Australia, while the UK and the US had much higher coefficients (more unequal) (see Figure 2).

The *Household, income and labour dynamics* (HILDA) survey is an additional Australian data source that can track change in income inequality over time. The HILDA estimates for the Gini coefficient for equivalised household income were relatively stable between 2001 and 2019, ranging between 0.290 and 0.310. HILDA data also indicates that relative income inequality fell marginally between 2011 and 2019 (see Figure 3).

Figure 3 – Gini coefficient for equivalised disposable household income, 2001 to 2019

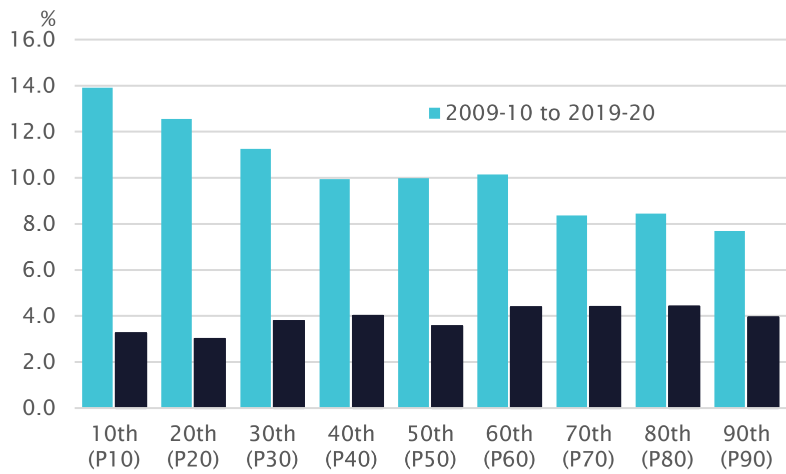


Source: Roger Wilkins et al., *The Household, Income and Labour Dynamics in Australia Survey: Selected Findings from Waves 1 to 19*, Melbourne Institute: Applied Economic & Social Research, the University of Melbourne.

Change in household incomes

It is also possible to track the extent of growth in incomes of households at the bottom, middle and top of the income distribution to establish whether relatively

Figure 4 – Percentage change in weekly equivalised disposable household income at the top of each decile



Source: ABS, *Household Income and Wealth, Australia, 2019–20* (Canberra: ABS, 2022).

poorer or wealthier households are experiencing stronger or weaker growth in household incomes than others.

In this analysis the household income distribution has been divided into 10 equally sized groups or deciles. Figure 4 shows growth in weekly equivalised disposable household income for Australian households at the top of each decile in the decade to 2019–20, as well as the 2 years to 2019–20.

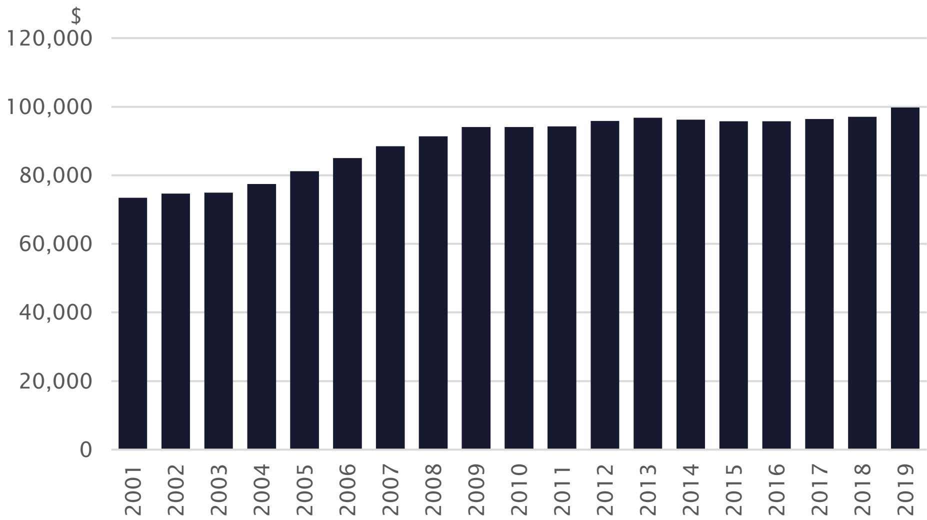
Income growth over the decade in real terms (in 2019–20 dollars) was strongest for the 10th decile or bottom 10% of the household distribution (up 13.9%), albeit from a relatively low base, and weakest for those in the 90th decile or top 10% of the household distribution (up 7.7%). Stronger growth in incomes for households in the bottom 30% of the distribution would have contributed to a slight reduction in income inequality.

Growth in household income was more even across the household distribution in the 2 years to 2019–20, with households in the top half of the income distribution experiencing slightly higher growth than those in the bottom half.

Data from the annual HILDA statistical report shows how average disposable incomes for all households in Australia change over time.

Average annual disposable income for all households grew strongly in real terms (in December 2019 dollars) across Australia from 2001 to 2009, by an annual average of 3.1%. Average household income growth then plateaued over the next 9 years to 2018 (up by an annual average of just 0.3%). In the 12 months to 2019 average household disposable incomes grew more strongly by 2.8% (in real terms) from $97,047 to $99,764 (see Figure 5).

Figure 5 – Average disposable household equivalised incomes in Australia (December 2019 dollars), 2001 to 2019



Source: Roger Wilkins et al., *The Household, Income and Labour Dynamics in Australia Survey: Selected Findings from Waves 1 to 19*, Melbourne Institute: Applied Economic & Social Research, the University of Melbourne.

Similar trends can be observed with average individual (or per person) household equivalised income, which indicates little or modest change in household composition between 2001 and 2019. Individual average household equivalised income grew by an annual average of 3.1% in real terms between 2001 and 2009, followed by average annual growth of 0.4% between 2009 and 2018. Growth in individual average household equivalised income was much stronger in 2019 – up 3.1% from $57,727 to $59,538.

Households headed by couples with dependent children experienced the strongest annual average growth in median individual (or per person) household equivalised income between 2001 and 2009 (up 3.5% in real terms), but this growth rate fell to an annual average of just 0.6% per annum in the next 10 years between 2009 and 2019. Real incomes per individual in households headed by sole parents increased at an annual average of 3.2% between 2001 and 2009, but only grew by an annual average of 0.1% in the next 10 years to 2019.

Regional trends in household incomes

There has been some disparity in household income growth rates recorded in mainland capital cities and states and territories in the past 2 decades.

HILDA data shows average annual growth in median individual (or per person) household equivalised disposable incomes between 2001 and 2009 was highest in Perth (up 4.2% in real terms) followed by Brisbane (up 3.6%). The Northern Territory and the ACT recorded increases of 3.8% and 3.2% respectively.

Of the 5 mainland capital cities, Melbourne and Brisbane were the only cities to record average annual growth in median individual household disposable incomes of 1% or more in the decade between 2009 and 2019 (at 1.1% and 1.0% respectively in real terms). Of the states and territories, growth in median incomes between 2009 and 2019 was strongest in Victoria (up 1.5% per annum in real terms) and weakest in Queensland (down 0.3%) and the ACT (no change).

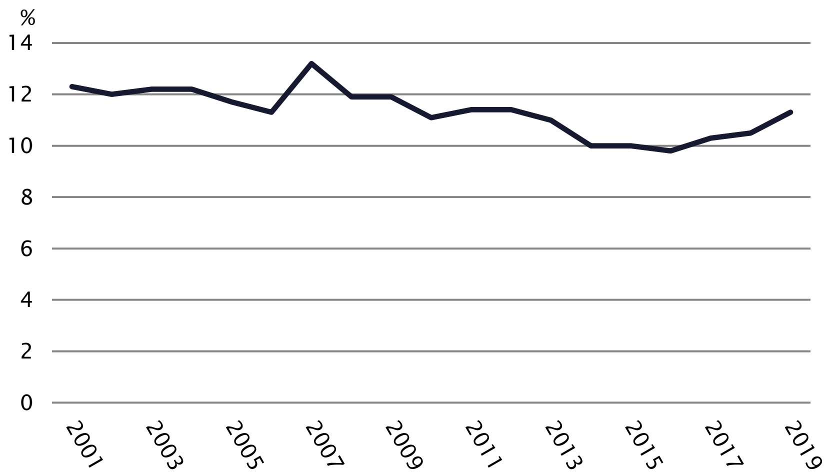
Relative income poverty

Relative income poverty is generally measured by calculating the percentage of the population that is below a poverty line, or threshold, usually set at 50% of median household equivalised income. Data included in the 2021 HILDA statistical report shows the proportion of the population below the relative poverty line in Australia fell from 13% in 2007 to 9.8% in 2016 but has since increased to 11.3% in 2019 (latest available data) (see Figure 6).

Some household types have higher relative income poverty rates than others. In 2019, single parent households had a relative income poverty rate of 22.2% compared with only 5.1% for households headed by couples with dependent children.

Older couples had a relative income poverty rate of 22.3%, while single elderly males (aged 65 years or

Figure 6 – Trends in rate of relative income poverty in Australia, 2001 to 2019



Source: Roger Wilkins et al., *The Household, Income and Labour Dynamics in Australia Survey: Selected Findings from Waves 1 to 19*, Melbourne Institute: Applied Economic & Social Research, the University of Melbourne.

The results for older people are influenced by their greater likelihood of having left the workforce and no longer having access to earnings from work. Instead, they rely on the Age Pension or superannuation payments which tend to be lower than the income they received when working.

Unsurprisingly, owning your own home can reduce housing costs, particularly in retirement. When these costs are accounted for, the relative income poverty rate for older couples falls to 14.0% in 2019. But the rates for single older men and women after housing costs are accounted for are still substantial at 26.6% and 24.4% respectively in 2019. And the poverty rate for households headed by single parents increases to 30.9%. These outcomes reflect the increased likelihood of older people owning their own home outright compared with younger people and sole parents.

The OECD provides comparisons of relative income poverty rates using a 50% poverty line threshold after taxes and transfers. At 12.4% in 2018, Australia recorded the 12th highest relative income poverty rate using this measure among 33 OECD countries that provided information. The UK (at 11.7%) and Canada (11.8%) had slightly lower poverty rates than Australia, while Denmark and Finland had much lower rates (at 6.4% and 6.5% respectively). The US had the highest poverty rate at 18.1% (see Figure 7).

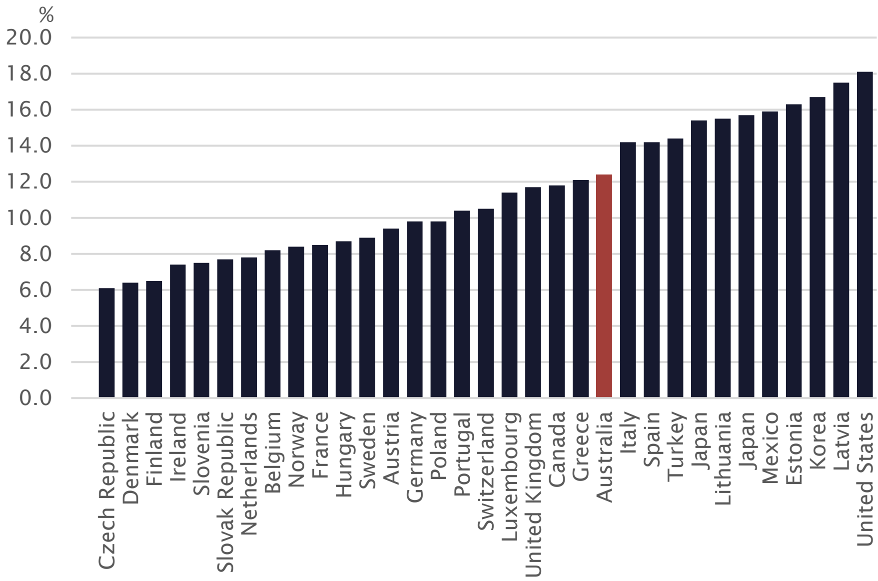
Impact of temporary COVID-19 income support measures on poverty rates

Modelling undertaken by the ANU Centre for Social Research and Methods in August 2020 showed the introduction of temporary extra COVID-19 income supports (notably the Coronavirus Supplement and JobKeeper payment) contributed to a dramatic lowering of poverty rates for people receiving income support. The poverty rate for people living in households whose main source of income was Newstart or Youth Allowance (Other) prior to COVID-19 was extremely high at just over two-thirds (67.3%). Modelling of the impact of the Coronavirus Supplement showed that its introduction almost eliminated poverty for these households, reducing the poverty rate to just 6.8%. The authors predicted the less generous payments scheduled from September 2020 would see this group return to a poverty rates of around 23.9%.

A report published by the Australian Council of Social Service (ACOSS) and the University of New South Wales (UNSW), using the modelling undertaken by ANU Centre for Social Research and Methods, stated that just over 2.6 million Australians were living in poverty in June 2020, compared with just over 3 million in 2019.

It should be noted that the ACOSS measure takes account of housing costs when measuring poverty. Housing tends to be the largest fixed cost for most household budgets. This means that those families with lower housing costs, especially those who own their homes outright, have a higher standard of living than those on the same income who still have housing costs (such as paying a mortgage or rent).

Figure 7 – Relative income poverty rates (a), 2018



(a) The rate is the proportion of population below 50% of household equivalised income after taxes and transfers.

Source: OECD Data.

Based on the ANU modelling, the authors of the report claim there would have been 5.8 million Australians in poverty in June 2020 had the extra COVID-19 income supports not been introduced. It was estimated that 9.9% of people were below the (50% of median household income) poverty line in June 2020, compared with 11.8% in 2019, while 22.7% would have been in poverty in June 2020 without the new income support arrangements. The poverty rate of people living in households that relied on the JobSeeker Payment fell from 76% in 2019 to 15% in June 2020. Poverty rates for people living in households headed by sole parents fell from 34% to 19% for the same period.

The impact of the tax and transfer system on income inequality

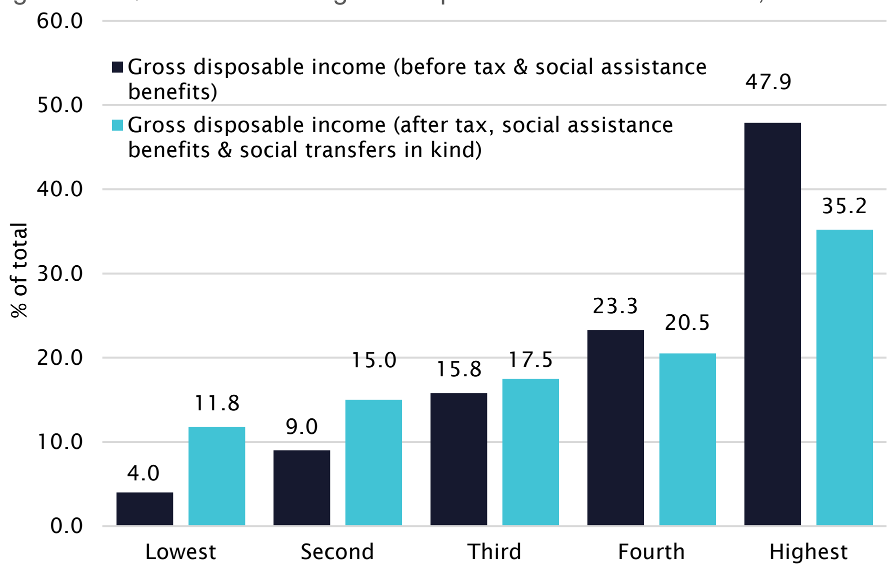
Australia has a highly targeted and progressive tax and transfer system that is used to reduce income inequality. This results in the lowest quintile (or bottom 20%) of the household income distribution receiving the highest shares of total social assistance benefits (such as Family Tax Benefits) and transfers (such as Medicare rebates) while paying the lowest shares of taxes. The opposite is true for those in the highest quintile (or top 20%) of the household distribution. For example, ABS data shows in 2015–16 the top 20% of all households paid around 50% of all taxes on income and production, while the bottom 20% paid only 5%. In terms of social benefits, the bottom 20% received 37%, while the top 20% received around 11%.

In its 2018 report *Rising inequality? A stocktake of the evidence* the Productivity Commission found:

> Income tax and government transfers have typically lowered the measure of overall income inequality (the Gini coefficient) by 30 per cent, an equalising effect that far outweighs the overall increase in the measure since the late 1980s. This equalising effect has fluctuated over time, but overall there has been no material change in the past thirty years.

Figure 8 shows the impact of taxation, social assistance benefits and social transfers on the share of total gross disposable household income going to Australian households in 2019–20. The effect of the tax transfer system contributes to the total household income share going to the top 20% (or highest quintile) of the household income distribution falling from 47.9% to 35.2%, while the share accruing to the bottom 20% (or lowest quintile) almost triples from 4.0% to 11.8%.

Figure 8 – Quintile shares of gross disposable household income, 2019–20

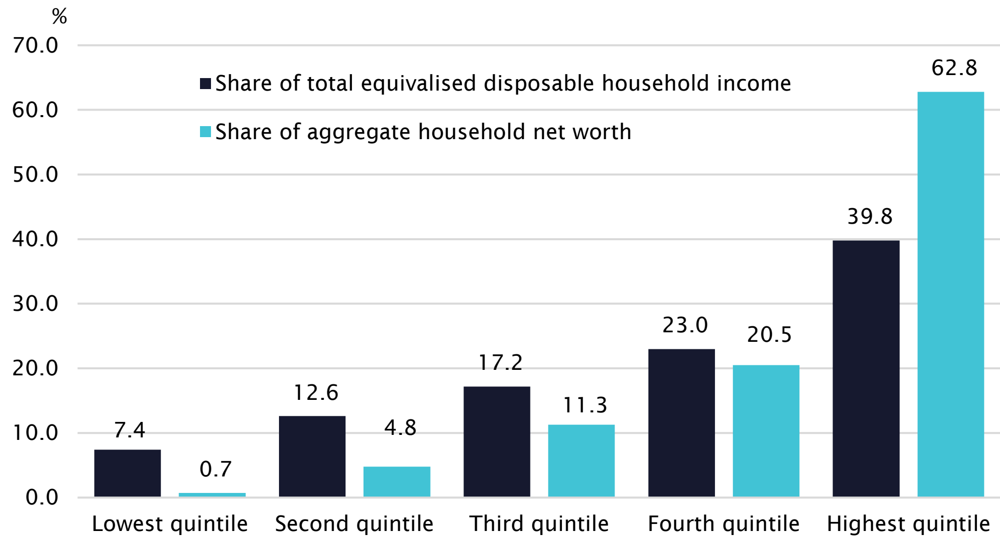


Source: ABS, *Australian National Accounts: Distribution of Household Income, Consumption and Wealth, 2019–20*.

Household net worth or wealth

Household net worth or wealth is the stock of financial and non-financial assets held by households minus their liabilities. Household assets include bank accounts, superannuation balances, shares and trusts, and the value of own businesses. Liabilities of

Figure 9 – Quintile shares of equivalised disposable household income and household net worth, 2019–20



Source: ABS, *Household Income and Wealth, Australia, 2019–20*.

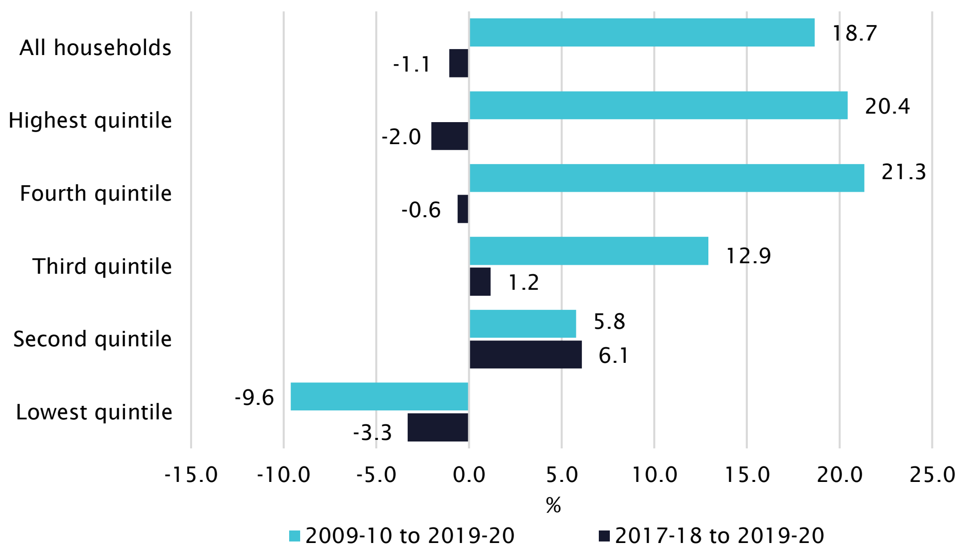
households take the form of loans outstanding that include mortgages, borrowing from other households, investment loans, credit card debt, and personal and study loans.

Household wealth or net worth tends to be more unequally distributed than household income (see Figure 9). The bottom 20% of the household distribution accounted for 7.4% of total equivalised household disposable income in 2019–20, but only 0.7% of total household wealth. The lowest quintile's share of total household wealth has fallen slightly from 0.9% in 2009–10 while their share of total household income has remained the same.

The highest quintile (or top 20%) of the household income distribution accounted for 62.8% of all household wealth in 2019–20 – up from 61.8% in 2009–10. During the same 10-year period the highest quintile's share of total household income fell slightly from 40.2% to 39.8%.

Figure 10 shows the percentage change in average household net worth by quintile in the decade to 2019–20 and the 2 years to 2019–20. While the top 2 percentiles experienced substantial increases in average household net worth (of 20.4% and 21.3% respectively) in the decade to 2019–20 they experienced a small contraction in household wealth in the 2 years to 2019–20 (of 2.0% and 0.6% respectively).

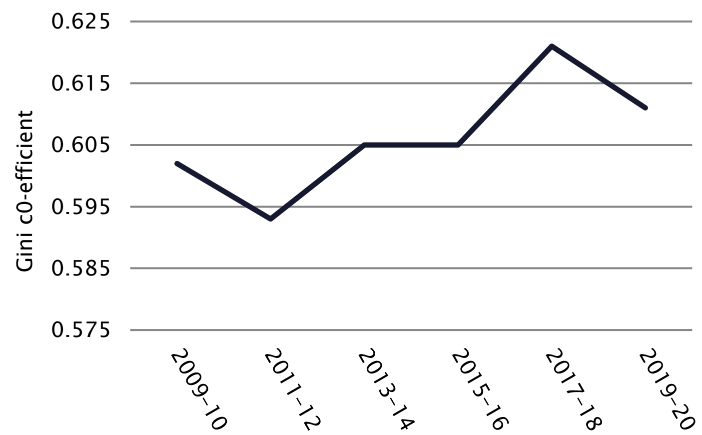
Figure 10 – Percentage change in average household net worth (or wealth) by quintile



Source: ABS, *Household Income and Wealth, Australia, 2019–20*; (Parliamentary Library calculations).

Wealth inequality as measured by the Gini coefficient increased from 0.593 in 2011–12 to 0.621 in 2017–18, before falling to 0.611 in 2019–20 (see Figure 11).

Figure 11 – Gini coefficient for household net worth or wealth, 2009–10 to 2019–20



Source: ABS, *Household Income and Wealth, Australia, 2019–20*.

In its highlight report on the extent of inequality (p. 6), the Productivity Commission concluded:

> On average, households in all but the bottom decile experienced real increases in wealth, predominantly in housing assets and superannuation balances over the past fifteen years. However, with the growth in wealth strongest in the upper deciles, some measures of wealth inequality have risen.
>
> While wealth distribution in Australia somewhat predictably is more unequal than income or consumption, Australia's wealth distribution remains less skewed than in other countries.

Conclusion

Various data sources show income inequality has fallen marginally in Australia over the past 7 to 8 years whereas relative income poverty has increased slightly.

In the 2 years to 2019–20 growth in incomes was modest, but fairly evenly spread across the household distribution. In the same 2-year period, the top 40% and bottom 20% of the household distribution experienced small declines in average household wealth in real terms.

Further reading

Roger Wilkins et al., *The Household, Income and Labour Dynamics in Australia Survey: Selected Findings from Waves 1 to 19*, (Melbourne: University of Melbourne, 2021).

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Productivity Commission, *Rising Inequality? A Stocktake of the Evidence*, (Canberra: Productivity Commission, 2018).

Rosalie McLachlan, Geoff Gilfillan and Jenny Gordon, *Deep and Persistent Disadvantage in Australia*, Staff Working Paper, (Canberra: Productivity Commission, July 2013).

TRENDS IN WAGE MOVEMENTS, GENDER WAGE GAPS AND THE MINIMUM WAGE

Geoff Gilfillan, Statistics and Mapping

Key issue

Wage growth in the past decade has been much weaker than the previous decade and it has been forecast that wage growth will not keep pace with inflation in the short to medium term.

The gender wage gap has narrowed since 2014 due to stronger growth in wages for women compared with men. Gender wage gaps tend to be smaller for younger age groups and wider between the ages of 35 and 54 years.

Australia experienced a protracted slowing in the rate of wage growth as measured by the Australian Bureau of Statistics' (ABS) Wage Price Index (WPI), from 3.8% per annum (in seasonally adjusted terms) in September 2012 to 1.4% per annum in September 2020.

While the rate of wage growth has shown signs of a steady but modest recovery to 2.4% in March 2022, it has been forecast that wage growth may not keep pace with the Consumer Price Index (CPI), which stood at 5.1% in March 2022 (see Figure 1). The underlying inflation rate, which excludes more volatile price changes, was sitting at 3.7% in March 2022.

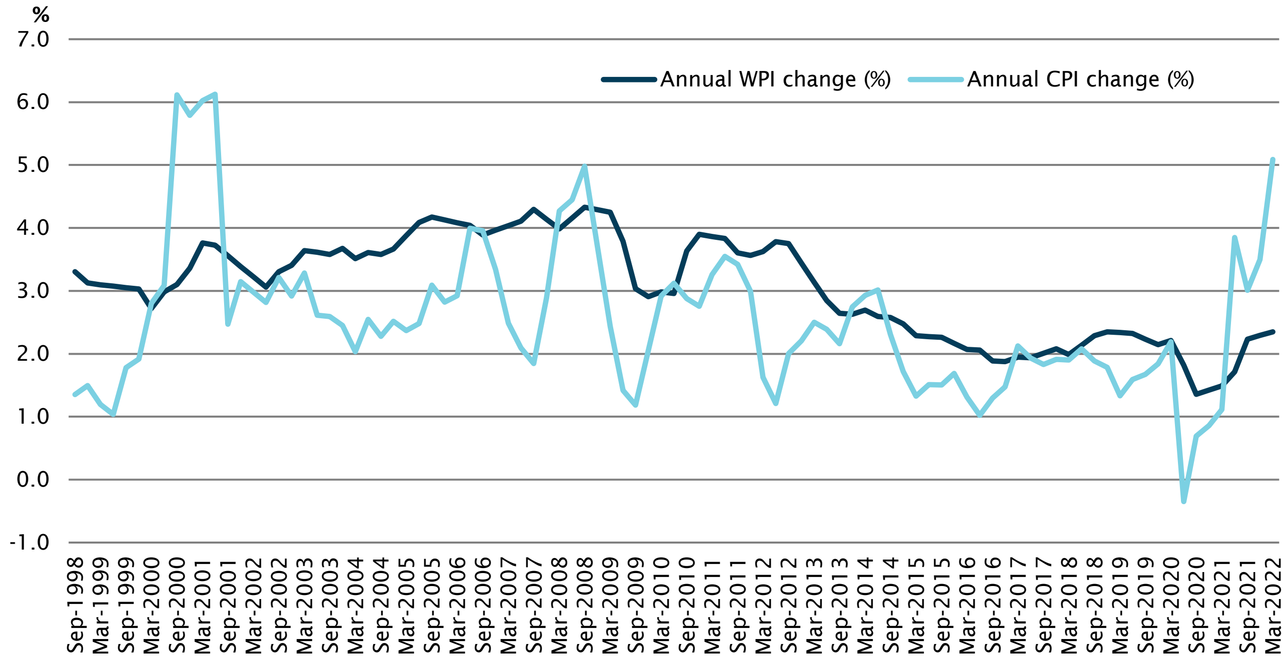
This combination of elevated inflation and modest wage growth is likely to contribute to a decline in real wages in the short to medium term, impacting on standards of living for Australian households. Treasury forecasts provided in Table 1.1 of *Budget paper no.1 2022–23* show wage growth well below the rate of inflation in 2020–21 and 2021–22, but slightly outpacing the CPI in 2022–23.

Several factors contributed to the slowing in the rate of wage growth in the decade to September 2020 including:

- excess capacity in the labour market indicated by persistent rates of underemployment (despite a steady fall in the unemployment rate)
- a fall in inflationary expectations, which contributed to a lowering of wage demands
- restrictions imposed on the magnitude of wage increases in the public sector
- protracted enterprise bargaining negotiations for agreements of large enterprises in retail and hospitality, as well as government departments and agencies, which acted as a freeze on wages for affected workers
- progressively declining rates of growth in labour productivity
- the shift in employee coverage from collective agreements to awards
- impact on employee bargaining power due to declining rates of union membership and restrictions on use of industrial action.

Stagnating wage growth was common among many OECD (Organisation for Economic Cooperation and Development) countries in the decade or so prior to the impact of the COVID-19 pandemic in March 2020.

Figure 1 – Annual change in Wage Price Index (WPI) and Consumer Price Index (CPI)



Source: Australian Bureau of Statistics (ABS), *Wage Price Index, Australia*, Table 1 (seasonally adjusted data) (Canberra: ABS, 2022).

Wage growth failed to rise significantly in many countries despite steadily falling levels of unemployment and moderate rates of labour productivity growth since the global financial crisis of 2008.

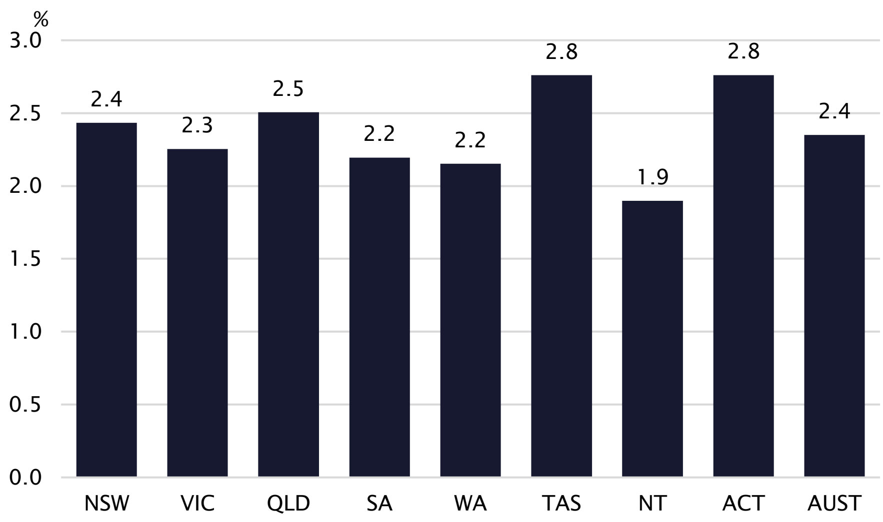
More recently, in September 2020 the Australian Government capped Australian Public Service employee wage rises to change in the WPI of the private sector. While private sector wages were growing at a lower rate than public sector wage rises in the decade prior to September 2020, there has since been a shift to greater percentage increases in the private sector WPI compared with the public sector.

Falling rates of unemployment and underemployment more recently are contributing to greater tightness in the labour market. A restriction on migration during the pandemic has also slowed growth in the labour supply, exacerbating the imbalance between demand for and supply of labour. Job vacancies are well above their pre-pandemic levels and there is evidence of emerging or persistent skill shortages. A recent surge in the inflation rate may trigger an increase in inflationary expectations, which could be factored into future wage demands. The combination of these factors could be expected to drive stronger wage growth in the short to medium term.

ABS data from the Employee Earnings and Hours survey indicates the shift from employee coverage by collective agreements to awards in setting pay and conditions shows no sign of slowing. Around 37% of employees (excluding owner managers of incorporated enterprises) had their wages and conditions determined through collective bargaining in May 2021 – down from 43% in May 2010. In contrast, the share of employees covered by awards increased from 15% to 24%. Wages for employees covered by collective agreements tend to be higher than for employees covered by awards.

Wage growth in the past decade has been much weaker than in the previous decade. The WPI grew by an annual average of 2.3% in the 10 years between March 2012 and March 2022 (using a Compound Annual Growth Rate (CAGR) formula) and by an annual average of 0.1% in real terms (when adjusted for inflation). In the previous 10 years the WPI grew by an annual average of 3.8% and by an annual average of

Figure 2 – Annual change in WPI in states and territories, 12 months to March 2022



Source: ABS, *Wage Price Index, Australia*, Table 2b (original estimates that have not been seasonally adjusted or trended) (Canberra: ABS, 2022).

1.0% in real terms.

Industry wage growth over the last decade has been led by service industries

Average annual growth in wages more than halved in the decade to March 2022 compared with the previous decade in male-dominated industries such as Mining (down from 4.5% to 2.0% in original terms) and Construction (down from 4.3% to 2.1%). In contrast, the average rate of growth in wages increased in female-dominated industries such as Education and Training (up from 2.5% to 4.3% per annum) and Health Care and Social Assistance (up from 2.6% to 3.9% per annum).

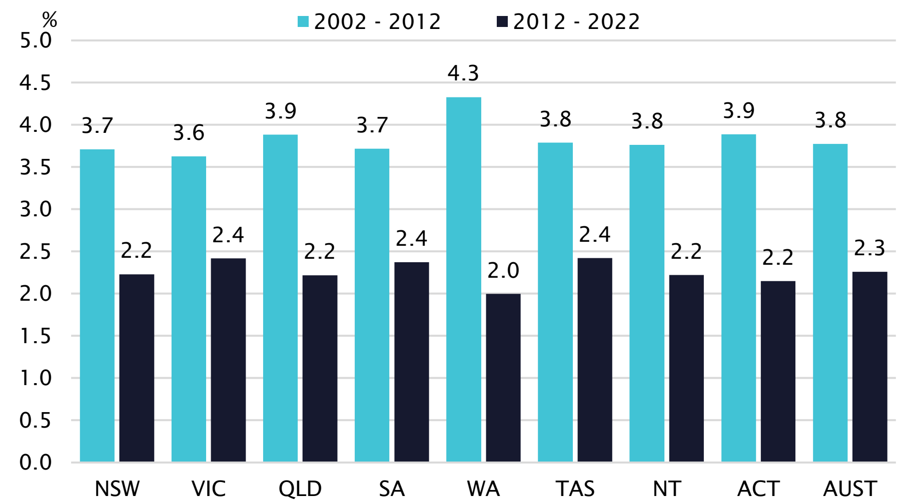
In the 12 months to March 2022, industry wage growth as measured by the WPI was strongest in Rental, Hiring and Real Estate Services (at 3.1%). Manufacturing, Information, Media and telecommunications, and Professional, Scientific and Technical Services, all recorded wage growth of 2.7% in the 12 months to March 2022. Wage growth was weakest in Electricity, Gas, Water and Waste Services at 1.5%, and Mining at 1.8%. The recent result for Mining contrasts with the strong wage growth recorded in the decade to March 2012.

Tasmania and the ACT have the strongest wage growth of the states and territories

In terms of regional wage growth performance, in the 12 months to March 2022 wage growth was strongest in the ACT and Tasmania (both up 2.8%) and weakest in the Northern Territory (up 1.9%).

Figure 3 shows the average annual change in the WPI

Figure 3 – Average annual change in WPI in states and territories, decade to March 2012 and decade to March 2022



Source: ABS, *Wage Price Index, Australia*, Table 2b (original estimates) (Canberra: ABS, 2022).

by state and territory in the past 2 decades. Western Australia has experienced the biggest decrease, more than halving from an annual average of 4.3% between March 2002 and March 2012 to just 2.0% in the decade to March 2022. This outcome is linked with the impact of contraction in wage growth in the mining sector.

Other sources of wage data

The ABS *Weekly payroll jobs and wages in Australia* data series (sourced from business records sent to the Australian Taxation Office) shows much stronger growth in wages in the 12 months to 16 April 2022.

The total wage bill in Australia for all businesses that used Single Touch Payroll (STP) technology was up 7.4% in the 12-month period. The results from this data source are heavily influenced by factors such as total hours worked per week. Hours worked has been fluctuating in the past 2 years in response to business lockdowns and re-openings following measures introduced to limit the spread of COVID-19. In contrast, the WPI looks at the changing price of labour unaffected by changes in the quality and quantity of work performed, while average weekly earnings (AWE) describes changes in the average earnings of employees.

The STP wage bill for younger people aged 15 to 19 years experienced the biggest increase in the 12 months to 16 April 2022 (up 18.9%), while the increase in the wage bill for women was double the wage bill increase for men (up 9.4% and 4.7% respectively). By industry, the wage bill for Mining increased the most (at 17.9%) followed by Professional, Scientific, and Technical Services (up 11.8%). In contrast, the wage bill fell for Construction (by 1.2%) and for Accommodation and Food Services (by 1.6%).

The gender wage gap

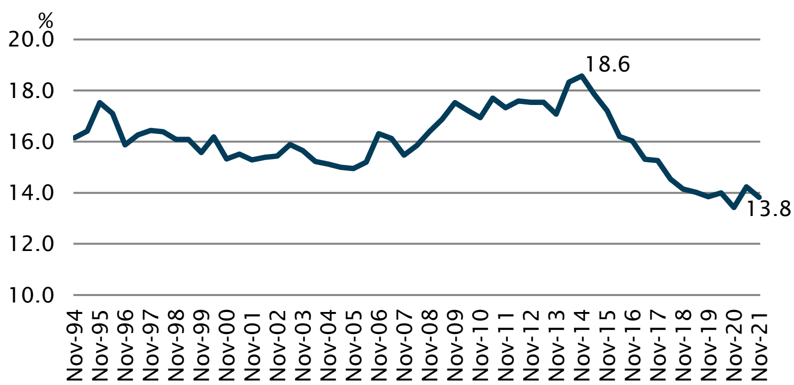
The gender wage gap is calculated as the difference between earnings of males and females expressed as a percentage of male earnings. The gap can be estimated using either weekly or hourly earnings, noting that weekly earnings are influenced by average hours worked by males and females.

Average weekly earnings for *all* employees have not been used as a measure of the gender wage gap as the estimates are heavily influenced by the much higher proportion of females working part-time compared with men. For example, in April 2022 ABS *Labour force* survey data showed just under 44% of employed females worked part-time compared with just over 18% of employed males.

Average female weekly earnings for all female employees are much lower relative to men due to the impact of lower weekly earnings received by female employees working part-time hours. In comparison, average male weekly earnings are influenced by the much higher proportion of men working full-time hours. In November 2021, average weekly total earnings for all male employees stood at $1,577.10, which compared with an average of $1,093.80 for all female employees – equivalent to a gap of $483.30 or 30.6%.

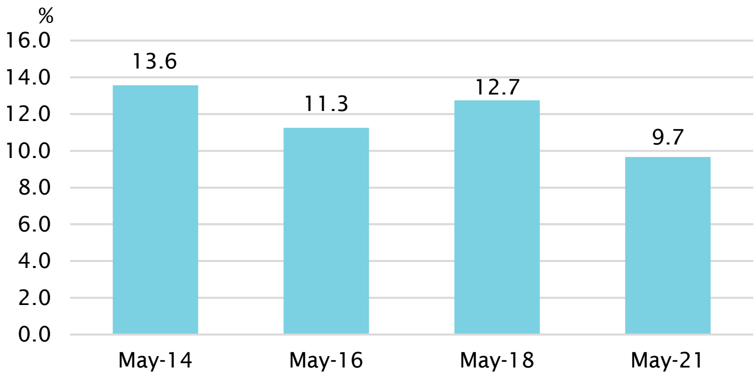
One measure of the gender wage gap frequently cited by the Workplace Gender Equality Agency (WGEA) and reported in the media is Average Weekly Ordinary Time Earnings (AWOTE) for adult employees working full-time. While this measure enables comparisons between male and female employees working similar full-time hours, and the data available enables comparisons since the mid-1990s, it excludes from the analysis part-time workers, who accounted for around

Figure 4 – Gender wage gap, Average Weekly Ordinary Time Earnings (AWOTE) for adults working full-time hours, November 1994 to November 2021



Source: ABS, *Average Weekly Earnings, Australia*, Table 3 (Canberra: ABS, 2022).

Figure 5 – Gender wage gap, average hourly total cash earnings, May 2014 to May 2021



Source: ABS, *Employee Earnings and Hours, Australia*, Data cube 4 Table 1 (Canberra: ABS, 2022).

30% of all employed people in April 2022.

Data from the ABS *Average weekly earnings* survey shows growth in wages for women working full-time hours has been stronger than wage growth for men working full-time over the 7 years to November 2021. AWOTE for adult females working full-time grew by an annual average of 3.0% (in original terms) between November 2014 and November 2021, compared with annual average growth of 2.2% for adult males working full-time. This has contributed to a reduction in the gender wage gap using this measure from 18.6% in November 2014 to 13.8% in November 2021 (see Figure 4).

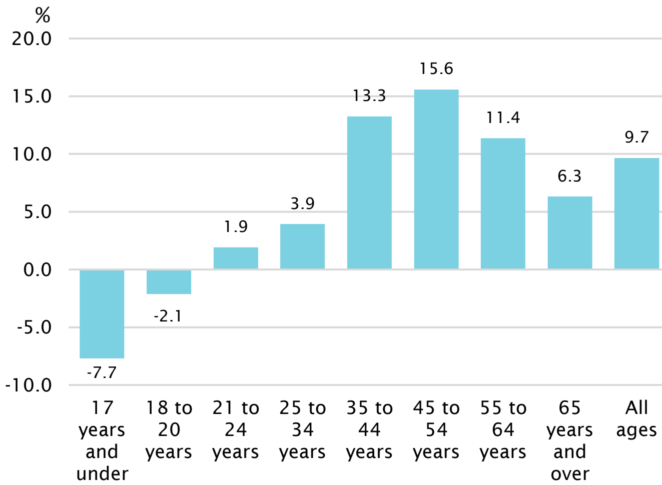
The gender pay gap is higher in the private sector (17.0% in November 2021) and lower in the public sector (11.2%). And gaps are much higher in industries such as Professional, Scientific and Technical Services and Financial and Insurance Services (at 24.4% and 20.6%, respectively), compared with Public Administration and Safety (8.5%).

Another indicator of the extent of the gender wage gap is the difference in average hourly total cash earnings provided in the ABS *Employee earnings and hours* (EEH) data series. This series also shows signs of a narrowing in the gender wage gap for non-managerial employees from 13.6% in May 2014 to 9.7% in May 2021 (see Figure 5). The benefit of this measure is it includes all non-managerial employees regardless of the number of hours they worked. However, the gender gap hourly measures can only be calculated every 2 to 3 years when EEH data is published by the ABS.

Gender pay gaps as measured by average hourly total cash earnings for non-managerial employees change over the life cycle. Gaps tend to be smaller for younger age groups and wider for middle and older age groups (see Figure 6). There was a small wage gap in favour of women aged 17 years and under and women aged 18 to 20 years (of 7.7% and 2.1%, respectively) in May 2021 and relatively small gaps in favour of men aged 21 to 24 years (1.9%) and 25 to 34 years (3.9%). The gap in favour of men continues to widen up to 15.6% for those aged 45 to 54 years but then narrows slightly for people in older age groups.

These differences are consistent with women becoming more highly educated, which narrows the gap for younger age groups or skews gaps in favour of women. Women are more likely than men to leave the workforce after the age of 30 to have and care for children. Women are also more likely to reduce their hours when they return to work to enable the balancing of care and work responsibilities.

Figure 6 – Gender wage gap over the life cycle, non-managerial employees average hourly total cash earnings, May 2021



Source: ABS, *Employee Earnings and Hours, Australia*, Data cube 4 Table 2 (Canberra: ABS, 2022).

National minimum wage continues to fall as a proportion of median wages

The national minimum wage (NMW) is set at a level that seeks to incentivise people to look for work, protect the living standards of low-paid workers, and minimise potential negative employment effects of higher wage costs on the demand for labour.

The NMW is set by the Fair Work Commission (FWC), following an *Annual wage review* by an Expert Panel in which it considers submissions provided by a range of stakeholders including the Australian Council of Trade Unions (ACTU) and the Australian Chamber of Commerce and Industry (ACCI). In making decisions on a safety net of fair minimum wages, the panel considers the following criteria as part of its 'minimum wage objective':

- the performance and competitiveness of the national economy, including productivity, business competitiveness and viability, inflation and employment growth
- the need to promote social inclusion through increased workforce participation
- relative living standards and the needs of the low-paid
- principles of equal remuneration for work of equal or comparable value
- the need to provide a comprehensive range of fair minimum wages to junior employees, employees to whom training arrangements apply and employees with a disability.

In its submission to the 2021–22 *Annual wage review* the ACTU emphasised the position taken by the ACTU Congress that the NMW should be a 'living wage' which acts to 'reduce poverty and inequality, improve the absolute and relative living standards of workers that rely on awards, and reduce the gap between award and agreement' (p. 1).

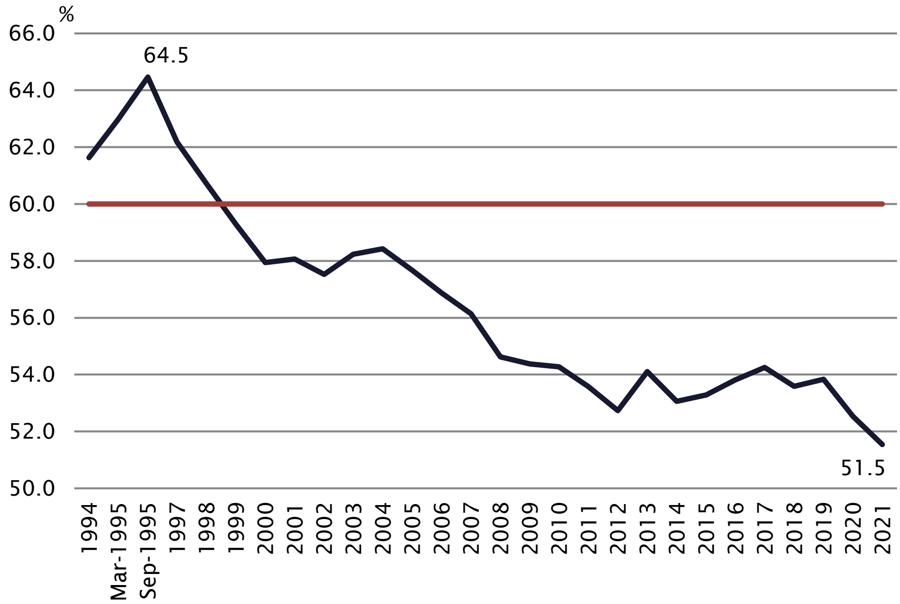
In contrast, the ACCI's submission to the *Annual wage review* did not consider the minimum wage to be a 'suitable tool for delivering higher living standards to low paid employees'. Instead, the employer group considered the tax and transfer system to be 'a far more effective mechanism to deliver sustainable changes when merited' (p. 5).

The ACTU stated in its submission that the NMW is getting further and further away from delivering a living wage, defined as 'anyone working full time but earning less than 60% of full-time median earnings' (p. 1).

Figure 7 shows trends in what is known as the minimum 'wage bite' or the NMW expressed as a percentage of median wages of full-time workers. The minimum wage bite fell from a peak of 64.5% in September 1995 to 52.7% in 2012, increased slightly to 53.8% in 2019, but has since fallen to 51.5% in 2021.

The newly elected Government, in its new submission

Figure 7 – Minimum wage bite, 1994 to 2021



Source: ABS, *Weekly Earnings of Employees (Distribution), Australia* and *Employee Earnings, Benefits and Trade Union Membership, Australia*, (Canberra: ABS, 1993 to 2003); ABS, *Characteristics of Employment, Australia*, (Canberra: ABS, 2004 to 2021); Fair Work Commission (FWC), *Annual Wage Reviews*, (Canberra: FWC, various years).

to the Fair Work Commission's *Annual wage review* of 3 June 2022 'recommends that the Fair Work Commission ensures that the real wages of Australia's low-paid workers do not go backwards' noting that inflation is at a 21-year high of 5.1%. While the Government did not suggest a quantum for the increase in the minimum wage, the tone of the submission suggested that the increase awarded by the FWC should be sufficient to maintain the real wages of low-paid workers who are more vulnerable to rising inflation. The ACCI supported an increase of up to 3% in the NMW in its Reply Submission while the ACTU sought an increase of 5.5% in its Reply Submission.

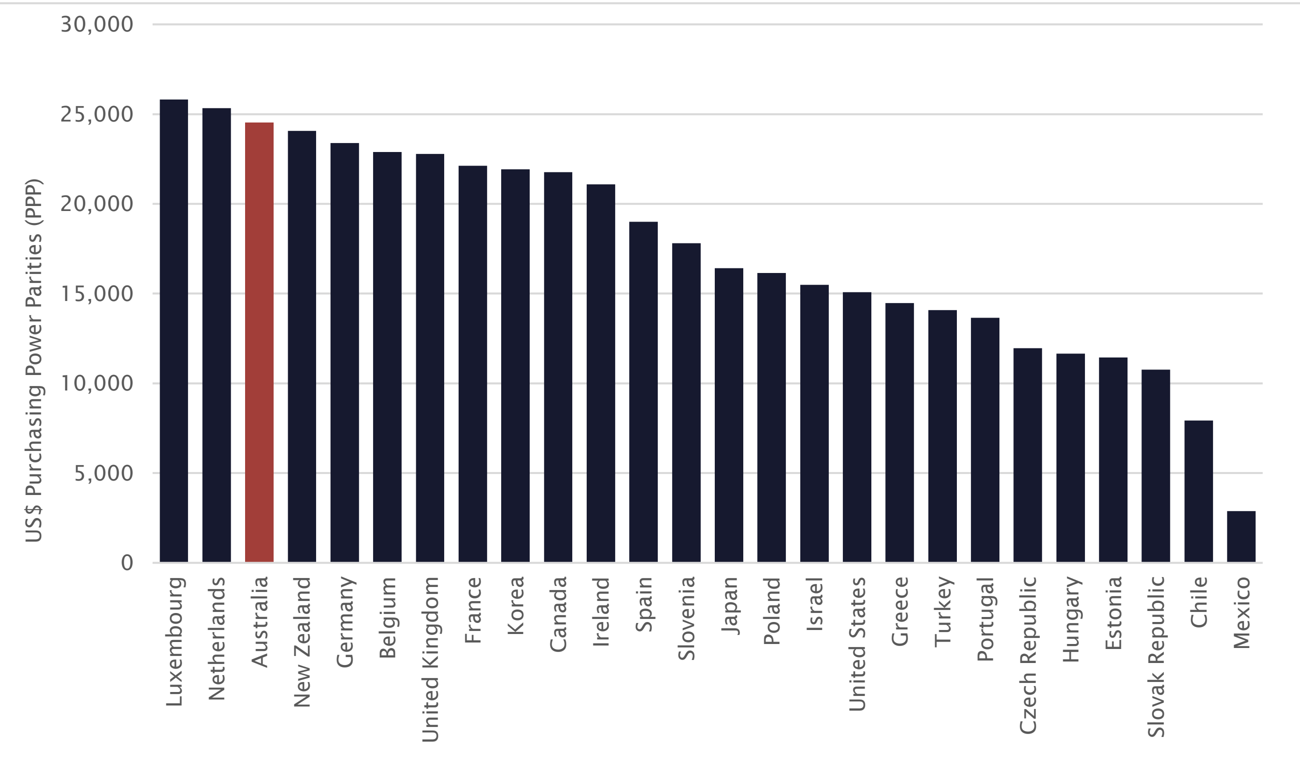
In its decision released on 15 June 2022 the Expert Panel of the FWC awarded 'an increase of $40 to the NMW, which amounts to an increase of 5.2 per cent. The NMW will be $812.60 per week or $21.38 per hour. The Panel observed that this level of increase will protect the real value of the wages of the lowest-paid workers'. This will come into effect on 1 July 2022. The Panel also decided to 'increase modern award minimum wages by 4.6 per cent subject to a minimum increase for adult award classifications of $40 per week. The $40 per week increase is based on a 38-hour week for a full-time employee'. According to the Australian Government submission provided on 1 April 2022 there were an estimated 184,000 adult employees paid at the national minimum wage rate in May 2021 and 2.6 million Australian workers covered by awards.

The Australia Institute has estimated that at least one-third of Australian employees work for wages that are directly or indirectly linked to the changes in wages specified as a result of the *Annual wage review.*

International minimum wage comparisons

Australia had the third-highest annual minimum wage (behind Luxembourg and the Netherlands) among the 26 OECD countries that reported the size of their minimum wage in 2020 (as measured by the OECD in US dollars Purchasing Power Parities (PPP)). The annual minimum wage in the US in 2020 was 38.5%

Figure 8 – Annual minimum wage for OECD countries, 2020



Source: OECD.Stat

lower than it was in Australia in 2020.

Conclusion

Slowing in the rate of wage growth has been a major focus of media and political attention and has become even more prominent given the recent increase in the inflation rate due to several compounding factors. The prospects for increases in wage growth are contingent upon whether tightness in the labour market – as demonstrated by falling unemployment and underemployment rates, very high numbers of job vacancies and emerging skill shortages – translates into wage rises. The new Australian Government is supporting an increase in the national minimum wage, which is likely to flow through to all employees covered by awards (which accounts for a growing share of all employees), as well as other employees.

Further reading

Andrew Stewart, Jim Stanford and Tess Hardy, *The Wages Crisis: Revisited* (Canberra: Australia Institute, 2022).

Geoff Gilfillan, *The Extent and Causes of the Wage Growth Slowdown in Australia*, Research paper series, 2018–19, (Canberra: Parliamentary Library, 2019).

The Treasury, *Analysis of Wage Growth*, (Canberra: Treasury, 2017).

Workplace Gender Equality Agency, *Australia's Gender Pay Gap Statistics*, 8 March 2022.

COAL, GAS AND DECARBONISATION – CHALLENGES AND POLICY CHOICES

Tessa Satherley, Economic Policy

Key issue

The 47th Parliament begins with a bipartisan commitment to net zero by 2050, in a world pursuing decarbonisation. To advance this goal, Australia will need to manage substantial structural changes in our economy, including our trade, our energy systems and employment in the mining and energy sectors – all while trying to ensure households and industry have reliable and affordable energy supplies. Many of these challenges will manifest in difficult policy decisions, such as which energy sources and technologies to invest in; whether to authorise new gas development or coal mines; and how best to manage the necessary trade-offs in any course of action.

This article considers the role of coal and gas in Australia's economy, and summarises recent relevant policy and legislation. It provides background on the 2022 east coast energy price crisis, and outlines some of the policy challenges for the 47th Parliament related to coal and gas employment, energy affordability, and environmental accountability in a world seeking to limit climate change (see the article, 'Climate change and emissions reduction', in this *Briefing book*).

Coal and gas in the Australian economy today

The coal and gas industries play a significant role in Australia's economy and public finances – for good or ill.

They represent a significant share of Australia's exports (see the article, 'Australia's trade in figures', in this *Briefing book*). They also underpin much of Australia's current electricity generation (see the article, 'Electricity sector: continuing modernisation', in this *Briefing book*). Gas is used for residential heating and cooking and is a key manufacturing feedstock, while coking coal is an input into domestic steel production. The coal and gas industries provide government revenue through royalty payments, the Petroleum Resources Rent Tax (PRRT) and company tax.

Many argue that the coal and gas industries also cause significant economic disbenefits, pointing to the generous subsidies they receive, questioning the adequacy of their tax payments and highlighting their contribution to the growing costs of climate change (see the article, 'Natural disasters and climate risk', in this *Briefing book*).

Coal and gas employment

Direct employment in coal and gas extraction is modest. Australian Bureau of Statistics 'Labour Account Australia' data indicated there were 37,600 people employed in the coal mining industry (0.3% of employed people) and 16,400 in oil and gas extraction (0.1%) in 2021 – compared with approximately 1.4% in Mining overall, 6.4% in Manufacturing, 8.5% in Construction and 10.4% in Retail; the largest share was 14.9% in Health Care and Social Assistance.

There is additional direct employment in closely related industries, for example gas supply (<0.1%); the manufacturing of petroleum and coal products (<0.1%); and the manufacturing of basic chemicals and chemical products (0.3%) and plastic and rubber products (0.3%), which require gas as a feedstock. Primary metal production (0.4%) requires coking coal in the case of steelmaking, and very large amounts of electricity in general (historically mostly from coal).

The *indirect* employment supported by coal and gas extraction suggests a larger jobs footprint. For example, the Centre for Policy Development recently estimated the direct and indirect jobs just tied to fossil fuel exports, some of which could be vulnerable as the world decarbonises (see the article, 'Global trade risks and opportunities', in this *Briefing book*).[4] It used 'a regional input-output model' that accounted for 'the flow-on effect on connected industries and communities – for instance the shops and pubs surrounding a coal port'. This analysis found that 'Global decarbonisation could affect around 300,000 Australian jobs connected to coal, oil and gas exports by 2050', or approximately 2% of the labour market (p. 4). This was an upper limit; the centre also estimated as few as 100,000 jobs could be affected.

The centre described this as a 'modest' overall impact, but warned it would be highly concentrated: just 3 regions would 'bear the brunt'. The Grattan Institute's 2020 analysis concurred, warning that Central Queensland, the Pilbara in Western Australia and the Hunter Valley in NSW are especially vulnerable to employment shocks as the world decarbonises.

Past Australian parliaments have debated whether the trade, tax and employment benefits of coal and gas justify ongoing government support for these industries, when weighed against the growing environmental, human and economic costs of their greenhouse gas emissions, and the risk of 'stranded assets' and employment shocks as trade partners also seek to decarbonise.

As the 47th Parliament commences, the energy price crisis in eastern and southern Australia has also cast a spotlight on the economic risks of relying on coal and gas for domestic energy – as well as on our export arrangements – and has renewed public debate about the transition pathway to zero-emissions electricity.

Australia is self-sufficient in coal and gas, so why are consumers paying so much for power?

High global coal and gas prices benefit Australia as an exporter (see 'Global trade risks and opportunities' in this *Briefing book*) but also increase domestic energy prices.

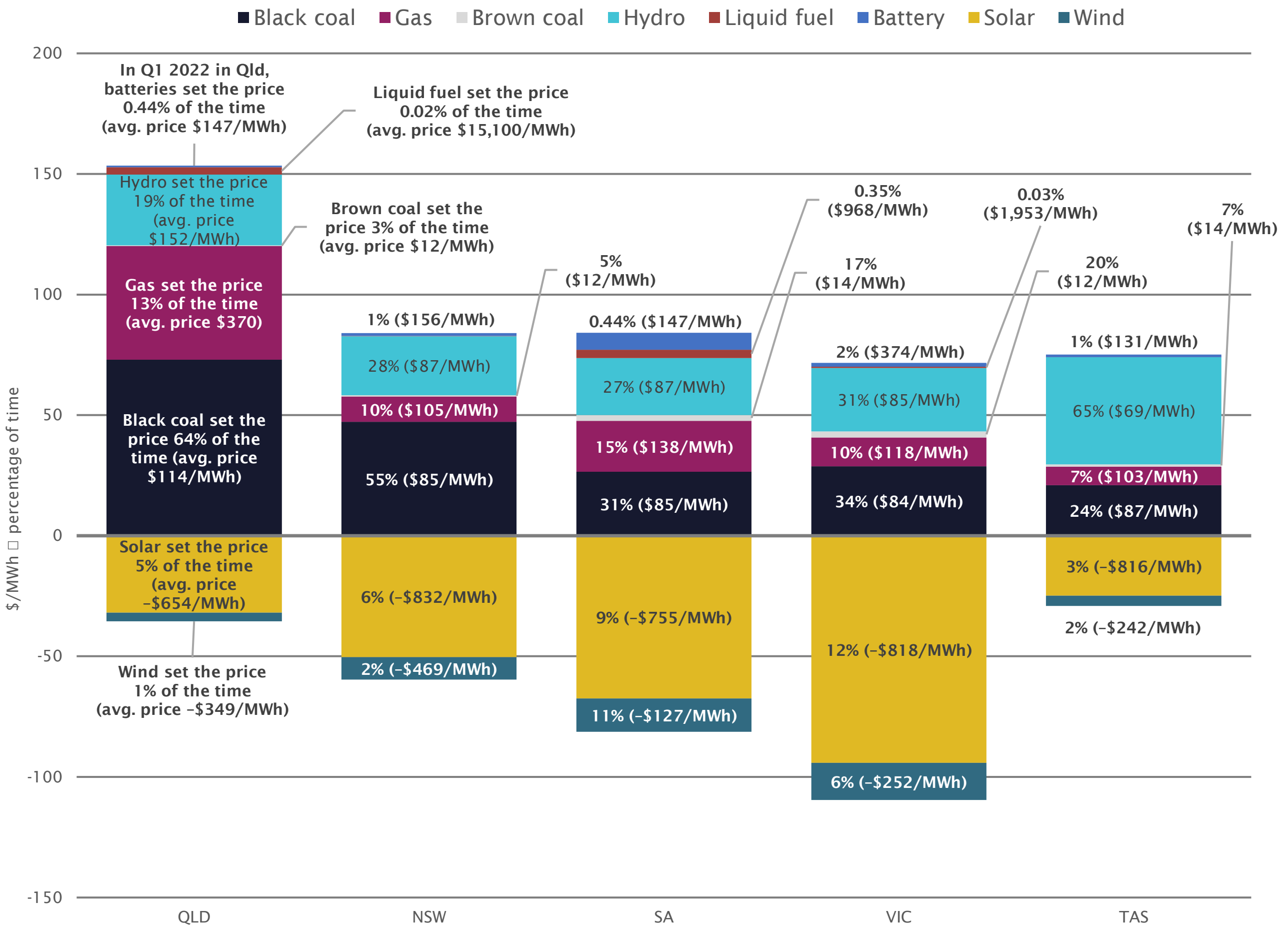
Gas prices in eastern Australia have been closely linked to international liquefied natural gas (LNG) prices since 2015, when 3 LNG export terminals were constructed in Queensland and began competing for supply with users on the east coast (see this research paper for details). The Institute for Energy Economics and Financial Analysis has contrasted this with the situation in WA, which is also an LNG exporter, but has instituted a domestic gas reservation policy – and has significantly lower local gas prices. (In contrast, advocates for new gas development have attributed current tight gas supply and high prices to state government policies blocking new onshore gas development.)

International coal and gas prices also affect electricity prices. NSW and especially Queensland experienced earlier and higher electricity price increases in 2022 than other jurisdictions, commencing in the first quarter

As explained in WattClarity's 'Beginner's guide to how dispatch works in the National Electricity Market', under normal market conditions, the Australian Energy Market Operator (AEMO) receives competing offers from power stations ('bids') to supply electricity in each 5-minute electricity trading interval. AEMO selects the cheapest bid first. If more electricity is needed to meet forecast demand, AEMO moves down the 'bid stack' and adds the next cheapest offer, and so on. All the power stations chosen in that interval are paid the same price as the highest bidder needed to meet total demand, called the 'price setter'. In early 2022, wind and solar set negative prices on average, while batteries, black coal and gas set quite high prices (see Figure 1). Wholesale prices are very sensitive to supply and demand. Negative wind and solar prices are often due to excess production on sunny, windy days.

[4] This still excluded indirect employment tied to domestic uses of coal and gas – for example, jobs in local construction projects or manufacturing that use Australian steel as an input, or jobs in coal and gas-fired power stations and their satellite communities.

Figure 1 – Time-weighted wholesale electricity price impacts of different fuel sources, Q1 2022



Notes: The figure shows the percentage of time black coal, gas, brown coal, hydro, battery, solar and wind generators that set the wholesale electricity price in each National Electricity Market (NEM) jurisdiction, multiplied by the price set in dollars per megawatt-hour ($/MWh). This reflects the approximate influence of each generator type in raising or lowering wholesale prices. The sum of the time percentages exceeds 100% and the totals differ from Figure 4 because the price can be set by more than one fuel source at a time.
Source: Australian Energy Regulator (AER), *Quarterly Price Setter and Average Price Set by Fuel Source*, (Melbourne: AER, 2022); and Parliamentary Library calculations.

(Q1) of 2022. This was in part due to the greater role black coal fired power plays as a 'price setter' in these states (see Figure 1).

Gas can also play a significant price setter role through 'shadow pricing' (as noted by the Australian Competition and Consumer Commission in 2018), whereby otherwise cheaper generators adopt a bidding strategy that 'shadows' the bids of more expensive gas generators.

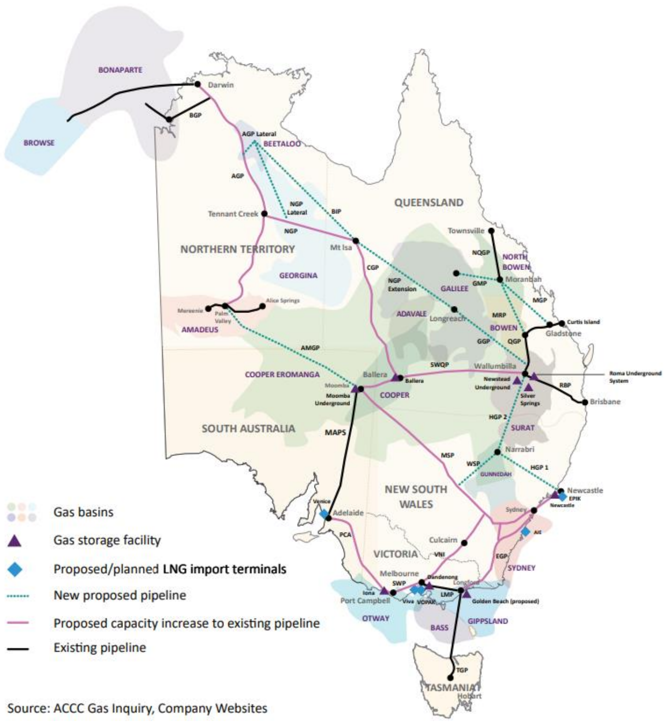
Both NSW and Queensland export black coal and gas, as well as using them domestically for power generation. Therefore, local power stations compete with potential overseas customers on price. In simplified terms, overseas customers are willing to pay elevated prices due to shortages created by Russia's invasion of Ukraine (see 'Global trade risks and opportunities' in this *Briefing book*). Domestic generators have to match these prices, they pass on their increased fuel costs through increased wholesale electricity prices, and the impact is worse in the electricity market regions more dependent on these commodities.

These dynamics are a factor in the 2022 east coast energy price crisis, as explained in 'Issues for the 47th Parliament' below.

Recent Australian policy and legislation

During the 46th Parliament, the Morrison Government supported the development of Australia's coal and gas reserves – particularly gas, under the 'gas-fired recovery' policy announced in September 2020. Throughout its term, it emphasised the need for affordable and reliable energy while maintaining Australia's competitive position as a top coal and LNG exporter, with initiatives including:

Figure 2 – Location of existing and potential future gas supply and infrastructure options in the *2021 National gas infrastructure plan*

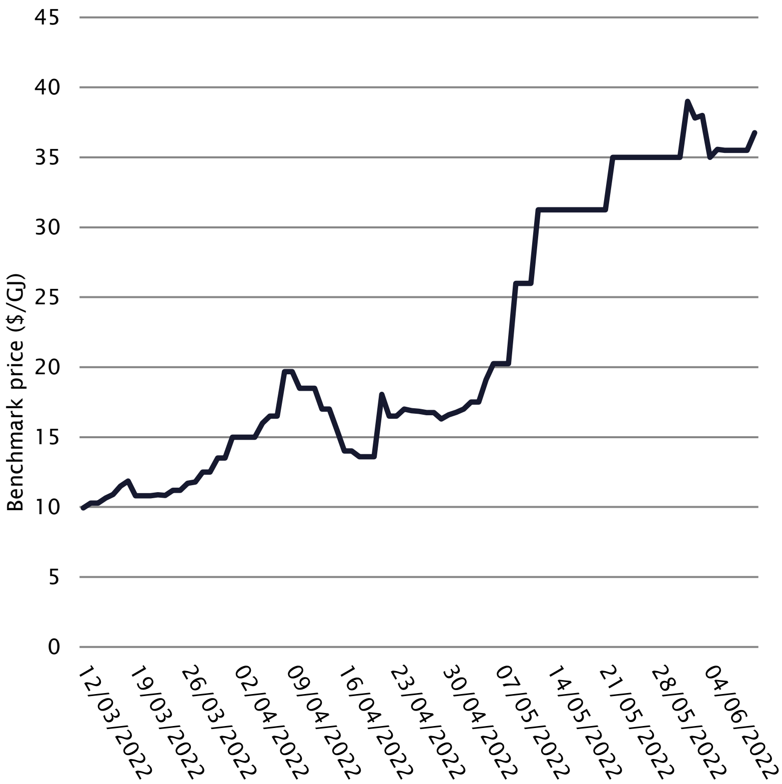


Source: Department of Industry, Science, Energy and Resources (DISER), *2021 National Gas Infrastructure Plan*, (Canberra: DISER, November 2021), 8.

- continued support for the Australian Domestic Gas Security Mechanism (ADGSM) developed in 2018, to divert export gas to the domestic market in the case of shortages, and reaching a new 'Heads of' agreement with Australia's 3 east coast LNG exporters, committing them to offer uncontracted gas to the domestic market first on 'competitive terms' (that is, at the international 'LNG netback price'; see 'The Australian Government's ability to restrict gas exports: a quick guide')
- funding Snowy Hydro to build a new gas-fired power station at Kurri Kurri
- proposing a change to Australian Energy Market Commission rules to require coal-fired power stations to give 5 years advance notice of their intended closure
- the 2021 *National gas infrastructure plan* (see Figure 2) and *Future gas infrastructure investment framework* to guide gas pipeline and storage planning and drive investment
- setting new gas supply targets with states and territories as part of bilateral energy and emissions reduction agreements
- the *National resources statement*, which calls for the development of significant coal, gas and oil reserves in Australia's onshore and offshore basins
- *Strategic basin plans* to drive the development of 5 gas basins, commencing from 2021 with the Beetaloo, North Bowen and Galilee basins
- funding support for fossil fuel projects through the Northern Australia Infrastructure Facility
- the 2020 and 2021 *Low emissions technology statements*, which support 'clean hydrogen from off-grid gas with CCS, and coal gasification with CCS' (that is, 'blue hydrogen'; p. 18) until renewably powered hydrogen production becomes cost competitive
- continued support for the *National hydrogen strategy* in partnership with the states and territories, which includes options for blending hydrogen into existing gas networks, and expresses the 'technology neutral stance' that clean hydrogen can be produced either using renewable energy or with fossil fuels, subject to 'substantial' CCS

- funding new CCS projects
- making CCS eligible for Australian Carbon Credit Units under the Emissions Reduction Fund
- attempting to change the investment mandate of the Clean Energy Finance Corporation to enable it to finance ‘grid reliability’ projects, including fossil fuel generation (delayed in the Senate; the Bill lapsed at the end of the 46th Parliament)
- attempts to change the remit of the Australian Renewable Energy Agency to enable it to fund ‘clean energy technology’ projects as defined in the *Low emissions technology statements*, including non-renewable energy projects (disallowed by Parliament on 28 March 2022 but reintroduced on 31 March 2022).

Figure 3 – Daily benchmark gas prices in $ per gigajoule (GJ) for the Wallumbilla Gas Supply Hub (east coast wholesale benchmark prices)



Note: The Wallumbilla Gas Supply Hub (GSH) in southeast Queensland is a trading exchange for the east coast gas market.
Source: Australian Energy Market Operator (AEMO), *GSH Data Dashboard* (Melbourne: AEMO, 2022).

Issues for the 47th Parliament

The 2022 winter energy crisis

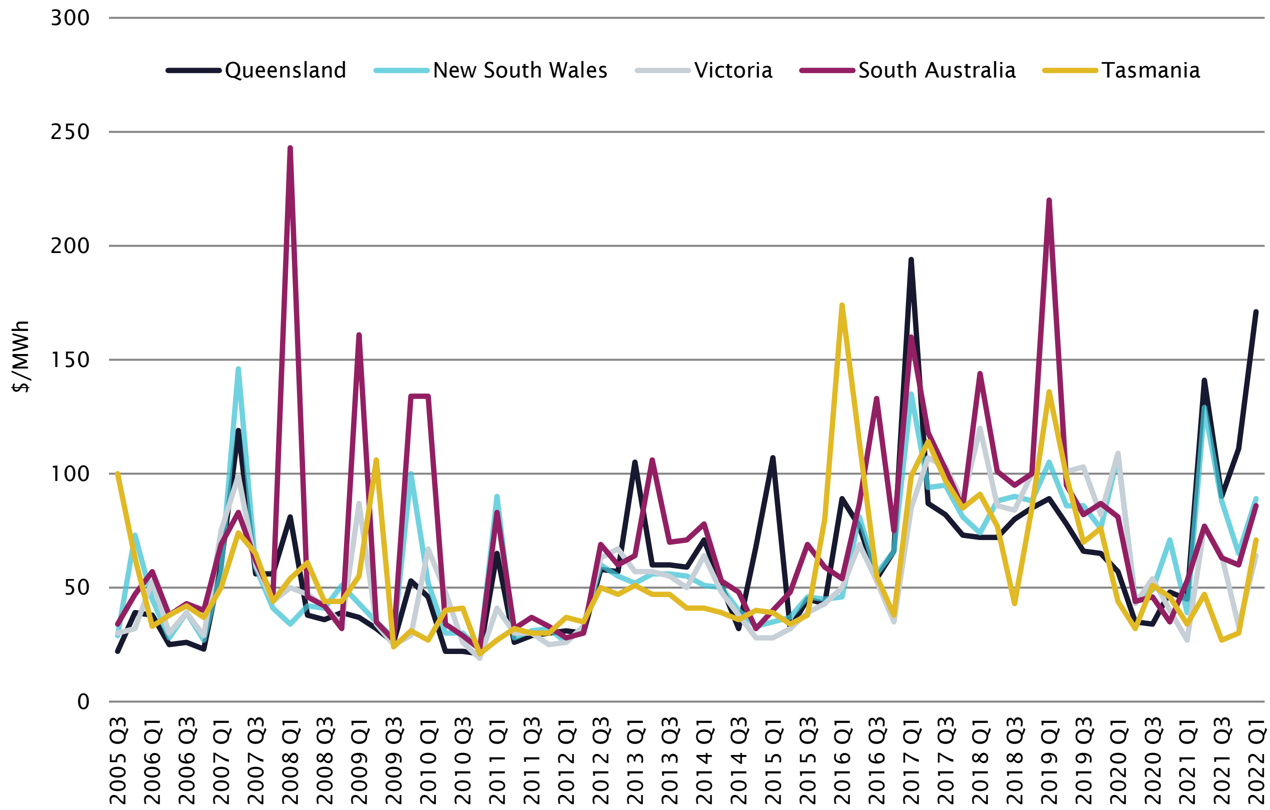
The most immediate issue is energy prices in eastern and southern Australia – that is, the eastern gas market and the ‘National Electricity Market’ (NEM) – which are exacerbating inflationary pressures (see the article, ‘Rising inflation and macro-economic balance’, in this *Briefing book*).

AEMO had been predicting an east coast gas shortage

The default market offer (DMO) is the maximum price an electricity retailer can charge a standing-offer customer each year. It is based on the retailer costs:

- to purchase electricity from power stations (wholesale costs)
- to transport that electricity to customers (network costs)
- to comply with government environmental schemes (environment costs)
- associated with serving retail market customers, such as billing and provision of hardship services (retail costs).

Figure 4 – NEM quarterly volume-weighted average electricity spot prices ($/MWh), 2005–2022



Source: AER, *Quarterly Volume Weighted Average Spot Prices – Regions* (Melbourne: AER, 2022).

as early as winter 2023, but the early onset, speed and scale of current price increases (see Figure 3) have seen a NSW gas retailer collapse and put manufacturing businesses at risk of closure.

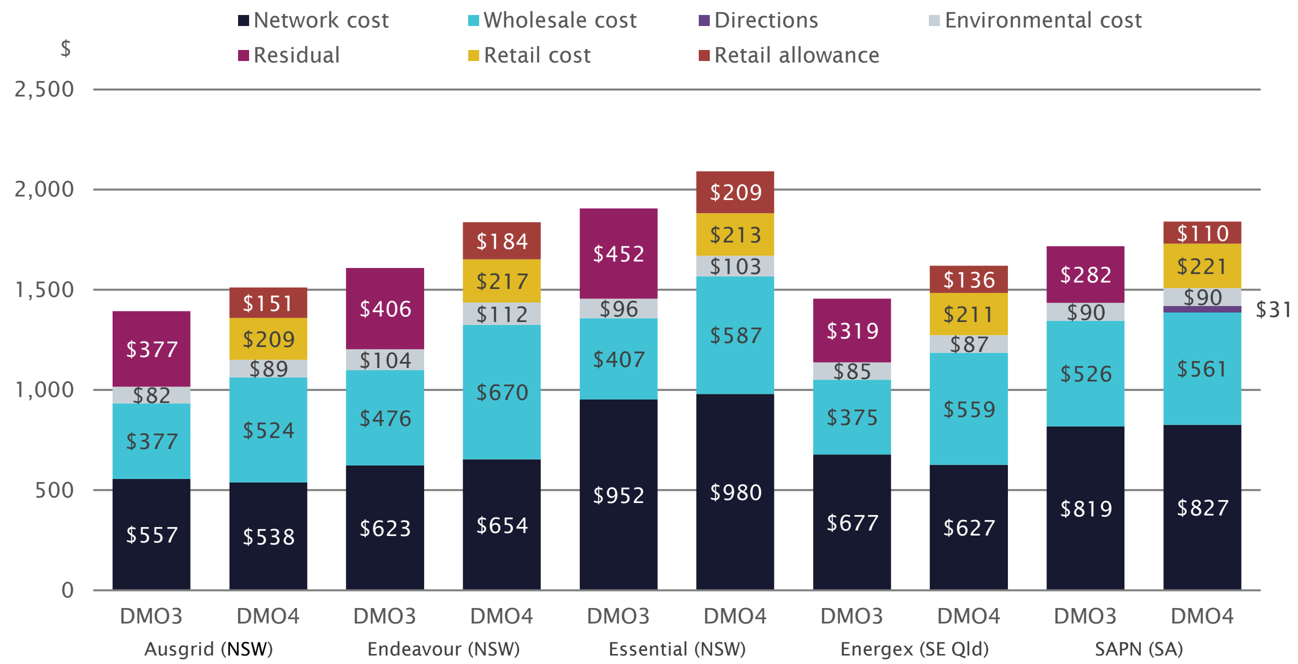
And while electricity price volatility is not historically unusual in the NEM (see Figure 4), the scale of the current market disruptions has no obvious precedent, and has been described

as the result of more than a decade of political and parliamentary failure to agree an enduring energy transition policy.

In May 2022, the AER announced a significant increase to the default market offer (DMO) retail electricity price to apply to most of the NEM (Figure 5). It explained that 'Rising wholesale costs are the main cause', due to 'unplanned [generator] outages and higher coal and gas costs … compounded by the ongoing war in Ukraine', among other factors. It noted 'very significant increases in wholesale futures prices for all DMO regions but in particular NSW and Queensland'.

The energy markets in the south-eastern and north-western parts of Australia follow quite different dynamics. Western Australia and the Northern Territory have their own electricity markets; the remaining states and the ACT are part of the NEM. Similarly, WA and the NT have their own gas markets, whereas an interconnected gas grid connects the eastern and southern states and territories.

Figure 5 – Change in the price components of the default market offer for retail electricity between 2021–22 (DMO 3) and 2022–23 (DMO 4)



Notes: The figure shows the change in nominal DMO price components for most residential electricity customers. The names indicate the responsible electricity distributor(s) in each market region. DMO 3 did not specify separate 'retail cost' and 'retail allowance' figures; these were combined under the 'residual'.
Source: AER, *Default Market Offer Prices 2022–23: Final Determination* (Canberra: AER, May 2022), 8.

The crisis deepened and spread to the rest of the east coast over Q2 2022. AEMO intervened extensively in the gas and electricity markets, capping gas prices in Victoria, Sydney and Brisbane at $40/GJ, triggering its emergency Gas Supply Guarantee mechanism for the first time and capping wholesale electricity prices at $300/MWh (at first only in Queensland, but then across all mainland jurisdictions in the NEM). AEMO suspended the operation of the wholesale electricity spot market across the entire NEM on 15 June, after enough generators declined to bid at or below the capped price to risk widespread blackouts – unless AEMO ordered generators to dispatch, regardless of their commercial preferences. The imposition of such price caps is rare, and the suspension of the entire NEM spot market was unprecedented.

At the time of writing, AEMO had just announced plans for a staged return to normal spot market operations. However, the broader price crisis is likely to persist, and the best policy response is contested.

The Morrison Government had committed to new gas infrastructure and developing new supply to address potential shortfalls. However, AEMO warned in March 2022 that the development timescale would be too long to address the gas shortfalls then forecast for winter 2023. Commentators have asked if the Australian Government will exercise the ADGSM, requiring LNG exporters to redirect supply domestically. However, the new Minister for Climate Change and Energy and ADGSM critics have warned of the mechanism's limitations (see 'The Australian Government's ability to restrict gas exports: a quick guide'). The architect of the Morrison Government's 'gas-fired recovery' (Andrew Liveris) and the Australian Industry Group have called for an east coast domestic gas reservation policy. Others have called for additional new gas development to increase supply and for the construction of LNG import terminals.

Some policymakers support the inclusion of coal and gas generators in the Energy Security Board's proposed 'capacity mechanism', which is intended to create an explicit financial incentive for generators in the NEM to guarantee capacity during at-risk periods, but this is disputed between the NEM states and territories and within the 47th Parliament.

Many also see the crisis as compelling evidence for why Australia should accelerate its transition away from coal and gas-fired electricity and gas-based heating and cooking and into zero-emissions, cheaper renewables – including investing in batteries and transmission to support reliability (see the article, 'Electricity sector: continuing modernisation', in this *Briefing book*). At the time of writing, the exception to 2022 east coast price pressures was the ACT, whose long-term contracts for a 100% renewable electricity supply shielded it from issues affecting coal and gas power. The ACT's Independent Competition and Regulatory Commission suggested that 'the average annual bill for Canberrans on standing offers will be the lowest compared to the average standing offer bills faced by customers in NSW, Victoria, Queensland and South Australia'.

Other unresolved issues on the road to net zero

Over the medium to longer term, debate about whether, where and how Australia should continue to invest in new fossil fuel energy – for domestic use or export – pivots on whether the benefits justify the future carbon dioxide and methane emissions. Although 'ending the climate wars' was a key narrative during the 2022 election campaign, the 47th Parliament nonetheless inherits unresolved debates about coal and gas in the context of decarbonisation, additional to the employment, electricity generation and gas supply issues canvassed above.

Scope 3 emissions: Under current Australian legislation, domestic decarbonisation (for example, modernising the electricity supply to renewable sources) can be pursued without regard to 'scope 3' emissions by overseas end consumers of Australian fossil fuel exports. Existing emissions reduction mechanisms such as the climate safeguard mechanism apply only to domestic emissions. Fugitive methane emissions (or leakage) from coal or gas extraction 'count' for the purposes of the safeguard mechanism, but not the much greater scope 3 emissions released when the fuel is burned by end-users overseas. The Australian Centre for Corporate Responsibility has called for greater attention to such scope 3 emissions when assessing corporate carbon footprints. While the incoming Albanese Government has announced it will strengthen the safeguard mechanism, there has been no indication it will fundamentally revise the framework to consider scope 3 emissions. (On emissions reduction policy generally, see the article, 'Climate change and emissions reduction', in this *Briefing book*.)

CCS: Debates around Australian Government support for coal and gas industry CCS projects may also continue. The International Energy Agency (IEA) and Intergovernmental Panel on Climate Change (IPCC) have reported that carbon sequestration will be required on a massive scale to limit warming, including through CCS. The past few years have seen a surge in global interest in CCS and other carbon dioxide removal technologies, but the IPCC's 6th *Assessment report* nonetheless warns that current global rates of CCS deployment are insufficient to achieve net zero by mid-century.

In Australia and some other OECD countries, a social licence for CCS is undermined by perceptions it is being used by fossil fuel industries as 'a device for mitigation obstruction' – or more plainly, 'greenwashing'. Australian parliamentary debate on the merits of CCS has been fraught. Opponents have noted that CCS's technical and commercial track record to date is underwhelming, and Australian critics particularly note Chevron's failure to capture the agreed share of Gorgon project emissions under its WA environmental approval. Some support CCS research and development in principle, just not when used to prolong fossil fuel industries.

Legislation governing new fossil fuel development: During the 46th Parliament, independents and minor parties pushed for legislative debate on limits to fossil fuel development beyond the policies of the incumbent government. This pattern may continue. For example, the Australian Greens introduced multiple Bills seeking to stop new fossil fuel development and increase taxes on big emitters, and sought to bring climate change considerations into the scope of the *Environment Protection and Biodiversity Conservation Act 1999*. An independent introduced a Bill to block the offshore 'PEP11' project, and One Nation introduced a Bill requiring offshore petroleum regulators to take into account the benefit to the Australian community when granting new leases or renewing existing leases.

Environmental approvals: The Australian Government's role in environmental approvals for major fossil fuel projects – particularly offshore projects where the underlying resource is federally owned (rather than owned by the states) – is also likely to face growing scrutiny. Opponents have referred to planned coal and gas development projects as 'climate bombs'. Further litigation against Australian Government environmental approvals for new fossil fuel development on climate change grounds is expected, including an attempt by Tiwi Islanders to block the offshore Barossa project in the Federal Court, continuing the trend set by the 2021 case of *Sharma v Minister for the Environment*.

With this complex political backdrop, and the urgent problems of both energy costs and climate change, it has the potential to be a challenging but pivotal Parliament in Australia's history.

GLOBAL TRADE RISKS AND OPPORTUNITIES

Ian Zhou and Tessa Satherley, Economic Policy

Key issue

Australia is a small open economy heavily reliant on trade for its economic wellbeing. Volatility in global commodity prices, the international decarbonisation agenda, trade tensions with China, disruptions to global supply chains, and the return of economic nationalism present both risks and opportunities for the Australian economy.

The 47th Parliament may consider the adequacy of existing policies to manage these risks and opportunities.

Trade is central to the Australian economy, and Australian exports represent over 20% of gross domestic product (GDP). Approximately 65% of Australia's 2-way trade occurs with countries in Asia (see the article, 'Australia's trade in figures', elsewhere in this *Briefing book*). Australia's top 5 two-way trading partners are China, the US, Japan, South Korea, and the UK, with more than half of Australia's total exports flowing to China, Japan, and South Korea (p. 16). This article surveys some of the major upside and downside risks in those markets that may impact the Australian economy.

Volatility in commodity prices – upside and downside risks

Iron ore, coal, and natural gas are Australia's top 3 exports. Some economists worry Australia's export profile lacks diversity and sophistication, reflecting low 'economic complexity' and leaving the economy vulnerable to trade tensions with China, changes in Chinese domestic economic conditions, and swings in global commodity prices. However, Australia's export profile often also has significant upsides for government budgets and economic growth.

Elevated commodity prices have contributed to Australia's current account surplus for the past 2 years. Iron ore, coal, and natural gas exports contributed $154.4 billion, $63.5 billion, and $49.8 billion respectively to the nation's export revenue in 2021. The 2022–23 Budget noted that commodity prices (particularly for iron ore and coal) at the time were at near-record levels, supporting strong profitability in the mining and agricultural sectors, with some positive flow-through to the broader economy and Australian Government revenue (p. 5).

Russia's invasion of Ukraine has dealt a major shock to commodity markets. Russia is a major exporter of raw materials, including natural gas, coal, crude oil, and wheat. The war and associated economic sanctions have disrupted supply of these raw materials and pushed up their prices.

Australia is a major exporter of wheat, coal, and natural gas. Consequently, Australian exporters may benefit from these higher commodity prices (though domestic customers also pay a cost – see the article, 'Coal, gas and decarbonisation – challenges and policy choices', elsewhere in this *Briefing book*). However, Australia's exporting facilities are already constrained and could face bottlenecks exporting larger volumes.

Experts are divided on whether commodity prices will remain at elevated levels. The Treasury has cautiously forecast that elevated prices are temporary and will decline from March to September 2022 (pp. 63–64).

The Treasury believes strict COVID-19 lockdowns and an economic slowdown in China will depress both demand for Australian goods and global commodity prices (p. 40). Despite the recent Evergrande debt crisis that threatened to bring down the Chinese construction sector, the Chinese Central Government continued an unrelenting regulatory agenda to reduce the high level of indebtedness among property developers. The resulting property sector slowdown, combined with the COVID-19 lockdowns, has depressed demand for Australian iron ore. China is by far Australia's largest trading partner and accounted for approximately 82% of the total value of Australia's iron ore exports in 2021. Emerging iron ore facilities in Africa could also add competition and further depress global iron ore prices over the long-term.

If the Treasury forecast regarding commodity prices is borne out, it will negatively impact on the Government's bottom line, considering that the Australian Government and states and territories receive substantial resources royalties and have been recording windfall revenue gains.

Implications of the global decarbonisation agenda for Australian exports

Although the global commodities price shock is producing an unanticipated terms-of-trade and royalties windfall for Australia over the short-term, International Energy Agency (IEA) head, Dr Faith Birol, has warned, 'Nobody should imagine that Russia's invasion can justify a wave of new large-scale fossil fuel infrastructure in a world that wants to limit global warming to 1.5 °C'.

Further, in addition to the impact on our domestic coal, gas, and electricity prices (as explained in 'Coal, gas and decarbonisation – challenges and policy choices' in this *Briefing book*), the current elevated prices make business more expensive for Australian coal and gas exporters' main overseas customers: coal- and gas-fired electricity generators. It is possible that current high coal and gas prices may therefore trigger or accelerate Indo-Pacific economies' moves to prioritise energy independence by developing their own fossil energy sources, or to shift to renewables, to the disadvantage of Australian coal and gas exports.

Long-term, global momentum towards decarbonisation has challenging implications for Australia's current export profile. Australia exports 90% of its black coal production and 74% of its natural gas production. Most is bought by customers in Indo-Pacific countries, in particular Japan, China, South Korea, and India (see the article, 'Australia's trade in figures', elsewhere in this *Briefing book*). All have made significant commitments to reach net zero, including (most recently) India.

The roles of coal and gas in a global transition to net zero are contested. The Intergovernmental Panel on Climate Change (IPCC) has reported that approximately 30% of oil, 50% of gas, and 80% of global coal reserves can never be consumed if warming is to be limited to 2 °C (p. TS-53). The IEA's *Net zero by 2050* report envisages reductions of 90% in coal production, 75% in oil production, and 55% in natural gas production, and no new fossil fuel development beyond projects committed in 2021.

Consistent with these warnings, coal-fired power project cancellations in Asia have increased sharply – largely because of the need for international financing in an environment in which China, Japan, the US, and other members of the G7 have pledged to end financing for unabated coal-fired power projects. The World Bank claims it has made no new coal investments in over a decade and provided 'zero' fossil fuel financing in 2021, while the Asian Development Bank has announced a plan to help retire Asian coal-fired power stations early.

In March 2022, the Council of the European Union approved a proposal for a carbon border adjustment mechanism (CBAM). The CBAM, nicknamed a 'carbon tariff' by some Australian news outlets, will impose a carbon border levy on certain imports into the EU from 'less climate-ambitious countries'. If legislated, the CBAM will likely affect Australia's trade with the EU, particularly in coal, steel, and aluminium. The CBAM is expected to enter into force as early as 2023 in a transitional form, and the associated border levy may fully apply from 2026. In the US, the Biden administration is considering a similar mechanism.

Recent years have also seen increased global investment flows into renewable energy industries, in light of the declining cost competitiveness of coal and gas for electricity generation as the cost of renewables has plunged.

Against this international policy and global finance backdrop, some Australian economists warn of the potential for Australian job losses in fossil fuel-dependent, trade-exposed export industries if other nations continue to pursue their decarbonisation policies – even if Australia imposes no further emissions restrictions domestically.

While the global pursuit of decarbonisation carries obvious potential downsides for Australian coal and gas exports, as well as iron ore exports, it opens other opportunities – for example green steel (made using hydrogen rather than coking coal). Supporters of a pivot into clean energy-focused exports argue Australia has extensive renewable energy resources that could be exploited to help advance global decarbonisation. Furthermore, they argue that although job losses in fossil fuel industries are inevitable, the Government could implement policy measures to compensate those affected.

The Morrison Government made significant investments to begin positioning Australia to capture some of these global clean energy opportunities. It sought to nurture a local clean hydrogen industry under the *National hydrogen strategy* crafted in partnership with the states and territories, and to grow the critical minerals sector – which provides key inputs for electric vehicle batteries, solar panels, and other technologies – through the Critical Minerals Facilitation Office and *Critical minerals strategy*. Its National Manufacturing Priorities included 'resources technology and critical minerals processing' and 'recycling and clean energy' as sectors of strategic importance in which Australia has a comparative advantage.

In contrast, supporters of continued coal and natural gas production believe the fossil fuel industry will remain a significant contributor to the Australian economy well beyond 2030. They believe new coal-fired and gas-fired power plants that are under construction in Asia will create significant locked-in demand for Australian fossil fuels, notwithstanding trade partners' commitments to reach net zero around mid-century. Fossil fuel export proponents have also argued that if Australia were to withdraw coal and natural gas exports from the Indo-Pacific market, customer countries would simply use more polluting alternatives (though opponents dispute these claims).

Some stakeholders also argue that advances in carbon capture and storage (CCS) technology will make coal 'cleaner' and hold the potential for zero-emissions gas-fired power. This could allow Australian fossil fuel industries to 'have their cake and eat it too'; to profit from ongoing exports and address environmental concerns simultaneously.

The third working group of the IPCC (which focuses on emissions mitigation options) is likely to report that fossil fuels could play a role in climate change mitigation *if strategically deployed with CCS*, though most global fossil fuel reserves could still never be consumed, to limit their environmental impact (p. 6-45). A role for 'blue hydrogen' – produced from natural gas via steam methane reforming coupled with CCS – is also contemplated in the Morrison Government's 2020 and 2021 *Low emissions technology statements* and the *National hydrogen strategy*.

The 47th Parliament will need to balance competing domestic interests, while assessing whether fossil fuel export industries have a future in the Australian economy and, if so, what roles they should play (see 'Coal, gas and decarbonisation – challenges and policy choices' in this *Briefing book*).

Trade tensions with China

Despite China being Australia's largest trading partner, trade tensions fuelled by geopolitical rivalry have threatened to derail the relationship. Over the past 3 years China has banned or increased tariffs on a wide range of Australian goods and services, while seeking alternative sources of iron ore and coal.

The Australian Government's trade policy to date has been to avoid direct retaliation by encouraging exporters to pivot towards alternative markets and negotiating new free trade agreements (for example with India and the EU). In June 2022 Prime Minister Anthony Albanese declared that Indonesia is central to Australia's trade diversification away from China, and called on Australian businesses to find opportunities in Indonesia.

A continuation of policy and financial support for domestic critical mineral and manufacturing projects will also serve to reduce Australia's reliance on China. On the global stage, both Australia and China have initiated disputes (regarding anti-dumping and countervailing duty measures) against each other at the World Trade Organization (WTO).

The deterioration of Sino-Australian trade relations underscores the fact that geopolitical rivalry can threaten trade and investment links. Put simply, China has used trade sanctions to 'make an example of Australia'. As Australia becomes more involved in the AUKUS alliance and the Quadrilateral Security Dialogue, the Chinese leadership will almost certainly view Australia as a geopolitical opponent and be more inclined to use economic coercion.

Beijing has shown a pattern of targeting industries that could hurt Australia while causing minimal harm to itself. This poses risks for Australian industries that have historically been heavily dependent on the Chinese market, such as the international education and tourism sectors. Analysts warn a significant reduction in trade with China could result in a reduction in living standards for Australians.

In the 2021 parliamentary inquiry into diversifying Australia's trade and investment profile, many stakeholders argued the Australian Government should do more to help exporters diversify, especially considering that alternative markets may not deliver the same scale of demand and premiums as the Chinese market.

Looking ahead, incoming Opposition Leader Peter Dutton has argued Australia should defend its liberal values and be prepared to confront Beijing militarily and economically over geopolitical issues, including the defence of Taiwan (officially known as the Republic of China). Australia's trade relations with China will almost certainly deteriorate further if Australia intervenes in issues that Beijing considers to be its 'core interests'.

Some stakeholders are hopeful the new Albanese Government will reset relations with Beijing. They believe China is 'too big and too central to be ostracised', and Australian policymakers can learn from countries such as Japan or Indonesia in terms of maintaining trade relations with China whilst negotiating over ideological differences. Others are less hopeful, believing a geopolitical showdown is probable or at least plausible, and that Australia should act now to reduce ties with China.

The 47th Parliament will need to balance Australia's near-term economic interests with security concerns to weigh the best path forward.

Disruptions to global supply chains

Over the past several years, global supply chains have struggled to cope with COVID-19 lockdowns. Prior to the pandemic, global supply chains were generally constructed to maximise efficiency and profit by minimising or eliminating the storage of reserve inventory (known as 'just-in-time' inventory management).

Interruptions to the supply of critical intermediate and final products during COVID-19 have prompted public debate about the trade-off between efficient and resilient supply chains. For example, recent COVID-19 containment measures in Shanghai (home to the world's largest container port) have exacerbated logistics bottlenecks as ships are delayed from unloading and picking up cargos, with flow-on effects across global markets.

China accounts for about 28% of Australia's total imports, including many parts used in Australian manufacturing. The potential for further COVID-19 outbreaks in China's port cities means Australian businesses dependent on Chinese inputs risk longer delays and increased transportation costs.

Some parliamentarians have argued these disruptions to global supply chains highlight the need for Australia to pursue greater supply chain diversification and resilience, with a particular focus on reducing Australian dependence on Chinese inputs. Proposed solutions include 'onshoring' and 'friendly-shoring', in which businesses would swap 'risky' foreign suppliers for suppliers from Australia or allied countries, regardless of any cost disadvantage.

On the other hand, some economists warn that it would be tremendously difficult and expensive to reorganise global supply chains to bypass China, considering how deeply China is integrated in the global economy.

Some analysts have raised the prospect that global supply chains will split into 2 camps, 'one for China and those associated with it, and another for the US and their friends'. In other words, supply chain disruptions and the US–China strategic rivalry could prompt a fragmentation of the global economy into rival trading blocs, as occurred during the Cold War.

The 47th Parliament will likely need to consider the efficiency versus resilience debate regarding global supply chains, and assess the benefits and costs of policy options for Australia to pursue greater self-sufficiency in its supply chain management.

De-globalisation and the rise of economic nationalism

A general trend towards de-globalisation and potential fragmentation of the current global trade system presents risks and opportunities for Australia.

Conceptually, globalisation encompasses declining barriers to trade, migration, capital flows, foreign direct investment, and technological transfers. De-globalisation refers to increasing barriers to these relatively free flows between countries.

The current global trade system is upheld by various multilateral institutions (for example, the WTO) with the objective of promoting rules-based free trade and economic engagement between countries. Since the end of the Cold War, the global trade system has enabled and facilitated a globalisation of the world economy underpinned by unprecedented free flows of goods and capital (and to a lesser extent, labour).

However, since the late 2000s there has been a notable worldwide backlash against globalisation and free trade, driven by the concerns of those who have been harmed or 'left behind'. Widening inequality, job losses, and lack of opportunities for domestic workers are frequently raised as the negative consequences of globalisation. Internationally, the backlash manifested most directly in 'Brexit' and President Donald Trump's 2016 electoral victory.

Many developing countries, such as India, have also embraced a self-sufficiency philosophy, becoming disillusioned with the trade and financial liberalisation policies of the 'Washington Consensus'. Rising protectionism in India threatens to derail the Australia–India Comprehensive Economic Cooperation Agreement.

The COVID-19 pandemic and the war in Ukraine have exacerbated the de-globalisation trend. Countries have resorted to economic nationalism, enacting export restrictions in response to fears of an imminent global energy and food crisis. Trade facilitation tools, such as the international payment system SWIFT, have been 'weaponised' and used as a means of sanctioning Russia. Some economists warn that the global trade system could break down under the pressure, with some multilateral institutions supporting the system, including the WTO, already weakened by the unilateralism of the Trump administration and the ongoing Sino-American trade war.

Australia is also experiencing an undercurrent of economic nationalism fuelled by concerns over national security and Australia's reliance on the Chinese market. Some parliamentarians have called on the Government to enact measures to protect domestic industries.

Proposed measures include a 'Buy Australian Act', an export tax on iron ore, the expansion of subsidy programs for domestic manufacturers, and Australia's withdrawal from multilateral institutions.

The call for more protectionist measures has been opposed by influential economists, who argue Australia stands to lose the most from a breakdown of the global trade system. Their reasoning is that economic nationalism in one country can trigger a rise in protectionism elsewhere, leading to a 'beggar-thy-neighbour' situation.

As a small open economy, Australia relies on foreign markets being receptive to Australian goods and services. Australia also relies on international trade rules to compete with larger countries on an equal footing. Consequently, advocates of free trade believe Australia should 'step up' to lead vital reforms in the WTO to strengthen the global trade system, rather than turning to protectionism.

Over the life of the 47th Parliament some key issues that may emerge for the Australian economy include:

- how to operate in a less globalised and potentially fragmented trading world
- how to manage the perceived and actual negative consequences of globalization
- whether there is an appetite to pursue and ratify further bilateral or multilateral free trade agreements.

Further reading

Department of Foreign Affairs and Trade, *Trade and Investment at a Glance 2021*, (Canberra: Department of Foreign Affairs and Trade, 2021).

Joint Standing Committee on Trade and Investment Growth, *Pivot: Diversifying Australia's Trade and Investment Profile* (Canberra: Parliament of Australia, 2021).

Productivity Commission, *Rising Protectionism: Challenges, Threats and Opportunities for Australia* (Canberra: Productivity Commission, 2017).

IMPACT OF COVID-19 ON THE AUSTRALIAN LABOUR MARKET

Geoff Gilfillan, Statistics and Mapping

Key issue

The labour market has recovered strongly following the re-opening of the economy after COVID-19 related shutdowns, with the unemployment rate sitting at just below 4.0% in March 2022, after reaching 7.4% in both June and July of 2020.

Young workers and female employees were more adversely affected by initial lockdowns but employment for these groups has rebounded strongly since the re-opening of businesses and borders.

Casual workers were affected more than permanent employees in terms of jobs and hours of work lost during the pandemic due to a higher proportion of them not being eligible for the JobKeeper Payment.

People working in service industries such as tourism and hospitality were affected far more than workers in other industries.

The Australian labour market has experienced significant disruption as a result of the COVID-19 pandemic. Lockdowns and restrictions on trading activities had a greater impact on some industries than others, and on some types of workers than others. Despite these disruptions the recovery in economic activity experienced since the removal of restrictions has contributed to the fall in national unemployment to a rate not seen since February 2008, just before the global financial crisis (GFC), and in the mid-1970s.

Sharp falls in numbers and rates of unemployment and underemployment are indications that the labour market is tightening rapidly. In other words, the supply of labour from unemployed people and workers who would prefer more hours may be insufficient to meet the labour needs of employers. Other indicators of tightness include very high levels of job vacancies in a range of occupations and industries. There are also reports of emerging and persistent skill shortages across the economy and labour shortages in industries such as hospitality. Restrictions on migration as a source of additional labour supply resulting from the Australian Government's decision to close Australian borders between March 2020 and December 2021 has exacerbated tightening in the labour market. The borders re-opened for vaccinated visa holders (including skilled workers) on 15 December 2021.

An imbalance of labour supply and demand may contribute to increasing wage pressures in the economy in an environment where inflation is also increasing at a much higher rate due to several compounding factors.

Unemployment and underemployment

Unemployment

Figure 1 provides a long-term perspective for changes in the unemployment rate in Australia. The chart highlights cyclical movements of the unemployment rate including the lows reached during economic booms and the highs reached during economic recessions in the early 1980s and early 1990s.

Figure 1 – Unemployment rate, 1978 to 2022 (seasonally adjusted)

Source: Australian Bureau of Statistics (ABS), *Labour Force, Australia,* (Canberra: ABS, May 2022).

The unemployment rate for people aged 15 years and over in Australia increased significantly from 5.3% in March 2020 (just before the pandemic), to 7.4% in both June and July of 2020, in response to lockdowns imposed by various state and territory governments to prevent the spread of COVID-19. The unemployment rate has fallen significantly since then, to 3.9% in both March and April 2022 (in seasonally adjusted terms).

The youth (15 to 24 years) unemployment rate increased from 11.6% in March 2020 to 16.4% in July 2020 before falling to 8.3% in March 2022. This is the lowest unemployment rate recorded for young people since it fell to 7.6% in August 2008.

After the experience of the early 1990s governments have been much more willing to increase spending and introduce emergency payments quickly to stimulate economic activity and prevent large increases in unemployment when there are signs of significant economic downturns. For example, the Australian Government developed a $10.4 billion fiscal package to combat the impacts of the GFC, which was equivalent to around 1% of gross domestic product (GDP).

Australia was one of a number of OECD (Organisation for Economic Co-operation and Development) countries that introduced job retention schemes to contain the employment and social fallout associated with the pandemic. The $130 billion JobKeeper package developed to assist Australian workers, along with other measures, brought the total economic support package to $320 billion, which was equivalent to 16.4% of GDP.

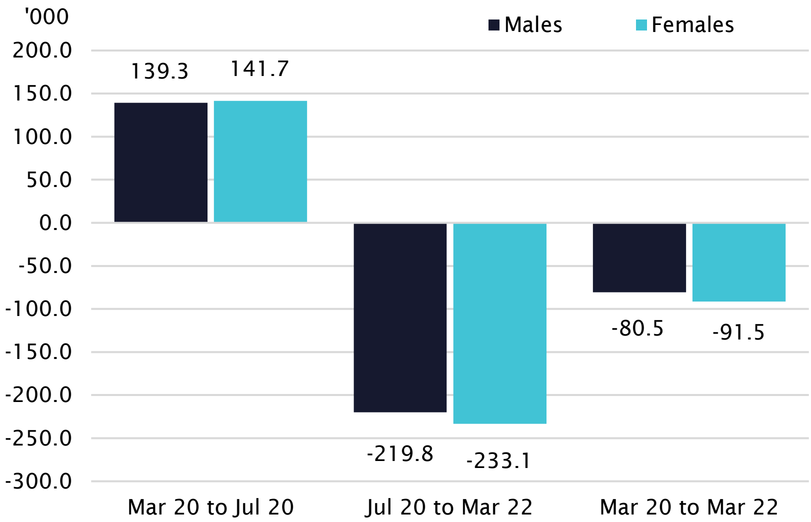
In a review of the impact of the JobKeeper Payment, the Reserve Bank of Australia found (p. 28):

> … JobKeeper played an important role in cushioning the decline in employment over the first half of 2020. Our baseline estimate is that one in five JobKeeper recipients would not have stayed employed during this period had it not been for JobKeeper. At the aggregate level, this implies JobKeeper prevented at least 700,000 additional employment relationships being lost in the short term. Overall employment losses would have been twice as large over the first half of 2020 without JobKeeper.

Trading restrictions imposed at various times by state and territory governments had a significant negative impact on total hours worked. People receiving the JobKeeper Payment should have reported themselves as employed but working zero hours for economic reasons if they were included in the monthly Australian Bureau of Statistics (ABS) *Labour force* survey. Those who were not eligible for the JobKeeper Payment (and were let go by their employer for economic reasons such as lack of work) should have reported themselves as either unemployed or not in the labour force.

There were similar increases in unemployment levels for men and women between March and July 2020 and similar falls in unemployment since (see Figure 2).

Figure 2 – Change in the number of unemployed males and females (seasonally adjusted), March 2020 to March 2022



Source: ABS, *Labour Force, Australia*, (Canberra: ABS, May 2022).

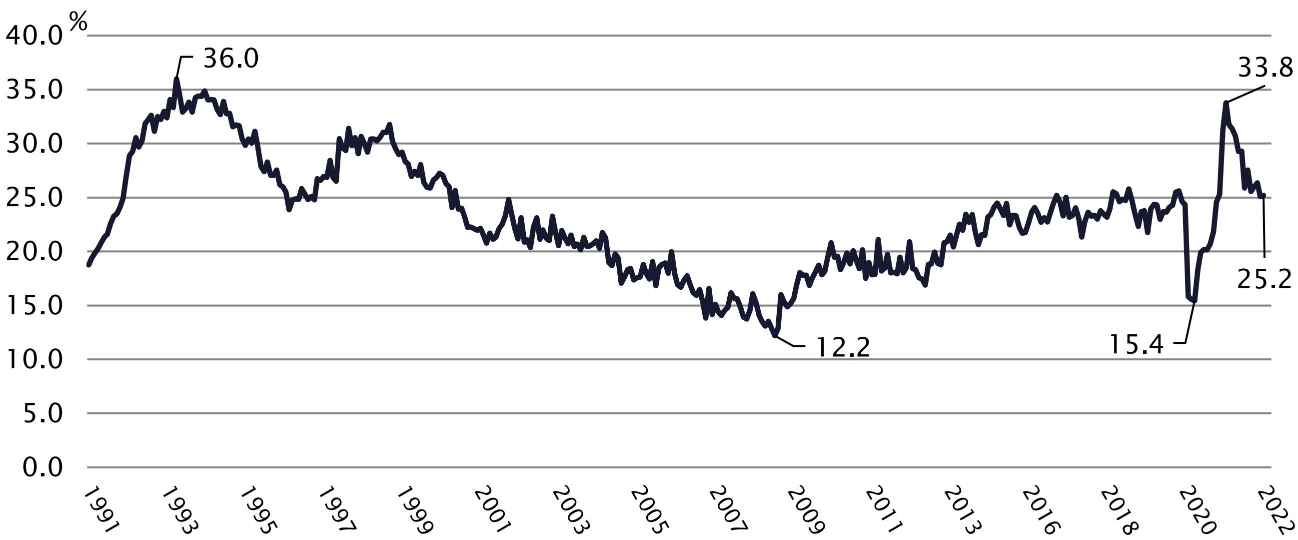
Australia's unemployment rate of 4.0% in the March quarter of 2022 was the 15th lowest unemployment rate among 33 OECD countries based on survey data supplied by member countries. This compares with a ranking of 21st lowest in the pre-pandemic March quarter of 2020 when Australia's unemployment rate was sitting at 5.2%.

Several OECD countries had a lower unemployment rate than Australia in March 2022, including New Zealand (at 3.2%), Germany (3.1%), the UK (3.7%) and the US (3.8%).

Long-term unemployment

There were 144,700 people who were long-term unemployed (unemployed for 12 months or more) in March 2022. This group accounted for just under one quarter of the 580,300 people who were unemployed at this time. This compares with 185,200 long-term unemployed people in March 2020, just before the pandemic.

Figure 3 – Trends in the long-term unemployment ratio (seasonally adjusted), 1991 to 2022



Source: ABS, *Labour Force, Detailed*, (Canberra: ABS, May 2022).

The ABS measure of the long-term unemployment ratio is the number of people who have been unemployed for 12 months or more as a share of total unemployment. The ratio reached a high of 36.0% in seasonally adjusted terms in May 1993, several years after the economic recession of the early 1990s. It took until the middle of 1996 for the ratio to fall to below 25%. It then fell progressively to 12.2% in April 2009 after a long period of sustained economic growth, then climbed to 24.3% just before the COVID-19 pandemic in March 2020.

A significant influx of short-term unemployed (unemployed for less than 12 months) in April 2020 contributed to a temporary lowering of the long-term unemployment ratio. The ratio of 25.2% recorded in March 2022 is slightly above the ratio recorded 2 years earlier (see Figure 3).

The OECD refers to the long-term unemployment rate when measuring the proportion of unemployed people who have been looking for work for 12 months or more. At a rate of 19.4% in 2018 Australia was ranked 8th lowest out of the 30 OECD members that provided data for this measure. Canada, the US and New Zealand had lower rates at 10.1%, 13.3% and 13.6%, respectively.

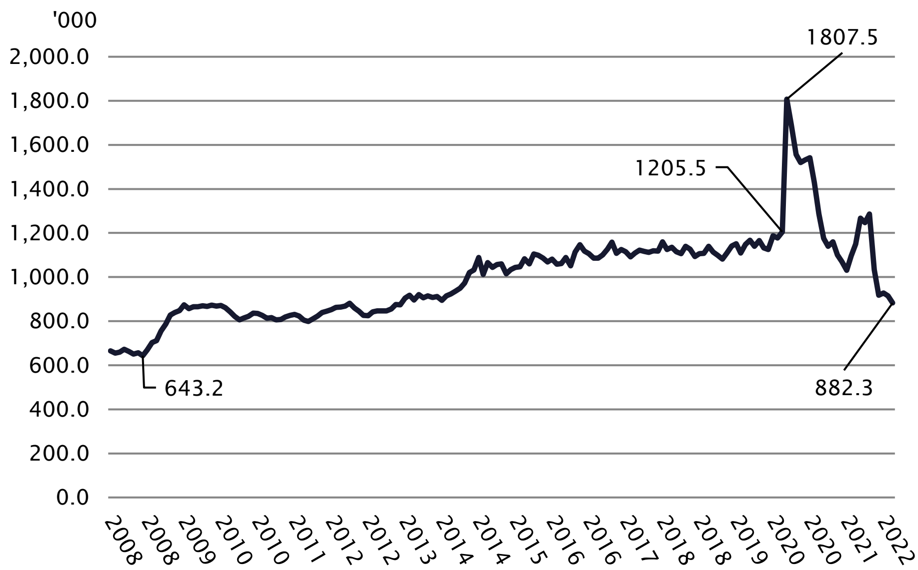
Underemployment

Figure 4 shows the steady increase in numbers of underemployed workers between early 2008 and early 2020, almost doubling from 643,200 to just over 1.2 million. Underemployed workers are employed people who want and are available to work more hours. Some workers may only be seeking a small number of additional hours per week while others may be seeking significantly more. The number of underemployed Australians recorded in March 2022 (at 882,300) is below the number recorded in March 2020 prior to the pandemic (at just over 1.2 million) and well below the spike of 1.8 million recorded in April 2020 immediately after the first lockdowns were imposed.

The underemployment rate is the number of workers who report they are seeking and available for more hours of work as a proportion of the labour force. The data shows an increasing trend in the underemployment rate for both males and females since the early 1980s, and the gap between the 2 genders has changed little in that time (see Figure 5). Women are more likely than men to be seeking part-time hours of work, with many trying to juggle work with child caring responsibilities. The number of hours offered by employers to underemployed part-time workers may not be sufficient for their individual needs.

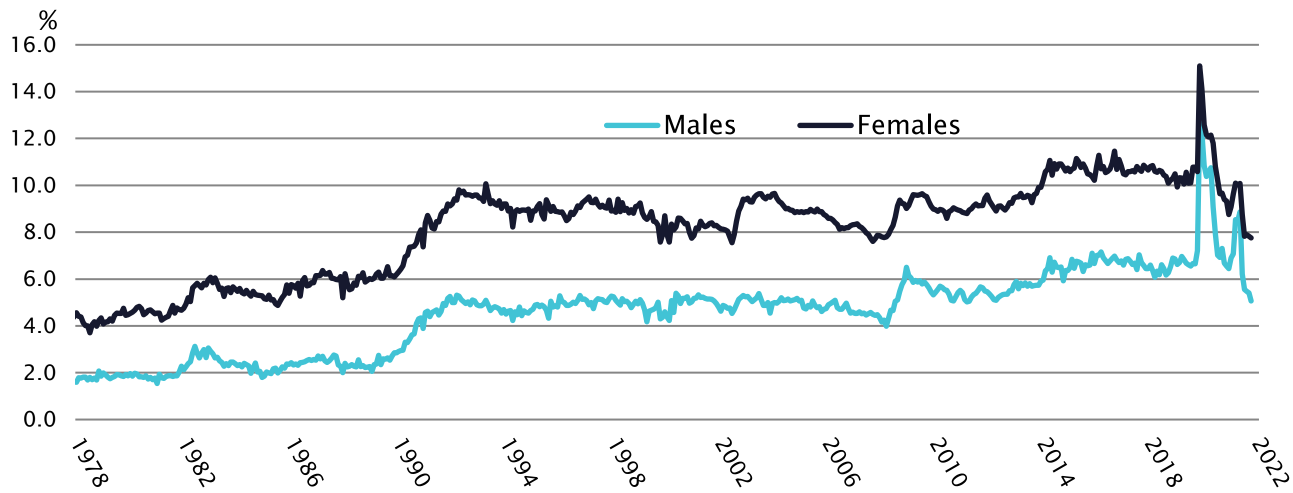
The female underemployment rate increased from 10.6% in March 2020 to 15.1% in April 2020, but has since fallen to 7.4% in March 2022. The male underemployment rate followed a similar trajectory, increasing from 7.2% in March 2020 to 12.6% in April 2020, before gradually falling to 5.0% in March 2022.

Figure 4 – Number of underemployed workers (seasonally adjusted), 2008 to 2022



Source: ABS, *Labour Force, Australia*, (Canberra: ABS, May 2022).

Figure 5 – Underemployment rates for females and males (seasonally adjusted), 1978 to 2022



Source: ABS, *Labour Force, Australia*, (Canberra: ABS, May 2022).

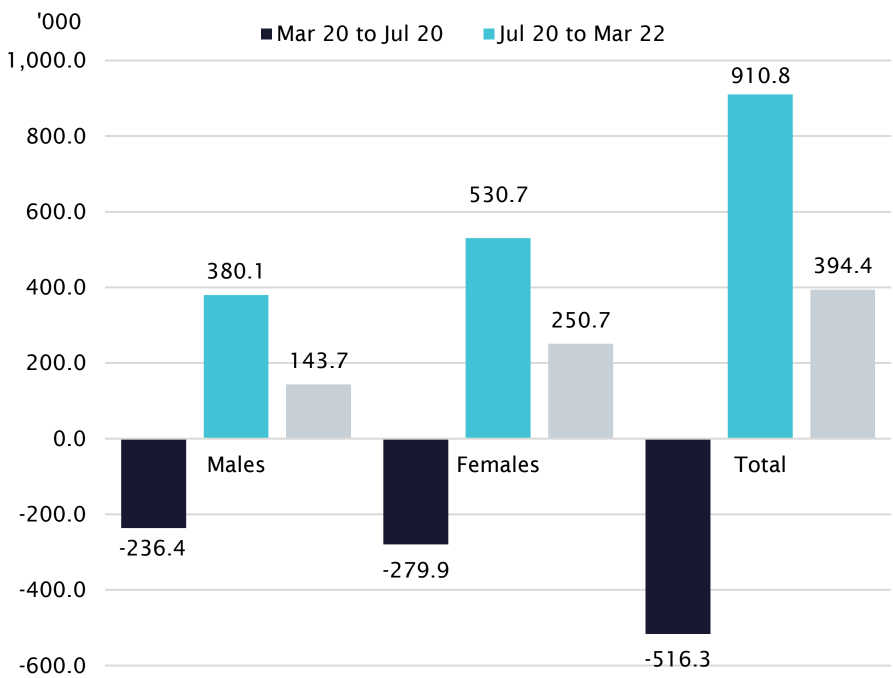
Employment, hours worked and industry jobs

Employment

Women were more adversely affected by the initial lockdowns to combat the spread of COVID-19, with female employment falling by 279,900 (or 4.5%) between March and July 2020. This compares with a fall in employment of 236,400 (or 4.0%) for men. However, employment recovered more quickly for women after this point, increasing by 530,700 (9.0%) between July 2020 and March 2022 compared with an increase of 380,100 (5.8%) for men.

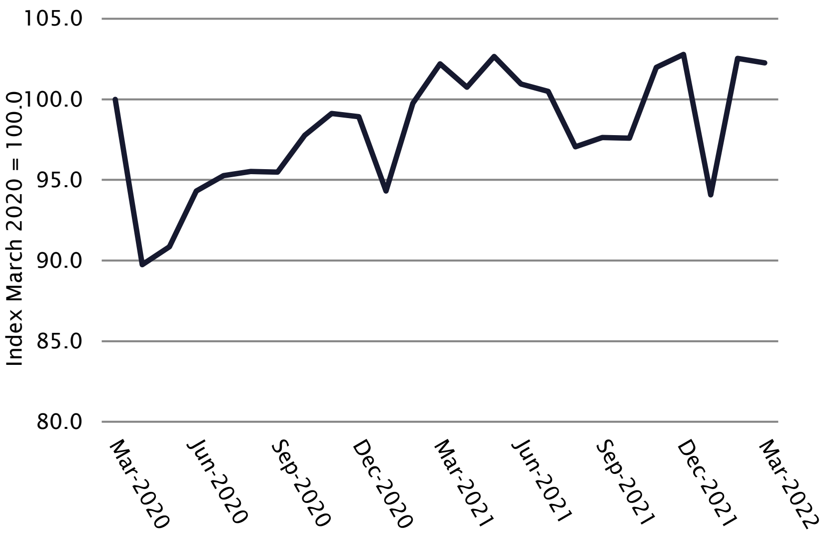
Despite the disruptions to the labour market, total employment in March 2022 was 394,400, or 3.0% higher than the pre-pandemic level recorded in March 2020 (see Figure 6).

Figure 6 – Change in employment for males and females (seasonally adjusted), March 2020 to March 2022



Source: ABS, *Labour Force, Australia*, (Canberra: ABS, May 2022).

Figure 7 – Index for total hours worked (seasonally adjusted), March 2020 to March 2022



Source: ABS, *Labour Force, Australia*, (Canberra: ABS, May 2022); Parliamentary Library calculations.

Hours worked

Figure 7 shows changes in the index for total monthly hours worked in Australia between March 2020 and March 2022. The chart highlights the impact of lockdowns and re-openings contributing to highly volatile monthly estimates for total hours. Despite these disruptions the numbers of hours worked recorded in February and March 2022 were above the pre-pandemic level recorded in March 2020.

Industry jobs

The ABS Weekly Payroll Jobs and Wages in Australia data series can be used to identify industries that have experienced a strong contraction or growth in jobs since the pandemic began in March 2020. The data is taken directly from information sent to the Australian Taxation Office (ATO) by employers with Single Touch Payroll (STP) enabled payroll and accounting software each time the employer runs its payroll.

The STP data shows some industries were more affected than others by lockdowns imposed to limit the spread of COVID-19. Some service industries were hit particularly hard in terms of job losses, and many have not recovered to their pre-pandemic level despite the lifting of lockdowns in all states and territories.

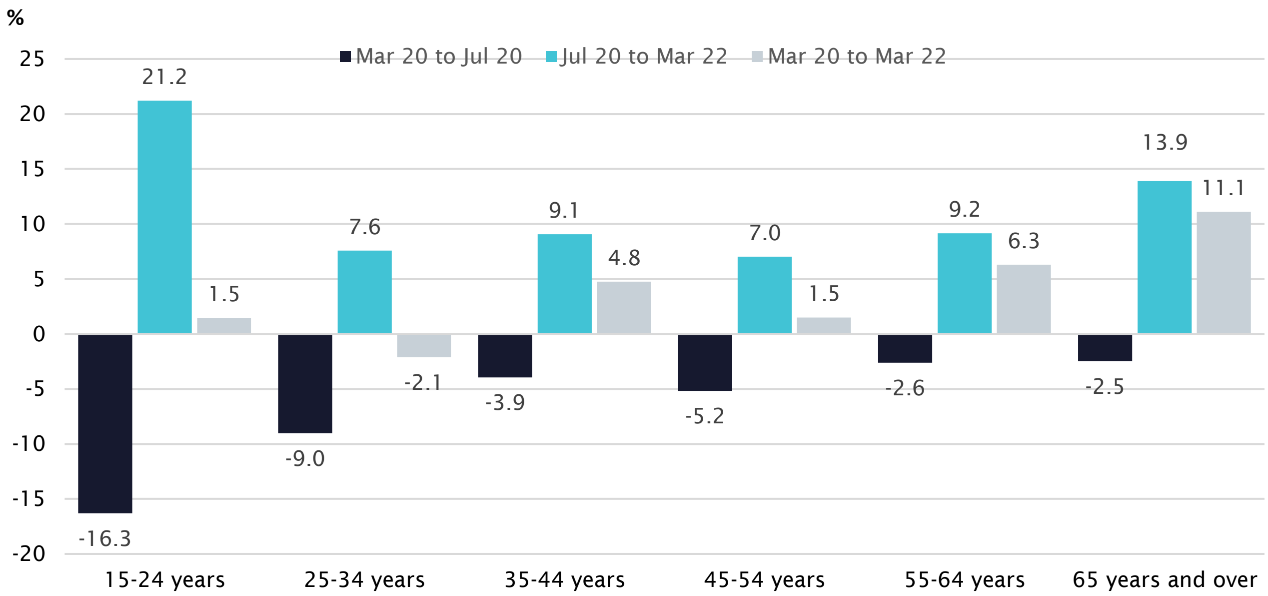
Industries that recorded the largest job losses included Air and Space Transport (jobs fell by 36.3% between 20 March 2020 and 16 April 2022), Fuel Retailing (jobs fell by 16.6%), Food and Beverage Services (jobs fell by 12.9%), and Accommodation (jobs fell by 9.5%).

Strong jobs growth was recorded in Social Assistance Services (up 17.6%) as more social workers and administrative staff processing payments were required to assist people through the pandemic. One of the biggest increases in jobs was recorded by Internet Service Providers, Web Search Portals, and Data Processing Services (up 24.4%).

Non-store retailing recorded growth in jobs of around 18.6% between 20 March 2020 and 16 April 2022. Non-store retailers include those engaged in retailing goods without the use of a shopfront or physical store presence, including e-commerce retailers. Growth in jobs in this sector was related to the increased use of online shopping by consumers as they switched to other methods of purchasing goods and services after the forced closures of physical retail locations.

Online retail sales grew from $1.9 billion in February 2020 to $2.9 billion in May 2020, which contributed to an increase in the online sales share of total retail turnover from 6.6% to 10.1%. Similar trends were observed between May and September 2021, with turnover increasing from $2.9 billion to $4.3 billion, which contributed to an increase in the online sales share to a peak of 15.3%. Turnover in the sector has since fallen to $3.7 billion in April 2022 (or 10.0% of total retail sales).

Figure 8 – Change in hours worked by age (original estimates), March 2020 to March 2022



Source: ABS, *Labour Force, Australia, Detailed*, (Canberra: ABS, May 2022).

Impact of COVID-19 restrictions on different age groups

Hours worked

Young people experienced the biggest fall in hours worked as a result of lockdowns, but this group has recorded some of the biggest recoveries in hours worked since. For example, total hours worked for people aged 15 to 24 years fell by 16.3% between March and July 2020, but subsequently increased by 21.2% through to March 2022.

Those aged 25 to 34 years were the only age group to record a fall in hours worked over the whole 2-year period between March 2020 and March 2022 (down 2.1%), with those aged 55 to 64 years and 65 years and over recording the biggest increases (of 6.3% and 11.1%, respectively) (see Figure 8).

Impact of COVID-19 restrictions on casual and permanent employees

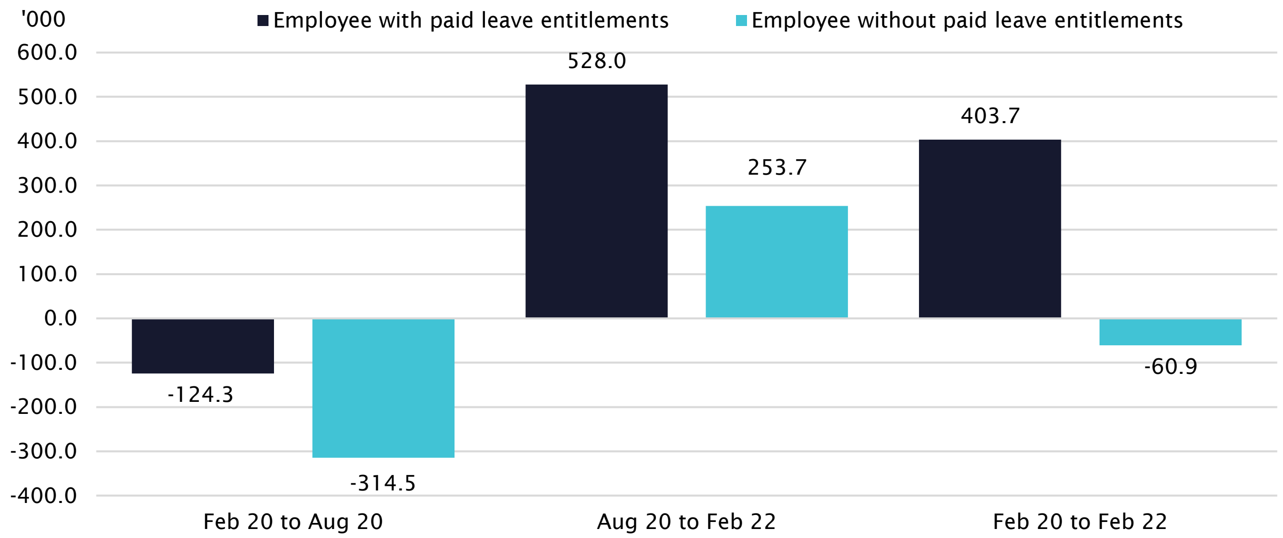
Casual employees (or employees without paid leave entitlements) were more likely than permanent employees (employees with paid leave entitlements) to lose their job or hours of work due to economic shutdowns imposed after March 2020 to limit the spread of COVID-19.

ABS data shows there were 314,500 fewer casual workers in August 2020 compared with February 2020. The number of permanent employees fell by 124,300. There was very strong growth in permanent employees between August 2020 and February 2022 resulting from the lifting of trading restrictions (up 528,000), more than double the increase in casual workers (up 253,700). Numbers of casual workers had still not returned to pre-pandemic levels in February 2022 (down 60,900 or 2.3%) whereas the number of permanent workers was 403,700 higher (up 4.9%) (see Figure 9).

Similar trends were observed in total hours worked, which fell by 16.5% for casual workers between February 2020 and August 2020, compared with a fall of only 3.9% for permanent employees. Hours worked for permanent employees were 3.6% higher in February 2022, compared with 2 years earlier while casual employees' hours worked was up only 0.5%.

The greater likelihood of casual workers losing their job

Figure 9 – Change in number of employees with and without leave entitlements, February 2020 to February 2022



Source: ABS, *Labour Force, Australia, Detailed*, (Canberra: ABS, April 2022).

during the pandemic has had a noticeable impact on the casual employee share of total employees in Australia, which fell from 24.1% in February 2020 to 20.6% in May 2020. Despite growth in the number of casual employees since, the casual share stood at 22.8% in February 2022, which is below their pre-pandemic share.

Trends in job vacancies

Another indicator of the strength of the labour market is job vacancies. The ANZ job advertisement series has been available since the late 1990s. The job advertisement data is sourced from advertisements listed on seek.com.au and jobsearch.gov.au.

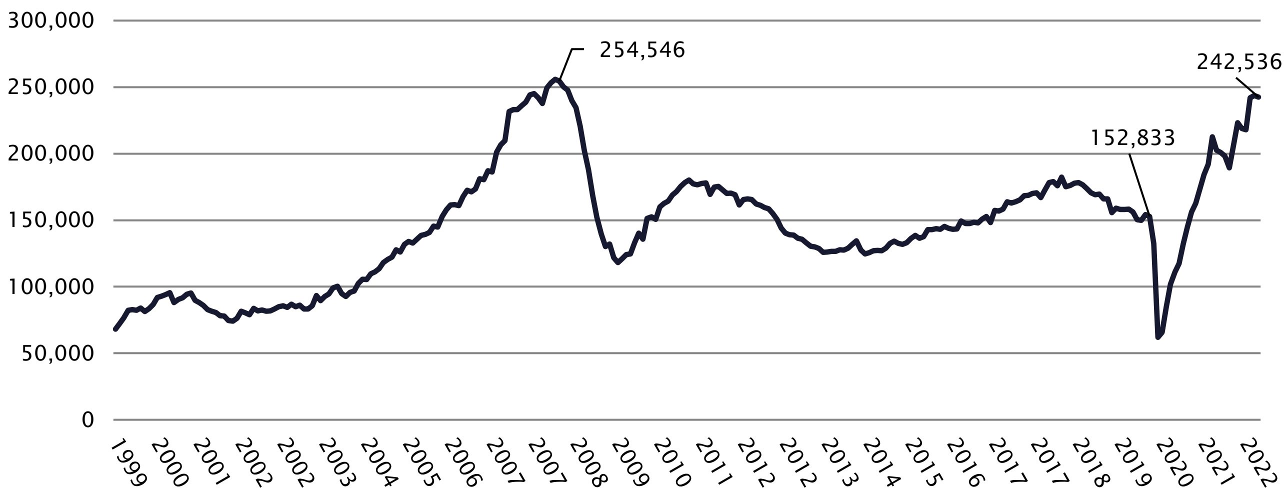
In April 2022, a total of 242,540 ANZ job advertisements were recorded, which is well above the pre-pandemic level of 152,800 in February 2020 (up 89,650 or 58.7%) (see Figure 10). SEEK reported that Queensland recorded the biggest increase in job advertisements in the year to April 2022 (up 30.7%), while the weakest growth was recorded in the ACT (up 7.3%).

The tightening of the labour market is also indicated by the decline in the ratio of unemployed people per internet vacancy listed, which has fallen from just over 4 unemployed people in February 2020 (just before the impact of the pandemic) to 2 unemployed people per vacancy in March 2022. In other words, employers had half as many unemployed people available per vacancy in March 2022 as they did just prior to the pandemic.

Conclusion

The Australian labour market has experienced significant shifts since the pandemic began in March 2020. Despite impacting on various demographic groups and some industries more than others, the labour market has recovered strongly with unemployment at a rate not seen since the mid-1970s. Some headwinds exist with the demand for labour being exceptionally strong compared with labour supply. This has been exacerbated by the restrictions on migration during the pandemic. The combination of skills shortages for occupations in particular industries and higher inflation may trigger stronger wage growth in the short to medium term.

Figure 10 – ANZ Job Advertisement series, 1999 to 2022



Source: Parliamentary Library calculations using 'ANZ Australian Job Advertisement series'.

Further reading

James Bishop and Iris Day, *How Many Jobs did JobKeeper Keep?*, Research discussion paper, RDP 2020–07, (Sydney: Reserve Bank of Australia, 2020).

Jeff Borland, *Can Australia Achieve a Soft Labour Market Landing?*, Labour Market Snapshot, 88, (Melbourne: University of Melbourne, May 2022).

Geoff Gilfillan, *COVID-19: Labour Market Impacts on Key Demographic Groups, Industries and Regions*, Research paper series, 2020–21, (Canberra: Parliamentary Library, 2020).

Geoff Gilfillan, *COVID-19: Impacts on Casual Workers in Australia – a Statistical Snapshot*, Research paper series, 2019–20, (Canberra: Parliamentary Library, 2020).

Reserve Bank of Australia (RBA), *Statement on Monetary Policy, May 2022*, (Sydney: RBA, 2020).

HOUSING MARKET INTERVENTIONS

Elliott King, Economic Policy, and Dr Matthew Thomas, Social Policy

Key issue

Access to affordable and safe housing is essential to people's health and wellbeing. Housing also forms a significant part of the economy. It is central to economic participation and productivity and a source of investment and wealth creation.

There is insufficient affordable housing to meet demand in Australia.

Housing affordability is a perennial issue in Australian politics. Various policies have been implemented to directly address affordability, though this usually takes the form of house purchase assistance or rental assistance ('demand side' measures).

Ideally, government interventions in the housing market should consider their impact across the entire housing continuum and be delivered in a more coordinated manner that increases the likelihood of realising optimum outcomes.

The housing continuum

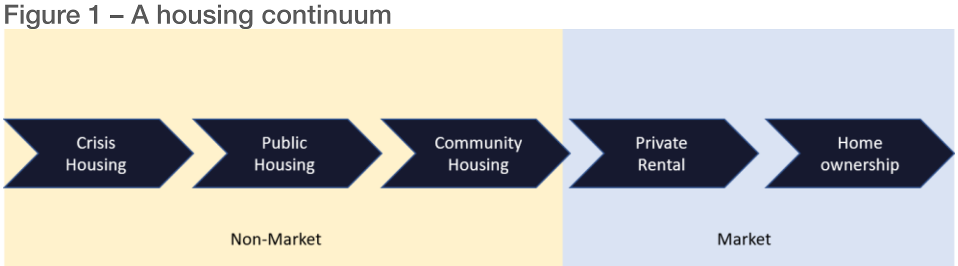
The housing system is comprised of numerous housing markets, housing stakeholders and policy tools. Moreover, there is not a singular type of housing or housing tenure. Policies attempting to influence one type of housing or tenure type can have flow-on effects across the full continuum of housing.

The housing continuum can be thought of as the spectrum of housing types and tenures. The main forms of housing tenure in Australia are public housing, community housing, private rental and home ownership. Figure 1 illustrates a continuum, within which different stakeholder groups and policy options could be listed to understand where marginal changes to policy can impact across the entire system of housing supply.

Any approach that is developed to address the needs of a particular group – such as people with disability, first home buyers, rental distressed, or key workers – can be located in this continuum. However, pulling one policy lever may affect the entire continuum, having both direct and indirect consequences in the wider housing market. A well-functioning housing continuum would be in balance and necessary interventions would ensure there are appropriate homes and supports at all points to meet the needs of the community.

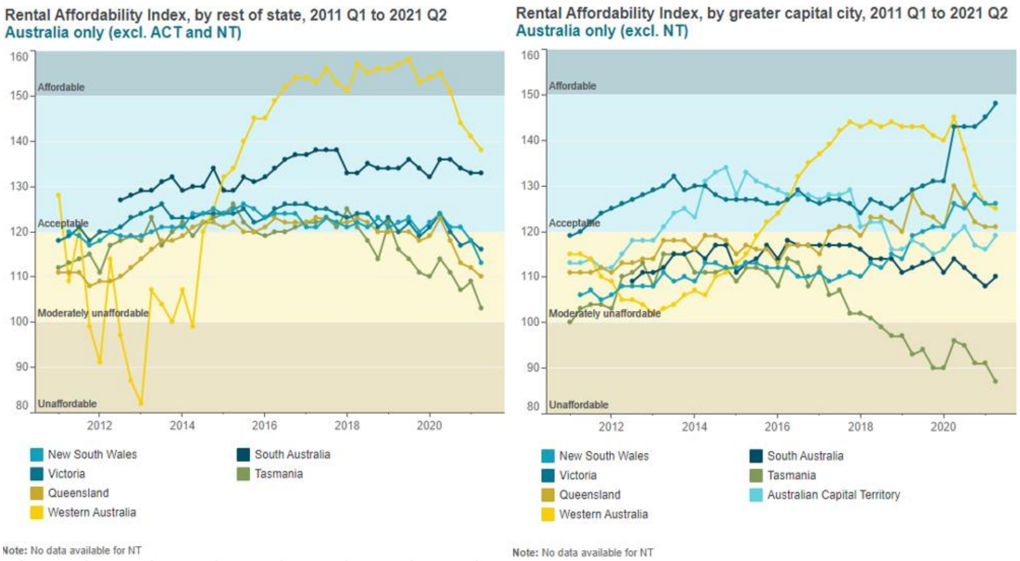
The participants in the housing spectrum are diverse, including all layers of government, the individuals in need of housing (public and private renters, and owner-occupiers), non-government providers, public housing authorities, government funding bodies, private financiers and property developers. Often, the delivery of housing stock

Figure 1 – A housing continuum



Source: Adapted from Australian Government, *Affordable Housing Working Group: Issues Paper*, prepared for the Council on Federal Financial Relations, (Canberra: Department of Treasury, 2016), 2.

Figure 2 – Rental affordability in capital city regions and 'rest of state' to Q2 2021



Source: Australian Institute of Health and Welfare (AIHW), *Housing Data Dashboard*, 'Rental Market: Rental Affordability Index Tables', (Canberra: AIHW, 2021).

and supports involves explicit or implicit partnerships between these stakeholders (see, for example, the NSW Government's Landcom).

Insights: challenges across Australia's housing continuum

Housing affordability has been an issue for some time, however the latest cause of housing affordability concern stems from rapid house price increases in capital cities and regional centres since the onset of the COVID-19 pandemic.

The effect of these increases is not only experienced by home purchasers but has also manifested in higher rents – in most regions – for those in the rental market. Figure 2 shows the fluctuations in the SGS Economics' *Rental affordability index* since 2011. Notably, rental affordability appears to have worsened in most regions during the pandemic despite rental moratoriums being in effect in most jurisdictions throughout 2020.

Deteriorating rental affordability impacts a large and growing proportion of households. Table 1 shows the proportion of households in some form of rental accommodation in 2019–20. The proportion of households in the rental market now, compared with 1994–95, has risen from about 26% to 31% of households. Notably, the average proportion of household income to housing costs has not changed substantially between these periods, but examination of disposable income by quintile reveals that those in the lowest quintile have seen an increase in their housing costs relative to household income over this

Table 1 – Proportion of households that are owner occupiers compared with private and public renters, and proportional housing costs

Owners and renters	1994–95 %	Housing costs as a percentage of household income 1994–95	2019–20 %	Housing costs as a percentage of household income 2019–20
Owner without a mortgage	41.8	3.1	29.5	3.0
Owner with a mortgage	29.6	18.4	36.8	15.5
State or territory housing authority renters	5.5	17.5	2.9	19.5
Private landlord	18.4	20.1	26.2	20.2

Source: Australian Bureau of Statistics (ABS), *Housing Occupancy and Costs 2019–20*, (Canberra: ABS, May 2022).

Note: The table only includes the main categories of renters – private and public housing renters. It does not include renters in community housing.

period, rising from an average of 22% to 29% (ABS, *Housing occupancy and costs*, (Canberra: ABS, 2022), Table 1.2).

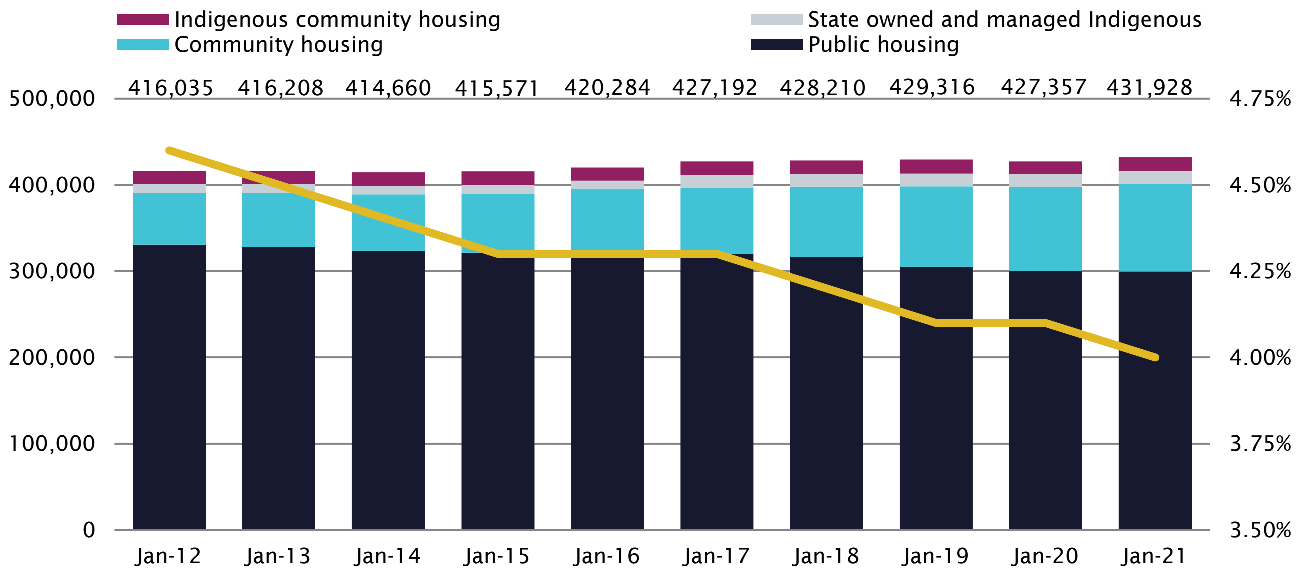
Additionally, mortgage stress (usually defined as 30% or greater of pre-tax income allocated to mortgage repayments, though there is some nuance to this calculation) is reportedly worsening in the face of recent interest rate increases. The latest authorised deposit-taking institution quarterly statistics show that although high loan-to-value ratio (LVR) (that is, greater than 90%) loans have declined, new residential mortgage loans with a debt-to-income (DTI) ratio greater than 6 increased from 17% of new loans to 24% between December 2020 and December 2021. In a period of rising interest rates, having a higher DTI or high LVR – and so higher repayments relative to income – makes it more likely that a borrower who experiences an adverse shock to their income or expenses will miss mortgage repayments. The Reserve Bank of Australia's (RBA) April 2022 *Financial stability review* examines the risk these borrowers pose to the stability of the financial system, but also includes analysis of mortgage stress for high-DTI and high-LVR loans. Although these loans account for a small proportion of overall lending, they have 'historically been around four times more likely to report mortgage stress than other borrowers, and three times more than those with only a high DTI or a high LVR'.

The state of Australia's social housing supply

Social housing is housing made available at below market rates to low-income households that are unable to afford or access suitable accommodation in the private rental market. It comprises public housing, community housing, state-owned and managed Indigenous housing (SOMIH), and Indigenous community housing. Public housing is owned and managed by state and territory governments, while community housing is either owned or managed by not-for-profit community sector organisations.

There are a range of measures for calculating changes in the level of social housing. Social housing stock may be considered as a percentage of overall housing stock or in relation to the size of the national population. It is also possible to gauge the number of social housing households as a proportion of total Australian households. Irrespective of the measure used, it is evident that Australia's social housing stock has been declining for some time (Figure 3).

Figure 3 – Social housing stock as a proportion of total housing stock



Source: Productivity Commission, *Report on Government Services 2022*, 'Housing and Homelessness', (Canberra: Productivity Commission, 2022).

Current social housing stock is insufficient to meet present and projected need. As at June 2021 there were 163,508 applicants on waiting lists for public rental housing and more than 40% (67,656) of these were new greatest-need households – that is, households that were homeless; in inappropriate housing that did not meet needs, adversely affected health or placed life and safety at risk; or households that had very high rental costs. Additionally, almost 60% of applicants for mainstream community housing were in greatest need (27,642 households) and 54% of the applicants awaiting SOMIH housing were in greatest need (4,018 households).

Waiting list data may overstate the level of need for social housing because some applicants may be on more than one waitlist. Nevertheless, if the 'evident need' for social housing is considered, then waiting list data may be seen to significantly underestimate the real need for social housing.

Evident need typically refers to households that are on a low income (approximately the bottom quintile for the relevant household type) and in rental stress (in private rental and paying more than 30% of income on rent). While these households may be eligible for social housing, they may not apply for a number of reasons, such as the stigma attached to this form of housing or because they are discouraged by lengthy waiting times.

Government intervention in housing in general

Contemplating housing as a continuum reveals a range of policy choices for governments at all levels. Broadly speaking, the roles of Australian governments with regard to housing are:

- the federal government is responsible for national housing and homelessness policy, financial sector regulations and taxation settings, which have some influence on housing affordability
- state and territory governments are responsible for land use and supply policy, urban planning and development policy, housing-related taxes and residential tenancy legislation and regulation, each of which has an impact on housing affordability
- local governments are mostly responsible for building approval, urban planning and development approval processes, and rates and charges.

Table 2 presents a summary of specific types of housing market interventions by level of government. As may be apparent, certain policy levers – particularly at the federal level – are not specific to housing provision but can significantly impact on encouraging or discouraging the expansion of housing.

Table 2 – High-level overview of housing market interventions by level of government

Government level	Supply		Demand	
	Encourage	Discourage	Encourage	Discourage
Australian	Monetary policy (interest rates) Major infrastructure State and local government grants (eg GST, roads) Regional development support (RDA, City Deals, Smart Cities) Tax exemptions or subsidies for dwellings	Prudential regulation (restrictive) Environmental protection and biodiversity conservation Business regulation	Tax incentives (income, company or capital) Income support Subsidies (NDIS and rent) Crisis or trauma categorisation Employment policy	Austerity measures Constraints on payments User fees Red tape

Government level	Supply		Demand	
	Encourage	Discourage	Encourage	Discourage
State or territory	Development partnerships Major or moderate infrastructure Transport policy settings Land supply (green or brownfield) Grants for targeted development Land use planning Good trades training	Development deadlines Building quality regime Restrictions on brownfield Landholder stamp duty Value capture (a) Heritage restrictions Social restrictions (eg affordable housing) Planning system (zoning, rules)	Homebuyer incentives Contiguous support for targeted group Social infrastructure Green living or energy incentives Public housing Community housing supports Targeted zoning	Land tax Conveyance duty Land-based levies Tenancy rules User fees and charges
Local	Development approval (speed) Local infrastructure Urban partnerships Master planning Asset management plans	Development controls, fees and charges Rules and regulations (transparency) Betterment taxes Restrictive environmental protections Developer contributions Heritage restrictions	Place-based development and planning approach Community assets Green living incentives	General rates User fees and charges

(a) Where government recovers some or all of the value which public infrastructure generates for private landowners.

Source: Hal Pawson, Vivienne Milligan and Judith Yate, *Housing Policy in Australia: a Case for System Reform*, (Gateway East: Palgrave Macmillan, 2020); Department of the Prime Minister and Cabinet (PMC), *Reform of the Federation White Paper: Roles and Responsibilities in Housing and Homelessness*, Issues Paper 2, (Canberra: PMC, 2014).

In recent years work has been put into bringing institutions and private sector participants – banks, superannuation funds, and similar – into the affordable housing supply system. But, there needs to be greater coordination across all levels of government as the policy levers for each point of the housing continuum are dispersed. Changes at one level of government do not necessarily have the desired flow-on effects if corresponding changes are not followed at other levels, or if another layer embarks on changes without regard for actions taken elsewhere in the system. For example, local governments may be focused on maintaining the amenities of their specific area, while the state or federal governments may be attempting to reshape the entire urban environment to achieve a particular economic outcome.

How does the Australian Government currently intervene in the housing system?

The federal government has no specific head of constitutional power to legislate with respect to housing, which is the primary responsibility of state and territory governments. Some housing experts have argued that because federal and state roles and responsibilities 'cannot be robustly defined and allocated', this complicates housing policymaking, negotiation and accountability (p. 394).

Direct interventions

Irrespective of this limitation, the Australian Government intervenes in the housing continuum in numerous ways. Most of the interventions at the federal level focus on the demand side of the housing market. Table 3 sets out current direct interventions in the housing market.

Table 3 – Australian Government direct interventions in the housing market

Intervention	Targets	Continuum point	What is it?
First Home Super Saver Scheme (FHSSS)	First home buyers	Home buyers	Assists first home buyers to build a deposit inside their superannuation, to save for their first home, due to the concessional tax treatment and higher rate of earnings realised. Individuals have been able to make contributions since 1 July 2017 and apply to release their savings since 1 July 2018.
First Home Guarantee Scheme (FHG)	Primarily targeted at first home buyers, but certain subprograms assist other cohorts.	Home buyers	Deposit guarantee scheme that provides a guarantee on eligible loans equal to the difference between a deposit of at least 5% and up to 20% of the property purchase price (to a maximum value, specified by area). Certain subprograms set the minimum deposit requirement at 2%.
Managed investment trusts (MIT)	Investors	Private renters	An increase to the capital gains tax (CGT) discount for resident individuals from 50% to 60% where the MIT has used residential real estate to provide affordable housing for at least 3 years prior to sale; and for non-resident investors, a 15% withholding tax rate if the MIT has used the residential real estate to provide affordable housing for at least 10 years.
Commonwealth Rent Assistance	A person or family that qualifies for an eligible social security payment.	Private renters	A non-taxable income supplement, paid fortnightly to eligible recipients. The payment is 75 cents for every dollar above a minimum rental threshold until a maximum rate is reached. The thresholds and rates vary depending on the household or family situation.

Intervention	Targets	Continuum point	What is it?
Specialist Disability Accommodation (SDA)	For eligible participants in the National Disability Insurance Scheme.	Public, community, private rental and ownership	The NDIS funds SDA for a small number of NDIS participants with extreme functional impairment, or very high support needs, when deemed necessary and reasonable. SDA funding is used to stimulate investment in the building of new dwellings for NDIS participants.
Foreign investment (restrictions)	Foreign investors	Home buyers	Generally, foreign investors must seek Foreign Investment Review Board approval before acquiring residential property. Foreign investors are barred from acquiring existing dwellings, except where the investor is redeveloping an established dwelling in a way that 'will genuinely increase Australia's housing stock' (p. 15).
National Housing and Homelessness Agreement (NHHA)	State and territory governments	Crisis housing and social housing	The Australian Government provides funding to the states and territories for the provision of social and community housing services, crisis housing and homelessness services.
Affordable Housing Bond Aggregator (AHBA)	Social housing providers	Community housing	The AHBA is operated by the National Housing Finance and Investment Corporation (NHFIC). AHBA 'provides low cost, long-term loans to registered community housing providers (CHPs) to support the provision of more social and affordable housing'.

Coordination mechanism

In the direct interventions, one special case is the relationship established under various Commonwealth–state housing agreements (currently the NHHA).

The Commonwealth–State Housing Agreement (CSHA) was the first national housing agreement and a precursor to the NHHA. The first CSHA was driven largely by the need to address a serious nationwide housing shortfall after the Second World War. It allocated funds for the construction of new rental dwellings only, with half of this housing reserved for ex-defence force personnel. The intention was that the federal government would support the states to deliver public housing to those who wanted it, but with priority to those in greatest need.

Housing researcher, Patrick Troy, notes 'the Commonwealth was not setting out to replace private ownership of dwellings but wanted to provide security of tenure and choice to those who did not want or who could not afford to own a dwelling'.[5]

Over time the Australian Government's focus has shifted to prioritising support for home ownership and eligible renters in the private rental market. With this shift, social housing has moved from being a palatable alternative tenure type to residualised and increasingly stretched welfare housing.

Indirect intervention

Indirect interventions may also occur, such as through infrastructure development, lending standards and taxation settings.

Infrastructure contributions through City Deals and Regional Deals typically involve measures for property development, including social housing (for example, the Hobart City Deal includes construction of 'affordable housing options'). These are in addition to the Infrastructure Investment Program that impacts housing by altering the built environment.

The Australian Government can also influence the housing market through the regulation of the financial services sector, macroprudential regulation and taxation settings. For instance:

- Lending standards (for example, LVR) and serviceability requirements set by the Australian Prudential Regulation Authority influence credit availability for prospective home purchasers.
- Negative gearing allows an investor to offset housing associated expenses, including loan interest payments and other outlays against their gross income, where the income derived from the investment is exceeded by these costs.
- A 50% discount on capital gains tax (CGT) exists for Australian individuals who own an asset for 12 months or more. A residential property that is a main residence is fully exempt, provided eligibility and other assessment criteria are met.

Although not directly under the control of the federal government, the RBA targets a level in the cash rate, which influences housing loan interest rates charged by financial institutions.

What can the federal government do to address housing issues?

The mix of direct and indirect measures highlights the complexity of the Australian Government's involvement in housing. Direct interventions have a clear effect, such as the FHG bringing forward home purchases for eligible participants. Indirect interventions have wider impacts than just housing; for example, tax changes to negative gearing or the CGT may impact on investment decisions and tax arrangements more broadly.

A particularly vexing aspect of housing policy is its long-term nature, and the effective locking-in of decisions as dwellings are constructed. The work of housing policy experts, Hal Pawson, Vivienne Mulligan and Judith Yates, suggests that the long-term nature of this policy area requires:

- a broader and more equitable conception of strategic housing policy – that is focused on delivering sufficient housing to meet needs at all points of the continuum
- a research capacity that would support housing strategy across the continuum – that is, enable the monitoring, analysis and interpretation of housing system issues to assist in policy responses
- agreement on the roles and responsibilities of all levels of government with regard to housing assistance
- a greater degree of policy and administrative stability at the federal level.

Similar recommendations have been echoed in research reports by the Australian Housing and Urban Research Institute, and previous parliamentary inquiries.

With regard to social housing, a group of prominent Australian housing researchers has estimated that as at 2016 around 9% of all Australian households were in need of social or affordable housing – that is, they were homeless, on social housing waiting lists, or were low income households renting in the private rental market and experiencing housing stress. This estimate translates to a social housing need backlog of over 430,000 dwellings (p. 63). Based on the assumption

[5] Patrick Troy, *Accommodating Australians: Commonwealth Government Involvement in Housing* (Sydney: The Federation Press, 2012), 283.

that the proportion of households in need of social housing would hold constant over the next 20 years (but vary by region) it was estimated that about 730,000 additional social housing dwellings would be required to eliminate unmet need by 2036 (p. 1).

To prevent the existing shortfall from worsening would require the construction of nearly 15,000 additional social housing dwellings a year. If the current backlog is to be eliminated, the rate of construction would need to be around 36,000 dwellings a year. The current annual social housing construction rate has been estimated at just over 3,000 dwellings.

In the short-term, the Productivity Commission is currently reviewing the NHHA, with its report due to the Treasurer by 31 August 2022. This report will likely frame negotiations of the NHHA, which is due to expire on 31 June 2023. Additionally, the House of Representatives Standing Committee on Tax and Revenue tabled its final report into housing affordability in March 2022. This report did not receive a response from the Government prior to the 2022 federal election.

Further reading

Terry Burke, Christine Nygaard and Liss Ralston, *Australian Home Ownership: Past Reflections, Future Directions*, AHURI Final Report no. 328, (Melbourne: Australian Housing Urban Research Institute, 2020).

National Housing Finance and Investment Corporation (NHFIC), *State of the Nation's Housing 2021–22*, (Canberra: NHFIC, 2022).

House of Representatives Standing Committee on Tax and Revenue, *The Australian Dream: Inquiry into Housing Affordability and Supply in Australia*, (Canberra: House of Representatives, 2022).

Productivity Commission, *Report on Government Services 2022,* 'Housing and Homelessness', (Canberra: Productivity Commission, 2022).

SCIENCE AND RESEARCH

Tim Brennan, Science, Technology, Environment and Resources

Key issue

Australia has a well-performing research sector but has consistently been less successful translating research outcomes into commercially successful products and services.

In relation to spending on research and development, Australia is well behind international leaders and middle ranked among developed nations. Many stakeholders, particularly in the university sector, believe that the research funding system needs reform, both in terms of the quantity of funding and how it is invested.

Introduction

Parliament is often required to consider issues involving complex scientific concepts and where future impacts are uncertain. Similarly, the Australian Government relies on access to a strong evidence base for the development of policies to protect health and wellbeing and foster economic growth. It is therefore imperative that parliamentarians and government have access to expert advice on a wide range of issues.

The COVID-19 pandemic, and the rapid development of vaccines, have highlighted the critical role of science in protecting social wellbeing. Ensuring that policy frameworks encourage the research and development (R&D) that can address challenges, such as the pandemic, helps underpin the long-term resilience of Australian society. Additionally, Australia's prosperity will increasingly be linked to its ability to commercialise R&D into new innovations and industries.

The development of successful new products and services is the last step in a process of knowledge generation and transfer that can take decades. The funding of this R&D and commercialisation process by governments and industry in Australia is well behind international leaders.

Despite research commercialisation being a focus of Australian Government policy for decades, Australia continues to perform relatively poorly in this area. Additionally, there are emerging concerns that the long-term focus on commercialisation may be coming at the expense of the basic research that forms the foundations of the innovation 'pipeline'.

Scientific advice to Parliament

The provision of advice from the science sector to parliamentarians can occur through a variety of mechanisms, including via direct engagement with researchers, and through Science Meets Parliament and the Australian Council of Learned Academies (ACOLA, which includes the Australian Academy of Science and the Australian Academy of Technology and Engineering). The Parliamentary Library Research Branch also provides customised information, analysis and advice on any subject of interest to parliamentarians and their staff and to support parliamentary committees.

Parliamentary committees due to their smaller size and more informal procedures (relative to the 2 chambers) are 'well suited to the gathering of evidence from expert groups or individuals' (p. 641). Committees undertake inquiries on matters of policy and public interest and seek input from stakeholders to inform their deliberations. This input regularly includes evidence from the academic community and other experts provided through written submissions and oral presentations at public hearings.

Advice and policy support for government

The new Minister for Industry and Science, Ed Husic, will be the 11th minister to hold the science portfolio in the last decade. In the new Government, science policy will sit within the Department of Industry, Science and Resources (p. 28). In addition to the department, there are several major sources of science policy advice to government, as outlined below.

CSIRO

The Commonwealth Scientific and Industrial Research Organisation is Australia's public sector applied research organisation. CSIRO is a statutory authority constituted under the *Science and Industry Research Act 1949* (SIR Act). CSIRO describes its purpose as 'solving the greatest challenges through innovative science and technology' and its functions under the SRI Act include undertaking research to support Australian industry and the Australian community. An example of these functions are the roadmaps that CSIRO regularly publishes, which investigate opportunities for Australian industry to take advantage of new and emerging technologies. In 2021–22, the Australian Government provided $949 million in funding to CSIRO (p. 253).

The Chief Scientist

Australia's Chief Scientist provides independent advice on science, technology, and innovation to the Prime Minister and other ministers. The Chief Scientist's role also includes advocating for Australian science internationally and championing the importance of scientific evidence to the Australian public. The Chief Scientist holds the position of Executive Officer to the National Science and Technology Council, which is chaired by the Prime Minister and is the 'preeminent forum for providing scientific and technological advice for government policy and priorities'.

Dr Cathy Foley is Australia's ninth Chief Scientist. She commenced in the role in January 2021 (replacing Dr Alan Finkel). At the commencement of her tenure as Chief Scientist, Dr Foley identified the 4 foundational issues she hoped to work on: digital capability; science, technology, engineering and mathematics (STEM) education; diversity in the research community; and open access to research (p. 6).

Industry Innovation and Science Australia

Innovation and Science Australia (ISA) was established in 2015 as part of the National Innovation and Science Agenda (NISA). ISA is an independent statutory board of entrepreneurs, investors, researchers and educators tasked with providing advice to government as well as coordinating innovation policy across multiple portfolios. ISA has published many reports on innovation policy.

In 2021, ISA's name was changed to Industry Innovation and Science Australia (IISA) to emphasise the Government's efforts to increase the links between science and industry.

Evolving science and innovation policy frameworks

Since the 1980s, Australian innovation policy has gone through several distinct phases. Policy settings have ranged from more 'interventionist' approaches that attempted to build collaboration within an innovation system (including between government and industry) and more 'free market' approaches that aimed to use incentives to increase the pace, rather than change the direction, of innovation (pp. 182–184).

Some major science and innovation programs and reports within the last decade include:

- The 2015 National Innovation and Science Agenda (NISA) was a $1.1 billion program of 24 measures across 4 areas (p. 18). The measures included funding for the Square Kilometre Array telescope system, the creation of the CSIRO Innovation Fund, and the Biomedical Translation Fund.
- ISA's 2017 report *Australia 2030: prosperity through innovation*, a strategic plan for the innovation system, made 30 recommendations across education, industry, government, research and development, and culture and ambition (p. 4). In May 2018, the Government released its response to the 2030 Plan, which included support for 17 of the recommendations.
- The Australian Government's $1.3 billion Modern

Manufacturing Initiative in 2020 marked a move towards assistance targeted at specific areas of competitive advantage. These areas, known as the National Manufacturing Priorities, are resource technology and critical minerals processing, food and beverage, medical products, recycling and clean energy, defence, and space.

- ISA's 2021 report *Driving effective Government investment in innovation, science and research* recommended the development of whole-of-government priorities and a 10-year investment plan, which would include investments balanced over the short, medium, and long-term.

Should science advice to Parliament be expanded?

There have been suggestions that additional mechanisms are required to increase the provision of independent science advice to Parliament and all parliamentarians. For example, a 2021 Senate Committee recommended a 'Parliamentary Office of Science' be established and modelled on the UK's Parliamentary Office of Science and Technology (POST). The Australian Academy of Science is continuing to stimulate this debate, and highlighted the Parliamentary Budget Office as a successful example of another body providing advice to Parliament.

The Australian Labor Party's (ALP) 2021 National Platform states that the ALP will establish a Parliamentary Office of Science to 'provide independent, impartial scientific advice, evidence and data to the Parliament, and all Members and Senators' (p. 68). The Australian Greens are also committed to the establishment of an independent POST.

Spending on science, research, and innovation

The *Global innovation index* (GII) is an annual report providing statistical benchmarking of national innovation systems. The *2021 edition of the GII ranked Australia 25th* of the 132 countries assessed (p. 47) and 24th of the 51 high-income countries.

As in previous years, Australia ranks well (15th) on innovation inputs, including education and research, but less well (33rd) on innovation outputs, suggesting a weakness in translating research into commercial outcomes. Further analysis of the performance of Australia's innovation system relative to other countries can be found in the Australian Innovation System Monitor.

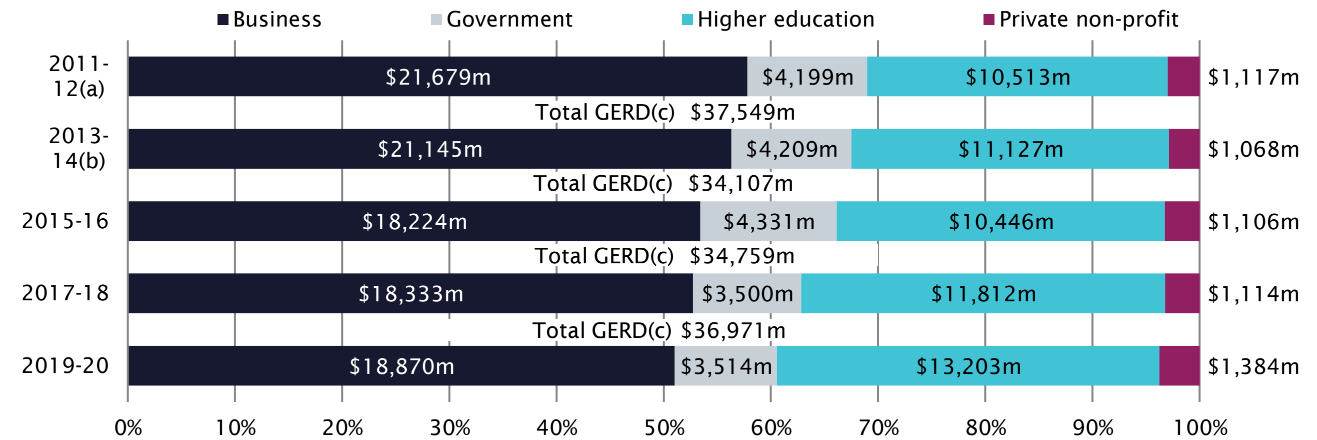
In 2019–20, Australian gross expenditure on research and development (GERD), which includes research spending by business, government, higher education and the non-profit sector, was $35.6 billion. This amounts to 1.79% of GDP, placing Australia 20th among 132 countries for this metric (p. 47). GERD as a proportion of GDP has been falling since 2008 (p. 40).

Open access publications

Australian researchers are largely funded by the taxpayer. Despite this, a significant proportion of Australian research is published in paywalled academic journals that are not accessible to the public. For many years there have been attempts to increase the amount of research provided in 'open access' formats that can be accessed freely. The Australian Research Council and the National Health and Medical Research Council (NHMRC) both have open access policies requiring outputs from publicly funded research to be openly accessible within 12 months of publication. However, partly due to caveats related to legal and contractual obligations, the majority of Australian publications remain published in formats that are not open access.

The Chief Scientist has stated that supporting the development of a national open-access policy for academic journals would be one of her priorities and has developed an Australian Model for Open Access. Under this model, a single national body would negotiate a fee with publishers. This fee would provide research papers free of charge to all Australians and ensure papers by Australian researchers are published internationally as open access.

Figure 1 – Gross expenditure on research and development (GERD) by sector (in 2021 prices)



(a) Higher education estimates modelled in 2011–12.

(b) From 2013–14 Government, Private non-profit and Higher education estimates have been modelled.

(c) Where figures have been rounded, discrepancies may occur between the sum of the component items and totals.

Source: Australian Bureau of Statistics (ABS), *Research and Experimental Development, Businesses, Australia, 2019–20 Financial Year,* (Canberra: ABS, 2021). All figures have been converted to June 2021 prices using Parliamentary Library calculations.

In 2019, business expenditure on research and development (BERD) in Australia was 0.92% of GDP, which is approximately half the OECD (Organisation for Economic Co-operation and Development) average (1.81%; p. 33). The ALP has committed to increasing investment in research and innovation to levels closer to 3% of GDP (p. 7)

Figure 1 shows spending on R&D since 2011–12 converted to 2021 prices. Although total spending remained relatively steady (in 2021 prices), business and government spending dropped, and higher education spending rose over this period.

The declining level of business expenditure on research is largely due to changes in Australia's industry mix, including a decline in manufacturing and a transition in the mining sector from exploration and development to operations (p. 37).

Aggregate figures for Australian Government spending are also provided in the annual Science, Research and Innovation Budget Tables. In 2021–22, the estimated total government spending on science, research and innovation was $11.8 billion (note that this includes support for business and higher education, which in Figure 1 is allocated to each of those sectors).

Australian Government investment in 2021–22 comprised:

- Australian Government research activities: $2.3 billion, including CSIRO, Defence Science and Technology Group, and other government R&D
- business enterprise sector: $2.9 billion, almost all of which is spent on the R&D Tax Incentive, which provides a tax offset for businesses to undertake R&D activities
- higher education sector: $3.7 billion, including the research block grants, Australian Research Council grants, and NHMRC grants to universities
- multisector: $2.8 billion, including NHMRC's non-university spending, Cooperative Research Centres, Rural R&D Corporations, other health R&D, and energy and environment R&D.

University research funding

Australian universities receive funding to undertake research from a variety of sources. The largest source of funding (56%) is from general university funds. Other key sources of funding include:

- research block grants, which provide funding for research and research training ($2 billion in funding in 2022)

- various competitive grants programs including: the Australian Research Council administered National Competitive Grants Program (which includes the Discovery Program for foundational research and the Linkage Program for research undertaken in partnership with industry); NHMRC grants; and Medical Research Future Fund grants
- student fees and government support for research infrastructure.

A more detailed discussion on university research funding can be found in the Parliamentary Library's quick guide on the subject.

Research commercialisation agenda

The Australian university sector is generally highly ranked in international comparisons of research performance. In 2022, there are 7 Australian universities in the Top 100 of the QS World University Rankings and 6 in the Top 100 of the Times Higher Education rankings.

Australian researchers also perform well in measurements of academic publications, producing 4.1% of academic publications globally in 2020, more than 10 times Australia's share of the global population (0.3%). Australian authors perform well when comparing citations of research publications. Australian researchers also perform above the OECD average in terms of scientific publications generated per dollar invested in research.

Despite these successes, Australian research does not appear to be as effective at being translated into successful commercial products. This is a long-standing problem that has been the focus of the efforts of successive governments to expand the innovative capacity of the Australian economy. It has long been thought that insufficient knowledge transfer, in part due to a lack of collaboration between industry and Australian public sector researchers, contributes to the low levels of commercialisation.

Australia ranks last in the OECD (by a significant margin) in relation to the percentage of businesses that develop innovations in collaboration with public sector research organisations. As shown in the Australian Innovation System Monitor, this result 'reflects unfavourably on the ability of Australian businesses and research institutions to maximise the return on public investment in science and research'.

The 2016 *Review of the R&D Tax Incentive* recommended a collaboration premium be added to the R&D Tax Incentive to provide a financial incentive to businesses to collaborate with public sector research organisations (p. 3). This recommendation was reiterated in ISA's *Australia 2030 report* (p. 104). To date, the Australian Government has not implemented this recommendation.

In 2021, the Morrison Government announced the University Research Commercialisation Action Plan (Commercialisation Action Plan), a $2.2 billion

Workforce issues

In 2020, women made up 13% of employees in science, technology, engineering, and mathematics (STEM) qualified occupations. The Australian Government has an Advancing Women in STEM strategy and made investments in related programs in the 2021–22 Budget (p. 50). The Chief Scientist has also made increasing the diversity of the STEM workforce a priority and noted there are barriers for women not just during education but throughout other career stages.

It is estimated that as many as 70% of staff at Australian universities are employed as casuals or on insecure contracts. In many cases, casual academics were the first to lose their jobs during the COVID-19 pandemic. Additionally, there have been reports that casual and contract staff being required to do unpaid work, or otherwise underpaid, is endemic within Australian universities, with at least 21 Australian universities implicated in the practices. There are suggestions that these working conditions are contributing to a 'brain drain' of researchers out of the Australian university sector.

investment to drive commercialisation and increase collaboration between industry and universities. Key components of the plan include:

- $1.6 billion for Australia's Economic Accelerator, which will provide grant funding to universities with projects at proof-of-concept or proof-of-scale projects that have high commercialisation potential and are aligned to one of the National Manufacturing Priorities
- $296 million for the National Industry PhD Program to support 1,800 students to undertake industry-focused PhDs
- $243 million for the Trailblazer Universities Program, a competitive grant program that will select universities to partner with industry to work on research aligned with the National Manufacturing Priorities.

The announcement of Australia's Economic Accelerator was largely supported by stakeholders within the science and research field. The Morrison Government introduced 2 Bills to legislate Australia's Economic Accelerator and the Trailblazer Universities Program, which lapsed at the dissolution of the 46th Parliament.

Prior to the election, the ALP indicated it would support legislating Australia's Economic Accelerator and stated in its National Reconstruction Fund policy that it would invest in supporting Australian companies to commercialise new renewable energy and low emissions technologies. The ALP earlier announced it would introduce a Startup Year program which would offer loans to 2,000 final-year students and recent graduates to support their participation in commercialisation accelerator programs.

Labor has also committed to creating an Advanced Strategic Research Agency (ASRA) in the Defence portfolio, emphasising that 'ASRA would be modelled after the United States Government's ground-breaking Defence Advanced Research Projects Agency (DARPA)'. For further information, see the article on 'The Australian Government public sector' elsewhere in this *Briefing book*, and a Parliamentary Library FlagPost about the 'DARPA model'.

Commercialisation concerns

There are concerns among some university stakeholders that the focus on research translation could come at the expense of support for foundational or basic research that is not suitable for commercialisation.

The Vice-Chancellor of the Australian National University, Professor Brian Schmidt, highlighted that applied research builds on existing basic research and argued that the new Government should ensure that the right balance is struck between basic and applied research.

The President of the Australian Academy of Science, Professor John Shine, highlighted the role of fundamental science in gradually building the understanding of RNA technologies necessary for the rapid development of COVID-19 vaccines. Professor Shine stated that government funding for research should act as 'patient capital' and quick or easy returns should not be expected.

Researchers in the humanities and social sciences have also noted that the Commercialisation Action Plan's focus on the National Manufacturing Priorities means that it will be almost impossible for researchers in these fields to attract funding under the plan.

Calls for reforms to research funding

Many university stakeholders are calling for reforms to how research is funded in Australia. These range from a focus on specific issues, such as removing the ability of ministers to intervene in the approval of Australian Research Council grants, to calls for broad systemic reform.

The Australian Academy of Science stated that Australia's approach to funding science is 'not fit for purpose' and recommended a whole-of-government review to 'identify the optimal operation, funding arrangements and architecture of the Australian science and research system'.

Similarly, the Vice-Chancellor of the University of Melbourne, Professor Duncan Maskell, stated there is a need to 'tear up our research funding model and … start from scratch'. Professor Maskell suggested that the Government should fund a higher proportion of research so that it does not need to be subsidised by international student fees. Professor Schmidt stated that the Albanese Government had a 'clean slate' to fix 'long-standing problems with the research ecosystem in Australia'.

Further reading

Industry Innovation and Science Australia (IISA), *Driving Effective Government Investment in Innovation, Science and Research*, (Canberra: IISA, January 2021).

Tim Brennan, Hazel Ferguson and Ian Zhou, 'Science and research', Budget Review 2022–23, Research paper, 2021–22, (Canberra: Parliamentary Library, April 2022), 80–84.

Hazel Ferguson, *University Research Funding: a Quick Guide*, Research paper series, 2021–22, (Canberra: Parliamentary Library, February 2022).

Tim Brennan and Hazel Ferguson, 'Independence of the Australian Research Council', *FlagPost* (blog), *Parliamentary Library*, 3 June 2022.

REGULATING THE 'GIG' ECONOMY AS A FORM OF EMPLOYMENT

Jaan Murphy, Law and Bills Digest

Key issue

The 'gig' economy is characterised by workers contracting to complete short-term task-based work via digital platforms which facilitate labour transactions between workers and businesses. The rapid rise of the gig economy represents risks and opportunities for gig economy workers, many of whom are characterised as independent contractors rather than employees and lack workplace entitlements and protections.

The increase in the number of gig economy workers has brought into question the appropriateness of the employee/independent contractor distinction in relation to gig economy workers and whether reforms are needed to provide better job security, income, and retirement savings for gig economy workers.

The policy challenge for the Parliament would seem to be finding a balance that preserves much of the flexibility and advantages of digital platform enabled gig work for both businesses and workers in a way that also provides appropriate protections, rights and benefits for workers participating in the gig economy.

What is the gig economy?

A range of terms describe the gig economy (p. 7): on-demand, gig, sharing (p. 6), collaborative, crowdsourcing, and short-term, project-based and outcome defined independent or 'freelance' work.

The Productivity Commission (pp. 5, 9), Actuaries Institute (p. 9) and Foundation for Young Australians (p. 6) describe the gig economy as one where workers contract to complete a task via a digital platform that facilitates labour transactions between workers and businesses seeking to have tasks completed. Gig economy digital platforms collect a portion of job earnings, control the brand of the platform, the worker (via ratings mechanisms) and the worker-client relationship (for example, non-circumvention clauses). Gig work, therefore, differs from freelance work or traditional independent contracting models since workers are not building or managing their own reputation or 'business' (p. 6).

The appropriateness (p. 23) of classifying gig workers as independent contractors or employees (pp. 10–11) is a contested issue. As such, this *Briefing book* article defines the gig economy as operating where:

- work is divided by businesses into specific tasks with defined outcomes
- the tasks are made available on a digital platform
- workers provide on-demand services via the digital platform and complete the tasks
- the workers are usually classified by the digital platform as independent contractors and therefore do not have workplace entitlements.

Why is the gig economy expanding?

The OECD notes (pp. 18–19) that the rise of the gig economy is powered by digital platforms that facilitate an on-demand-driven monetisation of underutilised human resources by making them accessible for temporary use for remuneration. Examples include (pp. 13; 34):

- Uber and Shebah (private transport)
- Uber Eats, Delivero and Menulog (meal delivery)
- Freelancer, Fiverr, OneFlare, Hipages and Airtasker (task-based services).

In the Australian context (p. 3) the main drivers (pp. 9–

11) of the expanding gig economy include:

- digital platform enabled advances in technology that increase the scope and frequency of transactions, reduce transaction costs, increase accessibility, and enhance trust regarding payment between workers and businesses
- changing economic behaviour and increases in the number of workers seeking supplemental income
- workers seeking more flexible and autonomous work-life environments and businesses seeking more flexible workplace arrangements
- demand by consumers and businesses for the convenience of on-demand services, including improved job matching
- the absence of (adapted/targeted) regulation and lower barriers to entry that allow consumers and providers to switch roles easily and quickly.

How many people participate in the gig economy?

While it is widely acknowledged that the gig economy is rapidly expanding (p. 4) there is currently no 'reliable workforce data' yet available on gig economy workers (para 2.58). As noted in the Senate Select Committee report on job insecurity:

> **On-demand platform work has grown but there is no real way to measure its true extent at this stage.** Some gig workers are illegal, and some are working on the black market—certainly many of the multiple jobs that gig workers hold are not captured by official statistics. (p. 40, emphasis added)

In that regard the Australian Bureau of Statistics confirmed that additional funding provided in the *2020–21 Mid-year economic and fiscal outlook* will be used to invest in new data collection in relation to gig economy workers (para 2.118). While reliable data on the size and number of participants is unavailable, one recent study concluded:

> … **7.1 per cent of the population had offered to work on a digital platform in the past 12 months,** although at the time of the survey only about 0.2 per cent were doing full-time gig work and entirely reliant on that source of income. Gig work was concentrated in transport and food delivery (18.6 per cent), professional services (16.9 per cent) and odd jobs (11.6 per cent). (p. 15, emphasis added))

Benefits and risks to gig economy workers

The rise of the gig economy poses both benefits and risks for workers. Benefits include:

- more flexible or autonomous work-life environments
- lower barriers to entry (p. 47) and improved job matching (pp. 9–10)
- the ability to earn supplemental income, potentially reducing income variability (for example, during periods of unemployment, p. 22)
- increased job satisfaction (pp. 86–87).

Risks include:

- potential misclassification of workers as independent contractors rather than employees with the resulting lack of workplace entitlements and job security
- lower overall incomes and superannuation.

Australian evidence suggests that for most gig economy workers, the risks generally outweigh the benefits (pp. 4; 59–71; 88; 97).

Many of the benefits and risks relate, at least in part, to the characterisation of workers as independent contractors of the digital platform rather than as employees. Therefore, the gig economy poses challenges to existing models of regulating employment and work – not all of which are new.

Employment-related challenges posed by the gig economy

At issue is whether employment laws do, or should, apply to gig economy workers, and whether the workers are (or should be) employees or independent contractors. That distinction impacts on workplace entitlements, superannuation and other protections and is a key factor underlying lower overall incomes, superannuation and job security of gig economy workers.

Difference between employee and independent contractors

Australian law differentiates between ***employees*** and ***independent contractors***. The *Fair Work Act 2009* (Cth) provides that 'employee' (generally) has its ordinary meaning (that is, its common law meaning).

Until recently, the common law used a multi-facet test for determining whether a worker was an ***employee*** or ***independent contractor*** – it considered the substance and reality of the relationship by considering a variety of factors, of which the terms of any written contract were only one (see: *Hollis v Vabu Pty Ltd* (2001); *Australian Air Express Pty Ltd v Langford* (2005); *On Call Interpreters & Translators Agency Pty Ltd v FCT (No 3)* (2011)).

Previous interpretation of the law

Several cases have dealt with whether a gig economy worker is an employee or independent contractor of the digital platform through which they obtain work by applying the multi-facet test, with differing results.

The Fair Work Commission (FWC) found Uber drivers were not employees, as did the Fair Work Ombudsman (FWO). In contrast the FWC and Australian Tax Office (ATO) found workers of digital platform Foodora were employees, not independent contractors (pp. 3; 11) and the FWC concluded the same about Deliveroo drivers.

As such, prior to 2 recent High Court decisions, misclassification of gig economy workers as independent contractors was a genuine risk and the appropriateness (p. 439) of such a classification was a contested and unresolved issue.

Latest interpretation of the law

In early 2022 two High Court decisions overturned the multi-facet test and confirmed the primacy of any written contract when deciding whether a worker is an ***employee*** or ***independent contractor***, with subsequent conduct relevant only to determining the terms of vague contracts. The High Court stated (para 59):

> Where the parties have comprehensively committed the terms of their relationship to a written contract the validity of which is not in dispute, the characterisation of their relationship as one of employment or otherwise proceeds by reference to the rights and obligations of the parties under that contract … the task of the court is to enforce the parties' rights and obligations, not to form a view as to what a fair adjustment of the parties' rights might require.

The High Court also found the multi-facet test approach of identifying the 'substance and reality' of the relationship by reference to the history of the parties' dealings was erroneous, and any disparity in bargaining power has 'no bearing on the meaning and effect' on such written contracts (paras 45 to 48 and 62).

As a result it will be harder for workers, and in particular gig economy workers to challenge their characterisation as independent contractors, even where the relationship has features of employment.

Impact of being an independent contractor

A worker's entitlements and protections vary depending on whether they are an employee or an independent contractor, as set out in the table below.

Independent contractors are, unlike employees, responsible for their own income tax, GST, insurance, and superannuation. Generally where a gig economy worker is an independent contractor the impact is a lack of access to the above entitlements (pp. 4; 69), poor job security, lower overall income and superannuation.

Given the recent changes to how the common law determines if a worker is an employee or independent contractor, there is a risk that the proportion of gig economy workers without access to workplace entitlements may increase. Increasing numbers of gig economy workers having no or low superannuation balance will result in lower retirement income levels (p. 17) and will, in the long-term, put pressure on Australia's social security system and, as a result, the Australian budget.

Table 1 – Workplace entitlements and protections of employees and independent contractors

Entitlement/protection	Employee[1]	Independent contractor
Minimum wage	✓	X
Paid leave	✓	X
Minimum/maximum hours	✓	X
Superannuation	✓	X[1]
Unfair dismissal protection	✓	X
Workers compensation	✓	X – only where deeming provisions in state legislation applies
Collective bargaining	✓	X – only if authorised by the Australian Competition and Consumer Commission
Covered by work health and safety laws	✓	Usually (p. 451) but not always (pp. 69–77; 141).

Source: As compiled by the Parliamentary Library.

Possible gig economy employment law reforms

Under section 51(xx) of the *Constitution* (the **corporations power**) the Commonwealth can regulate any relationship that corporations (including those that operate gig economy digital platforms) have with third parties (pp. 8; 16–17; 20), including employees, other corporations, trade unions or independent contractors.

Many of the issues raised by the gig economy, including the nature of the relationships, are not new (p. 105). While digital platforms have altered the way (and ease) in which gig economy workers are engaged to complete tasks, relevant legislation has not been amended to clarify how gig economy workers are to be classified. Importantly though, they are issues that the Commonwealth can regulate and hence the rapid expansion of the gig economy presents an opportunity to provide greater certainty to participating parties.

The 'do nothing' option is to make no changes, and let the courts apply existing laws to disputes regarding gig economy workers. This retains the advantages for businesses in terms of increased flexibility including:

- responding quickly (p. 59) to changes in demand, funding or business requirements, their need for different expertise or skills, and changing relationships
- the ability to rapidly deliver new products and services
- reduced recruitment (p. 16), staffing costs and under-utilisation of worker resources.

However, this option may result in the risks to workers impacting on greater numbers of individuals, albeit with the potential accompanying benefits to workers. Alternatively, the Parliament could consider reforms to reduce the risks posed to gig economy workers while preserving some of the benefits to businesses, such as:

- introducing a new category of worker-business relationship, the 'dependent contractor', and extending certain entitlements to it to ensure job security while preserving business flexibility
- expanding the definition of employment and employee to cover new and evolving forms of work
- 'deeming' certain categories of worker-business relationships as employment
- extending some or all employment entitlements to independent contractors (p. 17)
- extending the Superannuation Guarantee to cover all workers and 'dependent contractors' or, alternatively, requiring gig economy digital platforms to charge purchasers of services a fee equal to the superannuation guarantee charge and then remit that amount to a superannuation account nominated by the worker, or a default fund.

The ALP's National Platform for the 2019 and 2022 election included policy commitments to:

- ensure 'appropriate coverage and protection for all forms of work' and that gig economy platforms 'are not used to circumvent industrial standards, or to undermine workers' rights to collectively organise and access their union' (p. 26)

- regulate the gig economy and allow the FWC to 'turn insecure jobs into more secure ones' (p. 7)
- ensure gig economy workers are 'paid properly' by 'changing the legal test for sham contracting' (p. 2).

The Coalition 2022 election policy platform did not deal directly with the issues posed by the gig economy discussed in this article.

The Morrison Government noted in its *Digital strategy* that it would 'consider issues relating to emerging digital industries, like the gig economy' with a view to ensuring 'that the regulatory framework for these industries remain fit-for-purpose and allow digital industries to maximise their productivity and utility to Australians' (p. 37).

The Australian Greens policy platform for the 2022 election included commitments to provide the FWC the power to extend minimum wages, entitlements and conditions to contractors by requiring 'the FWC to give effect to the principle that workers are entitled to the same minimum wages and conditions whether or not they are classified as employees' (p. 3).

Further reading

Productivity Commission (PC), *Digital Disruption: What Do Governments Need to Do?*, (Canberra: PC, 2016).

Organisation for Economic Co-operation and Development (OECD), *The Impact of the Growth of the Sharing and Gig Economy on VAT/GST Policy and Administration*, (Paris: OECD, 2021).

Senate Select Committee on Job Security, *First Interim Report: On-demand Platform Work in Australia*, (Canberra: The Committee, 2021).

Senate Education and Employment References Committee, *Corporate Avoidance of the Fair Work Act 2009*, (2017), Chapter 8.

AUSTRALIA'S PRODUCTIVITY SLOWDOWN

Rodney Bogaards, Economic Policy

Key issue

Productivity growth is a key contributor to increases in economic welfare. In Australia productivity growth has been low for decades.

A key reason for the productivity slowdown is a decline in business dynamism (as evidenced by a decline in firm entry and exit rates), which has slowed the rate of innovation and technology adoption by firms and slowed the reallocation of resources to the most productive firms.

Government policies to address barriers to business dynamism and increase competitive pressures to incentivise firms to innovate and improve performance could improve Australia's productivity growth.

Productivity growth is crucial to improved living standards

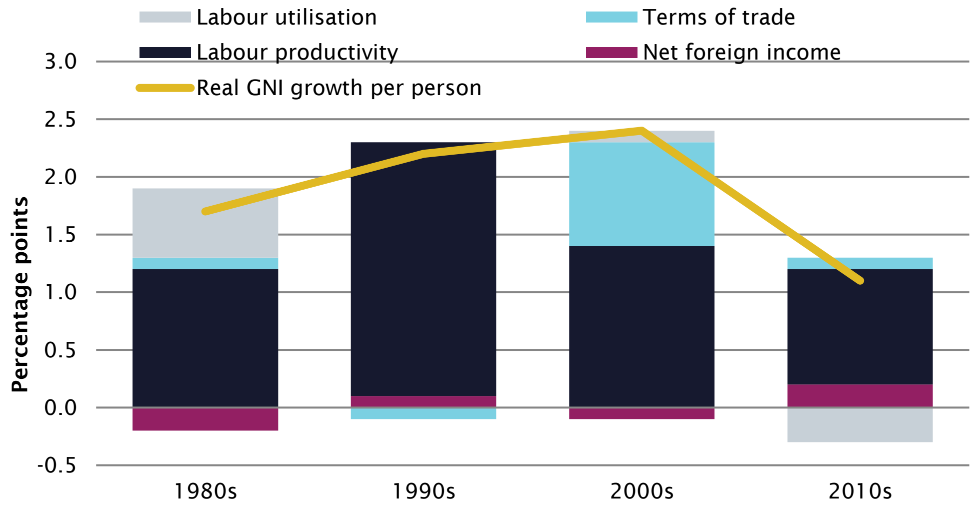
According to Treasury's *2021 Intergenerational report* (IGR), labour productivity (LP) has contributed more than 80% of the growth in Australia's living standards, measured by real gross national income (GNI) per person, over the last 30 years (see Figure 1).

The IGR outlines that GNI measures how much Australia earns, rather than what output is produced in the economy. It measures total income received in Australia from residents and businesses located in Australia and abroad. Real GNI per person is often used as a measure of a country's standard of living because it captures a country's average real income per person from the economic activity of its residents and businesses regardless of where they are located.

For economic living standards to improve there must be sustained LP growth. LP is defined as the ratio of output to labour input. For example, the amount of output produced for an hour of work. An increase in LP means that more output is being produced per hour of work.

As shown in Figure 1, LP has been the most crucial factor, but not the only factor, in improving living standards in past decades. For example, during the 2000s when LP growth fell, growth in real GNI per

Figure 1 – Contributions to real GNI per person growth (measured in percentage points)

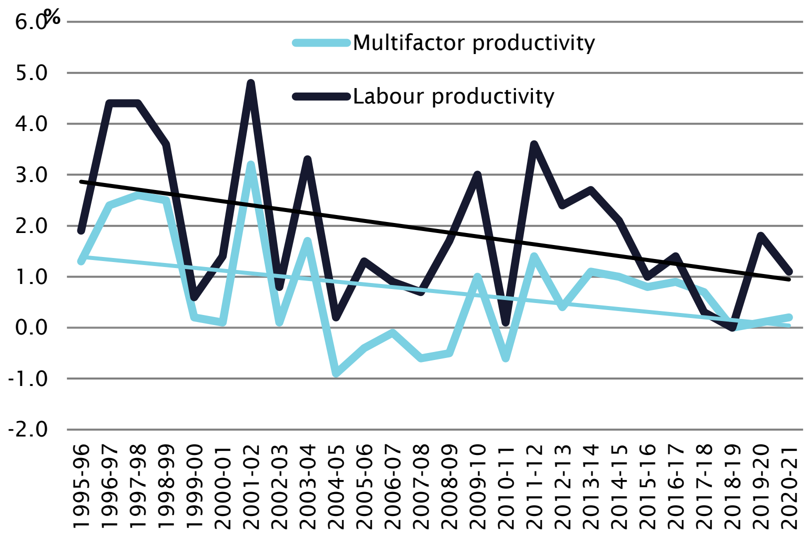


Source: Treasury, *2021 Intergenerational Report*, (Canberra: Treasury, June 2021), 46.

person was maintained because of a significant 'terms of trade boom'. This made up for the decline in LP growth during that period.

The terms of trade have a direct impact on real incomes. The terms of trade measure export prices relative to import prices. During the 2000s, Australia experienced a terms of trade boom because export prices for commodities (such as iron ore, coal and natural gas) were high relative to import prices. The boom was driven by demand for Australia's commodities from China. The higher terms of trade meant that Australians could buy more imports for a given quantity of exports – thereby improving their real incomes. However, it is unlikely that Australia can rely on the terms of trade to sustain strong living standard improvement in the coming decades because of its highly cyclical nature.

Figure 2 – Market sector, productivity growth – hours worked basis (annual percentage change)



Source: Australian Bureau of Statistics (ABS), *Estimates of Industry Multifactor Productivity, 2020–21*, (Canberra: ABS, December 2021).

LP growth is not straightforward, and is calculated as the sum of multifactor productivity (MFP) and capital deepening:

- MFP is the ratio of output to a combined input of labour and capital. It captures improvements in the quality of inputs and/or how they are combined, and is often treated as an indicator of technological change.
- Capital deepening refers to changes in the capital to labour ratio. For example, using technology to automate production, and saving on labour, will result in increased capital deepening.

The box below discusses these concepts in more detail.

Figure 2 shows the annual movement of market sector

Measuring productivity

Labour productivity (LP) measures the output produced per unit of labour input (usually hours worked).

LP growth captures improvements in the efficiency of labour, due to capital-deepening (growth in the ratio of capital to labour) and improvements in the efficiency with which capital and labour are combined, referred to as multifactor productivity (MFP).

MFP measures the output produced per unit of combined inputs of labour and capital.

MFP growth reflects changes in output occurring for reasons other than increases in the quantity of capital and labour. In essence, it captures improvements in the quality of inputs and/or how they are combined, and is often treated as an indicator of technological change.

An improvement in labour quality might include a more educated or skilled worker. An improvement in capital quality might include a new machine that has doubled its throughput.

LP and MFP since 1995–96. Labour productivity grew 1.1% and MFP rose 0.2% in 2020–21.

Ideally, productivity measures should cover all economic activities. However, this is only possible if all the necessary data is available. The market sector comprises 16 of the 19 industries under the Australian and New Zealand Industrial Classification. Until 2009–10, the market sector consisted of 12 industries. The wider coverage of the current market sector definition improves its relevance because it reflects the growing contribution of service industries in the economy.

The market sector excludes Public Administration and Safety, Education and Training, and Health Care and Social Assistance because these are service industries in which most of the output is provided free of charge or at non-market prices. Output measures for these service industries are typically derived using input costs and therefore there is no productivity growth. Together these non-market industries account for 17.8% of GDP. Ownership of dwellings is also excluded from the market sector because no employment is associated with it (accounting for 8.5% of GDP). This means more than a quarter of economic output is excluded from the productivity equation.

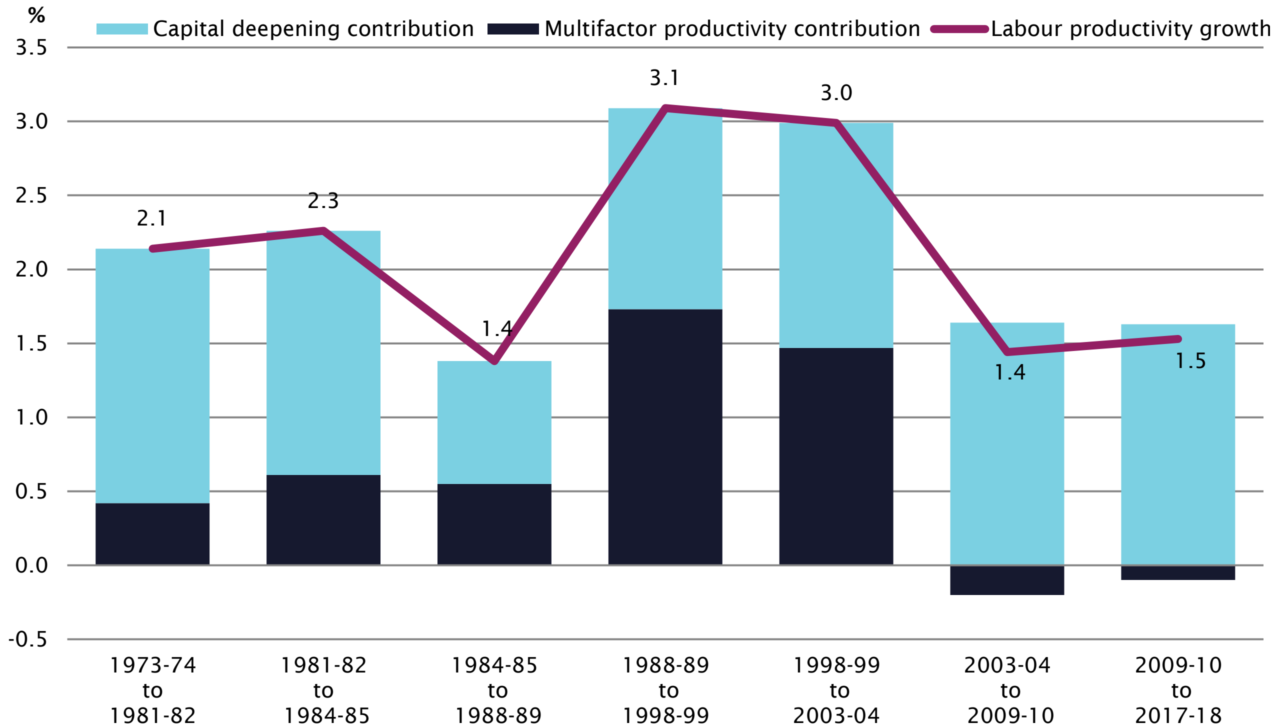
Productivity growth in Australia has slowed in recent decades

Changes in productivity growth are best observed over longer productivity growth cycles rather than through annual movements. This is because productivity cycles minimise the effects of cyclical factors that can cause large year-to-year productivity changes. For example, in downturns, firms tend to retain labour because they do not want to dismiss workers who have valuable skills that they will need in the future. This means labour (and capital) may only be partially utilised, reducing annual productivity.

Using productivity cycles, Figure 3 shows Australia's aggregate LP growth (real output per hour) has dropped to around 1.4% to 1.5% over the last 20 years after achieving around 3.0% from the late 1980s through to the early 2000s.

The superior productivity performance from the late

Figure 3 – Decomposition of labour productivity by productivity cycle (average growth per cycle)



Source: ABS, *Estimates of Industry Multifactor Productivity, 2020–21*, (Canberra: ABS, December 2021).

1980s through to the early 2000s has been widely attributed to the micro-economic and macro-economic reforms implemented by successive governments, including the National Competition Policy (NCP), which created more competitive and flexible markets by:

- reforming regulations that unjustifiably restricted competition
- reforming the structure of public monopolies
- providing third-party access to nationally significant infrastructure
- restraining monopoly pricing behaviour
- fostering competitive neutrality between government and private businesses
- limiting anti-competitive conduct of firms.

These NCP reforms encouraged businesses to become more efficient and innovative, encouraging them to adopt new and improved technologies, particularly in information and communications technology. Other micro-economic and macro-economic reforms that occurred during the 1980s and 1990s are discussed in 'Australia's productivity challenge' from the *Briefing book* for the 46th Parliament, and are also discussed in the Treasury Working Paper, *Australia's experience with economic reform*.

By far the largest contributor to the decline in LP growth has been the decline in MFP growth. In the 2 most recent complete productivity cycles (2003–04 to 2009–10 and 2009–10 to 2017–18) MFP growth has been negative. This means the efficiency with which labour and capital inputs are being used together in producing output has been going backwards.

According to the IGR, a slowdown in productivity growth is not unique to Australia. Other developed economies (such as the US, Canada, the UK and New Zealand) are facing similar situations, with Australia's productivity slowdown largely consistent with that experienced in most other developed economies.

What are the key factors behind the recent slowdown?

According to the IGR, the productivity slowdown in Australia may reflect a 'mix of factors', including:

- declining business dynamism, reflected in a decline in firm entry and exit rates, which has caused a slowing in firms' rate of innovation and adoption of modern technologies, and a slowing of resource allocation from less productive to more productive firms. This lack of 'creative destruction' is consistent with a recent Bank for International Settlements (BIS) study that suggested the share of 'zombie' firms in Australia has been increasing. Zombie firms are defined by the BIS as firms that are unprofitable but remain in the market, in recent times with government support, rather than exiting through takeover or bankruptcy. The International Monetary Fund (IMF) also suggests a decline in business dynamism has been brought about by reduced competition, as evidenced by increased market concentration and increased markups (of price over marginal cost) in Australia
- structural changes in the economy as more activity shifts to the services sector, particularly in sectors that cater to an older population that tends to be less capital intensive, has slower productivity growth, or cannot be measured using traditional productivity metrics
- difficulties in capturing recent technological advances, such as artificial intelligence and digital platforms, in measured productivity and a potential lag between these types of technological progress and productivity growth that means productivity gains are taking longer to be realized
- 'slower growth in educational attainment and labour quality' (p. 50), as a substantial portion of the workforce is already highly educated.

The IGR also indicated that it was unclear whether the lasting effects of the COVID-19 pandemic on productivity growth will be positive or negative. On the one hand, a shift towards working-from-home and online business models could lead to enhanced innovation and productivity outcomes in some industries. On the other hand, the COVID-19 pandemic could also worsen pre-existing challenges for productivity growth (for example, declining economic dynamism, through growing market concentration, reduced levels of firm entry and exit, and less job switching).

The productivity outlook

The IGR baseline projections assume that underlying productivity growth converges, over the next 10 years, to 1.5% per year – consistent with the average annual growth rate in labour productivity over the past 30 years to 2018–19. On the other hand, independent consulting firm, Oxford Economics, projects the average LP growth rate in Australia will be around 0.8% per annum between 2021 and 2030 (median 0.8%).

In recognition of the uncertainties of the effects of COVID-19 on productivity growth, the IGR considered an alternative scenario of 1.2% per year for productivity growth. That is, under this scenario, growth in underlying productivity is assumed to converge to 1.2% by 2024–25 and remain at that rate of growth for the remaining period. This results in the projected level of real and nominal GDP to be around 9.5% lower by the end of the IGR projection period (that is, 2060–61), due to lower average annual real GDP growth (see Figure 4).

Productivity growth of 1.2% per year is projected to reduce relative living standards. GNI per person under the lower growth scenario is projected to be $32,000 lower by the end of the projection period, compared with the baseline.

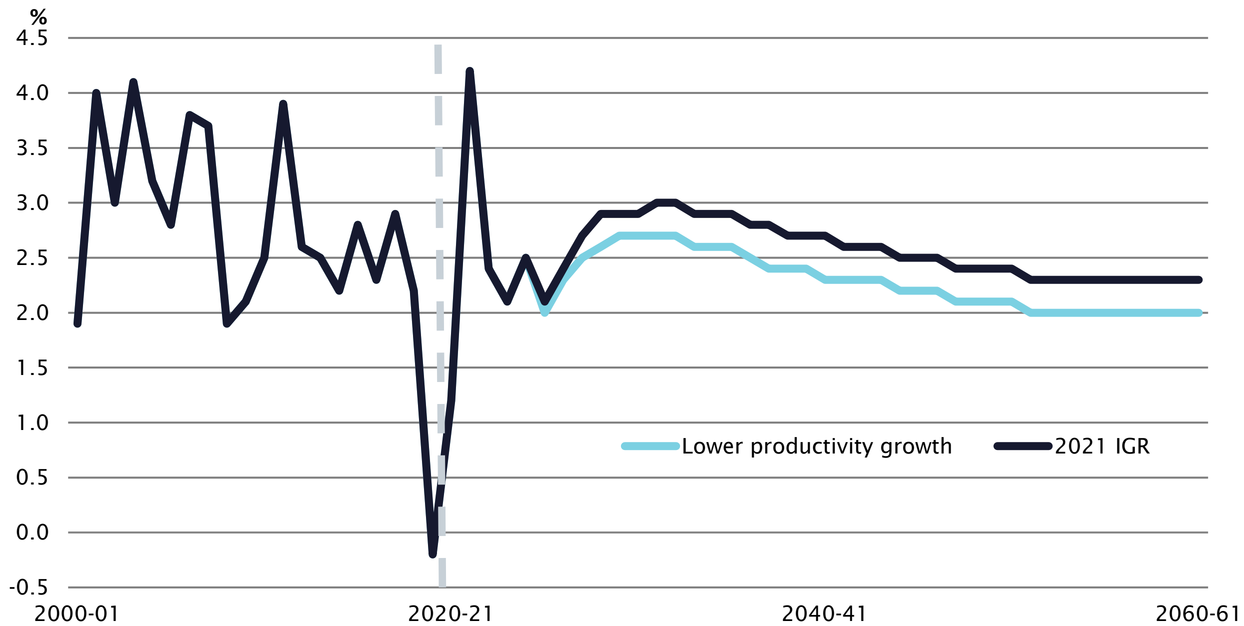
Compared with recent experience, a 1.5% trend productivity growth rate is less likely than the lower 1.2%-per-year scenario, at least without additional policy drivers aimed at improving productivity.

What can governments do to boost productivity growth and raise living standards?

Continuing low productivity growth is clearly possible but this would come at a cost to the Australian community. As the Parliamentary Budget Officer stated in a Parliamentary Library seminar on fiscal sustainability:

> Recent reforms to return to higher productivity growth have been patchy … A sustained decline in productivity growth would represent a failure on many levels. It would also mean a long-lasting stagnation in the living standards of all Australians. It would also be significant on a narrower, budgetary

Figure 4 – Impact of lower productivity growth on real GDP growth (annual percentage change)



Source: Treasury, *2021 Intergenerational Report*, (Canberra: Treasury, June 2021), 53.

> level [lower productivity growth would result in lower GDP growth, and therefore a higher debt-to-GDP ratio for longer].

Governments can play a vital role in boosting productivity growth by establishing policy and regulatory settings that facilitate efficient business investment, enhance product market competition, and improve the health and capability of the workforce.

The IMF has recently suggested a strong structural reform push is essential for reigniting Australia's productivity growth. It proposed that the Australian Government should implement the following suite of policies:

- promote productivity-enhancing investments in research and development and information and communication technologies
- enhance competition through further product market deregulation
- alleviate financing constraints on small and medium enterprises
- promote venture capital
- expand the recognition of occupational licenses across more occupations and across all states and territories
- improve teacher training and student outcomes through reforms in the education sector
- increase training and job search assistance to help the long-term unemployed transition to new jobs.

A recent Treasury working paper has argued that policies to address barriers to business dynamism and competitive pressures can improve Australia's productivity performance. In addition, policies that facilitate more widespread adoption of emerging digital technologies can also help boost productivity performance.

As one of the authors of the Treasury working paper commented to the *Australian* newspaper:

> … we need to update competition policy for the digital age, reduce entry barriers for new businesses, stop supporting 'zombie' and lagging firms with taxpayers' funds, and remove mobility-sapping distortions related to occupational licensing and housing taxation.

Martin Parkinson, the former secretary of the Department of the Prime Minister and Cabinet, and Treasury, agrees that the most important structural reforms that Australia can undertake are those that encourage innovation and entrepreneurship:

> Part of the problem is that reform has been reduced to changing the tax system and industrial relations," he says. "The real reform areas are around fostering innovation and entrepreneurship and finding ways to grow world-competitive businesses."
>
> "We also need to think about how we digitise the economy, give people incentives to invest and take sensible risks, how to rid ourselves of unnecessary regulatory burdens, some of which have arisen due to the heightened focus on national security, but all of which can throw grit into the mill and undermine our economic prospects.

However, Mr Parkinson goes on to say that undertaking structural reform may be easier said than done if government and alternative parties do not support the need for reform.

The 47th Parliament will benefit from a source of ideas for potential policy improvements delivered by the Productivity Commission. In February 2022, the Morrison Government tasked the Productivity Commission with undertaking its second 5-yearly review of Australia's productivity performance.

The Productivity Commission's first 5-yearly review *Shifting the dial* was published in August 2017 and put forward several recommendations for how governments can positively influence productivity, including:

- making Australia's health system more oriented to achieving outcomes, rather than paying for services
- creating a good-quality and adaptive education and training system and ensuring a well-functioning labour market
- improving the functioning of towns and cities by improvements to public infrastructure, road funding and investment, planning and land use policies and access to housing
- improving the efficiency of markets by improving competition and reducing unnecessary regulatory burden

- making governments work more effectively through better intergovernmental relations and management of public finances and developing stronger policy development and delivery capabilities.

The terms of reference for the 2022 Productivity Commission review state:

> The Commission is to review Australia's productivity performance and recommend an actionable roadmap to assist governments to make productivity-enhancing reforms. Each recommendation should qualitatively and quantitatively estimate the benefit of making the reform and identify an owner for the action and a timeframe in which it might occur.

Alan Kohler recently conjectured in the *New Daily* newspaper, the '[new] Productivity Commission blueprint might focus the collective political mind and provide some cover for tough decisions'.

Further reading

Treasury, *2021 Intergenerational Report: Australia Over the Next 40 years*, (Canberra: Treasury, June 2021).

International Monetary Fund (IMF), *Australia: Selected Issues*, IMF Country Report no. 21/256, (Washington, DC: IMF, December 2021).

Dan Andrews et al., *Reaching for the Stars: Australian Firms and the Global Productivity Frontier*, Treasury working paper, (Canberra: Treasury, January 2022).

'PC productivity insights', Productivity Commission.

AUSTRALIA'S COST OF LIVING

Peter McDonald, Statistics and Mapping

Key issue

In the 12 months to March 2022, the Consumer Price Index (CPI) increased by 5.1%, the highest annual rise reported since the introduction of the GST in 2000.

The cost of living can be analysed through various indexes produced by the Australian Bureau of Statistics (ABS).

Recent increases in the cost of living indexes were primarily driven by price increases in transport and housing.

Cost of living measures

Price rises in the cost of essential goods such as housing, utilities, petrol, and groceries often raise concerns around the cost of living in Australia. To assess whether living costs have increased over a period, a broad range of household costs need to be considered, as well as the proportion of household expenditure allocated to different expenditure items. The ABS publishes several measures that can assist in understanding changes in the cost of living.

The Consumer Price Index (CPI)

The CPI measures changes in the price of a basket of goods and services over time, designed to be representative of average household expenditure. It is calculated using price changes within each capital city only and cannot be used to compare differences between regions. The CPI does not include the cost of buying established dwellings, but includes rents, the cost of new dwellings (excluding value of land) and major alterations and additions to dwellings. Mortgage repayments are not included in the CPI. The CPI is often referred to as the measure of inflation, or headline inflation.

During the most recent 2-year period (March 2020 to March 2022) the CPI rose 1.1% in the first 12 months, but 5.1% in the second. This rise of 5.1% was the highest annual rise reported since the introduction of the GST in 2000.

Table 1 – Long-term and short-term changes in measures of inflation, June 2002 to March 2022

Index	Annual change in index (%)			
	Long-term	Pandemic year 1	Pandemic year 2	Total: 2 years of pandemic
	June 2002 to March 2020 (a)	March 2020 to March 2021	March 2021 to March 2022	March 2020 to March 2022
All groups CPI	2.4	1.1	5.1	8.3
Trimmed mean	2.5	1.1	3.7	4.9
Weighted median	2.6	1.2	3.2	4.4

(a) Trimmed mean and weighted median have only been reported since June 2002.

Source: Australian Bureau of Statistics (ABS), *Consumer Price Index (CPI)*, Australia, March 2022 (Canberra: ABS, 2022).

Underlying inflation

The ABS produces 2 key measures of underlying inflation – the 'trimmed mean' and the 'weighted median'. These measures are designed to reduce the impact of irregular price changes by removing changes in the most volatile categories such as fuel. Over the long-term, the 'all groups CPI' trend will be similar to both the 'trimmed mean' and 'weighted median'.

In the most recent year (March 2021 to March 2022) the 'trimmed mean' rose by 3.7% and the 'weighted median' by 3.2%, as opposed to the 'all groups CPI' of 5.1%.

Selected Living Cost Indexes (SLCI)

The ABS calculates cost of living indexes for 4 distinct household types, defined by their principal source of income. Each household type LCI is determined with reference to their individual spending pattern and they are only available at an Australia-wide level. The principal difference between CPI and LCIs is that LCIs include mortgage interest charges but do not include new house purchases, while the CPI includes the cost of new house purchases but does not include mortgage interest charges.

Consumer Price Index over time

While it fluctuated over the 20 years preceding the pandemic (March 2000 to March 2020) the annual CPI rose at an average annual rate of 2.6%. During the 2-year pandemic period (taken to be March 2020 to March 2022) the CPI rose 1.1% in the first 12 months, but 5.1% in the second.

This annual increase was the largest since the introduction of the GST, which led to an annual increase of around 6% for the 4 consecutive quarters from September 2000. Prior to this, CPI had stayed above 5% for 17 years from September 1972 through to September 1989, except for a brief period when the introduction of Medicare (in 1984) significantly decreased the price of health care for the consumer.

High commodity prices and growing domestic demand in the latter stages of the global resources boom saw annual inflation rise to a peak of 5.0% in September 2008. Inflation then decreased dramatically following the onset of the global financial crisis, with quarterly deflation of -0.3% in December 2008. By September 2009, annual inflation had reached a low of 1.2%.

A decrease in CPI occurred in the June 2020 quarter when it fell by 0.3%, 3 months into the pandemic period, principally due to the Australian Government subsidy of child care costs.

Table 2 – Long-term and short-term changes in CPI indexes, by group, March 2000 to March 2022

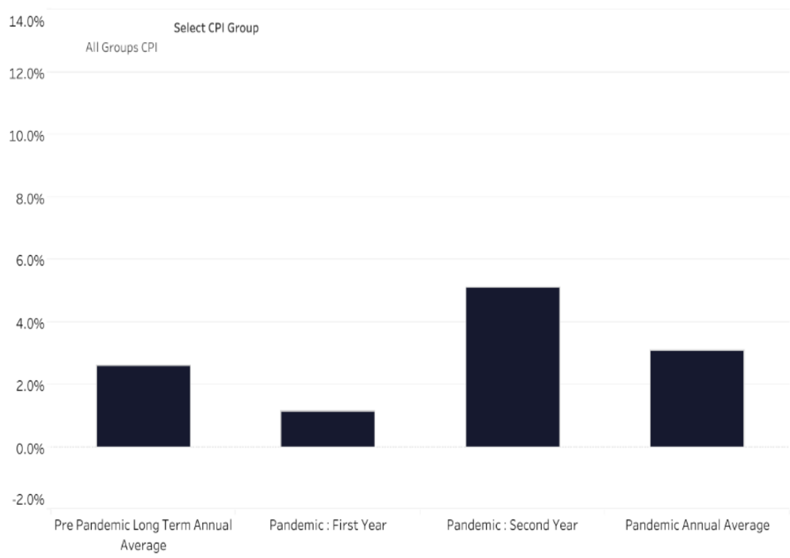
CPI group	Annual change in index (%)			
	Long-term March 2000 to March 2020	Pandemic year 1 March 2020 to March 2021	Pandemic year 2 March 2021 to March 2022	Total 2 years of pandemic March 2020 to March 2022
Food and non-alcoholic beverages	2.8	0.7	4.3	5.1
Alcohol and tobacco	5.4	7.9	1.8	9.9
Clothing and footwear	-0.1	0.0	-1.5	-1.5
Housing	3.7	-1.1	6.7	5.5
Furnishings, household equipment and services	0.9	2.7	4.9	7.7
Health	4.6	3.0	3.5	6.6
Transport	1.8	0.4	13.7	14.1
Communication	-0.4	-1.9	-0.8	-2.7
Recreation and culture	0.9	1.5	3.0	4.5
Education	4.8	-0.1	4.7	4.6
Insurance and financial services (a)	na	0.6	2.7	3.3
All groups CPI	2.6	1.1	5.1	6.3

(a) 'Insurance and financial services' as a separate group was only introduced to the CPI in June 2005.

Source: ABS, *CPI*, Australia, March 2022 (Canberra: ABS, 2022).

As the CPI measures the cost to the consumer, government subsidies can have an impact on prices paid. During the pandemic, the Australian Government made child care services free for families from 6 April to 12 July 2020. Consequently, the price of child care for families dropped 95% in the June 2020 quarter, but rose 1,380% in the September 2020 quarter and then 38% in the December quarter 2020 when it returned to the longer-term trend. As child care accounted for 1.2% of household expenditure at the time, the impact on total CPI was to record a 0.3% decrease for the year to June 2020.

Figure 1 – Long-term and short-term changes in CPI indexes, by group, March 2000 to March 2022



Source: ABS, *CPI*, Australia, March 2022 (Canberra: ABS, 2022).
Interactive version.

Consumer Price Index by group

At the group level, the biggest increases in the last 12 months were for Transport (13.7%) and Housing (6.7%). The increase in Transport costs was a significant departure from the pre-pandemic long-term trend of an average annual increase of only 1.8%.

Two groups for which costs decreased in the same period were Clothing and Footwear down 1.5%, and Communication down 0.8%.

Consumer Price Index by expenditure class

CPI groups are sub-divided into 87 expenditure classes. Expenditure classes are the lowest level groupings of similar goods or services for which price indexes are reported.

In terms of the recent annual rise in their price to the consumer, the top 5 expenditure classes were: Automotive Fuel; New Dwelling Purchase by Owner-Occupiers; Vegetables; Beef and Veal; and Other Non-durable Household Products (includes items such as light globes, toilet paper, tissues, garbage bags, batteries).

Table 3 – Top 5 expenditure classes: increase in CPI, March 2000 to March 2022

CPI expenditure class	Annual change in index (%) Long-term March 2000 to March 2020	Pandemic year 1 March 2020 to March 2021	Pandemic year 2 March 2021 to March 2022	Total 2 years of pandemic March 2020 to March 2022
Automotive fuel	3.0	-3.6	35.1	30.3
New dwelling purchase by owner-occupiers	3.4	1.2	13.7	15.0
Vegetables	3.7	-6.6	12.7	5.3
Beef and veal	3.8	8.4	12.1	21.5
Other non-durable household products	1.4	-1.0	11.8	10.7

Source: ABS, *CPI*, Australia, March 2022 (Canberra: ABS, 2022).

Automotive Fuel

The price of Automotive Fuel fluctuates considerably (Figure 2) and in the last 5 years has ranged between dropping by 19% over a quarter (June 2020) to rising 11% (March 2022). Heavily dependent on global oil prices, the recent March 2022 quarter rise was attributed to an oil price shock caused by the Russian invasion of Ukraine in February 2022, paired with an ongoing easing of COVID-19 restrictions, which strengthened global demand.

All CPI indexes are based on final cost to the consumer. From 30 March 2022 until 28 September 2022, the fuel excise rate will be reduced by 22.1 cents per litre. This would represent a 12% reduction in the cost of petrol across the 2 quarters (June and September 2022).

New Dwelling Purchase by Owner-Occupiers

In the March 2022 quarter, continuing strong demand for housing construction enabled builders to pass through increases in costs for both materials and labour. Fewer grant payments this quarter from the Australian Government's HomeBuilder program and similar state-based housing construction programs also contributed to the rise in prices for the consumer.

Vegetables

Vegetable prices rose due to COVID-19 related supply chain disruptions and the high costs of transport and fertiliser. Flooding in production areas of NSW and Queensland also disrupted supply in early March, placing additional pressure on vegetable prices late in the quarter.

Beef and Veal

Meat and seafood prices have risen due to herd rebuilding in response to favourable weather conditions, reducing supply. Supply chain disruptions and high transport costs also contributed to the rise.

Other Non-durable Household Products

Grocery item prices have increased as supermarkets passed through supplier cost increases and reduced discounting activity in response to supply disruptions. According to the Reserve Bank of Australia, retailers have become more willing to accept price increases from their suppliers due to the broad-based cost increases their suppliers have faced, including for inputs, shipping, and packaging.

Other expenditure classes of interest

Electricity and gas

Prior to the pandemic the long-term trend in both household electricity and gas prices was similar at 6.0% and 5.9% per year, respectively. During the pandemic, electricity prices fell 11.2% in the first year and grew 3.5% in the second. Gas prices fell 1.4% in the first year, but rose in the second year by 7.4%.

In the December 2020 quarter, the Western Australian Government introduced a $600 household electricity credit, resulting in a fall in electricity prices in Perth of 66.7%. In the March 2021 quarter, prices for utilities fell owing to declines in regulated electricity prices plus the introduction of state government rebates.

In the March 2022 quarter, Gas and Other Household Fuels prices increased by 4.4%, driven by a 10.9% rise in Melbourne largely due to annual price reviews that factored in rising wholesale and network costs.

Rents

In the June 2020 quarter rents declined for the first time in 45 years. The supply of properties available for long-term rental had increased since the outbreak of COVID-19 and the introduction of travel restrictions encouraged some landlords who were previously supplying short-term holiday accommodation to put their properties on the longer-term rental market. Around 5% of residential tenants successfully negotiated rent reductions in the quarter. In the March 2022 quarter, rents increased by 0.6%, which was the highest quarterly increase since September 2014.

Coffee and tea

While not a significant proportion of household expenditure, the price of Coffee, Tea and Cocoa rose 8.2% in the last year in contrast to the long-term trend of only 0.8% per year.

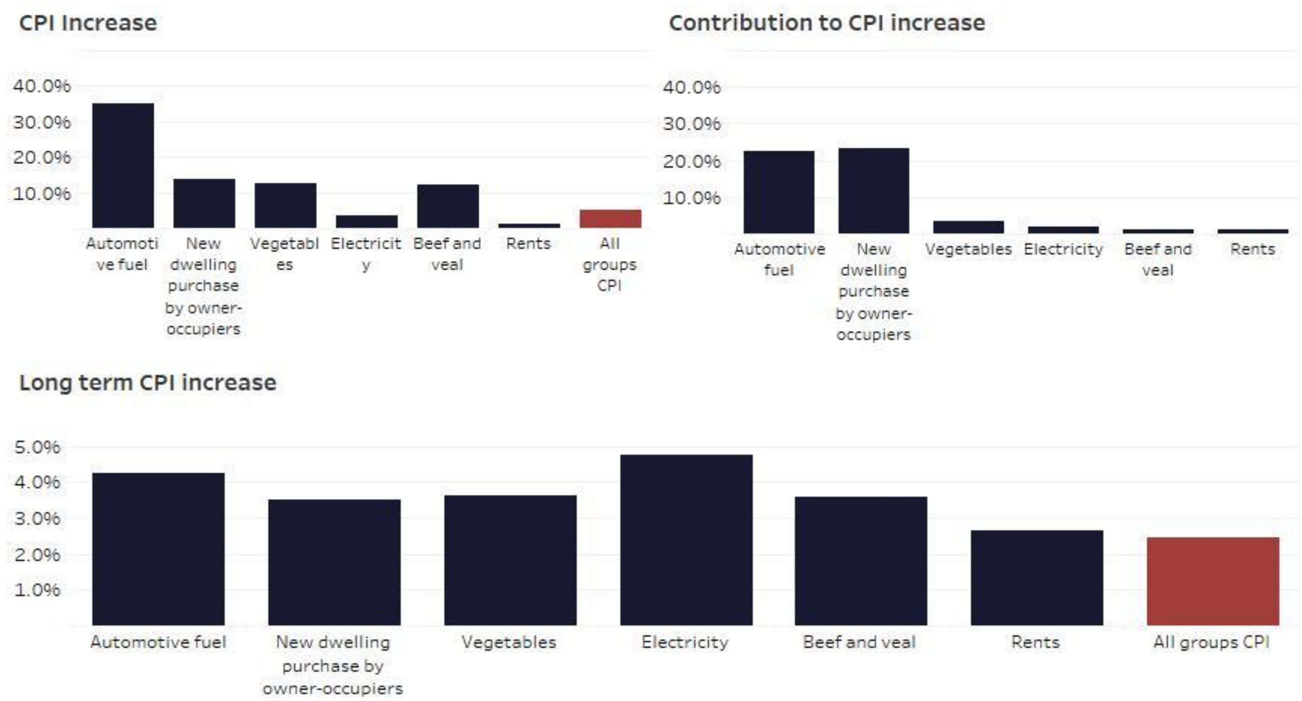
The impact of cost-of-living increases on individual consumers will depend on their individual spending habits, for example takeaway coffee rising from $4 to $7.

Table 4 – Selected expenditure classes: increases in CPI indexes, March 2021 to March 2022

CPI expenditure class	Long-term March 2000 to March 2020	Annual change in index (%) Pandemic year 1 March 2020 to March 2021	Pandemic year 2 March 2021 to March 2022	Total 2 years of pandemic March 2020 to March 2022
Rent	3.0	-1.4	1.0	-0.4
Electricity	6.0	-11.2	3.5	-8.1
Gas and other household fuels	5.9	-1.4	7.4	5.9
Coffee, tea and cocoa	0.8	-0.9	8.2	7.2
Motor vehicles	-0.9	5.7	6.6	12.6
Tobacco	9.7	16.8	3.0	20.3

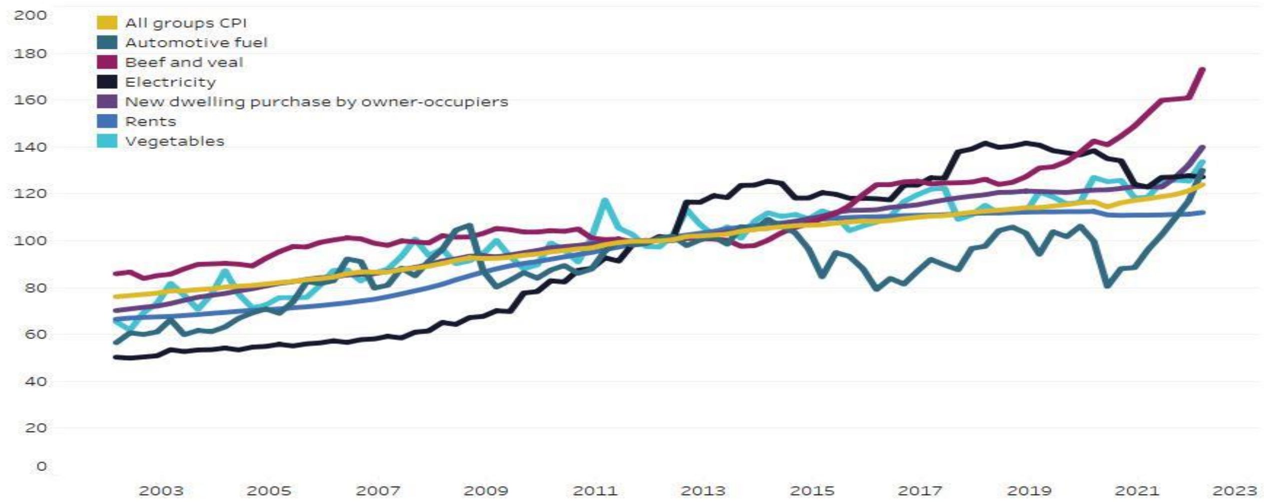
Source: ABS, *CPI*, Australia, March 2022 (Canberra: ABS, 2022).

Figure 3 – Index increase and contribution to CPI, selected expenditure classes



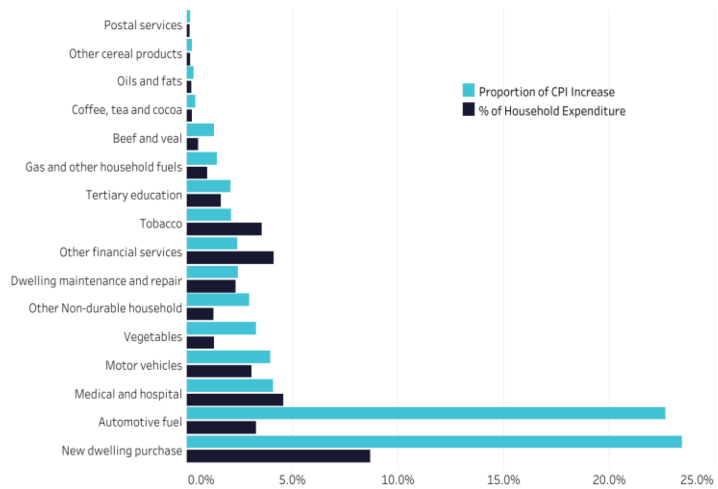
Source: ABS, *CPI*, Australia, March 2022 (Canberra: ABS, 2022). Interactive version.

Figure 4 – Index value by quarter, March 2002 to March 2022, selected expenditure classes



Source: ABS, *CPI*, Australia, March 2022 (Canberra: ABS, 2022). Interactive version.

Figure 5 – Top expenditure classes contributing to CPI Increase, March 2021 to March 2022



Source: ABS, *CPI*, Australia, March 2022 (Canberra: ABS, 2022). Interactive version.

Weighting and averaging of household expenditure

Households do not spend equal amounts on each expenditure class, so the CPI applies weightings to price rises according to the proportion of total household expenditure each class represents.

For example, Transport costs rose 13.7%, but represent 10.6% of average household expenditure, so accounted for a 1.6% rise in total household costs.

In contrast Coffee, Tea and Cocoa rose 8.2%, but as it only represents 0.2% of household expenditure, accounted for only a 0.4% rise in total costs.

The CPI can only measure average household expenditure across all households and cannot account for varying expenditure on different expenditure classes. For example, if the price of new motor vehicles increases, there is no impact on a household that did not purchase a new vehicle in the period; however, the CPI can only measure the impact as if the price increase for new vehicles were averaged across all households.

Selected Cost of Living Cost Indexes

The ABS Selected Living Costs Indexes (SLCI) are useful in understanding levels of inflation within selected household types, defined by their main source

Household type/SLCI	Principal source of income
Employee households	Wages and salaries
Age pensioner households	Age pension or veterans' affairs pension
Other government transfer recipient households	Government pension or benefit other than the age pension or veterans' affairs pension
Self-funded retiree households	Superannuation or property income
Pensioner and Beneficiary Living Cost Index	Age pension or veterans' affairs and other pension government pension or benefit combined

of income.

Australian Government payments such as the Age Pension, Service Pension and the Disability Support Pension are regularly indexed by the greater of the movement in the CPI or the movement in the Pensioner and Beneficiary Living Cost Index (PBLCI).

SLCIs include interest charges but do not include new house purchases, while the CPI includes cost of new house purchases but does not include interest charges.

The most notable variations in household spending patterns are:

- Age Pension households spend a greater proportion on Health compared to the average Australian household (12.2% versus 6.5%), but less on Education (0.2% versus 4.6%).
- Employee households spend a greater proportion on Insurance and Financial Services (9.5% versus 5.8%) as this includes home mortgage and credit interest payments.
- Employee households spend a lesser proportion on Housing (15.1% versus 23.2%).

Comparing the movement in Cost of Living Indexes and the CPI

Over the long-term, the trends are similar with SCLIs rising at a slightly higher annual rate than CPI for Other government transfer recipient households (2.8%), and Self-funded retiree households (2.9%) but slightly lower for Employee households (2.4%) and Age pensioner households (2.5%).

In the most recent year, all SLCIs rose at a rate less than that of CPI, with the lowest increase being for Age pensioner households at 3.8% and highest for Other government transfer recipient households at 4.9%.

These differences principally reflect the treatment of housing and interest costs between the 2 types of indexes.

Table 5 – Proportion of household expenditure allocated to selected expenditure groups, SLCI and CPI, 2021

Household type	Expenditure group	Cost of living index Percentage of expenditure	CPI Percentage of expenditure	Difference (Percentage points)
Age Pension	Health	12.2	6.5	5.7
Other Govt Transfer Recipient	Alcohol and Tobacco	12.7	9.0	3.7
Employee	Insurance and Financial	9.5	5.8	3.7
Age Pension	Housing	20.3	23.2	-2.9
Age Pension	Education	0.2	4.6	-4.5
Employee	Housing	15.1	23.2	-8.1

Source: ABS, *CPI*, Australia, March 2022 (Canberra: ABS, 2022).

Table 6 – Long-term and short-term changes in SLCI and CPI indexes, March 2002 to March 2022

Household type	Long-term March 2000 to March 2020	Annual change in index (%) Pandemic year 1 March 2020 to March 2021	Pandemic year 2 March 2021 to March 2022	Total 2 years of pandemic March 2020 to March 2022
Employee households	2.4	0.6	4.6	2.6
Age pensioner households	2.5	0.0	3.8	1.9
Other government transfer recipient households	2.8	0.5	4.9	2.7
Self-funded retiree households	2.9	0.7	4.3	2.5
Pensioner and Beneficiary Living Cost Index	2.6	1.3	4.4	2.8
All groups CPI	2.6	1.1	5.1	3.1

Source: ABS, *CPI*, Australia, March 2022 (Canberra: ABS, 2022).

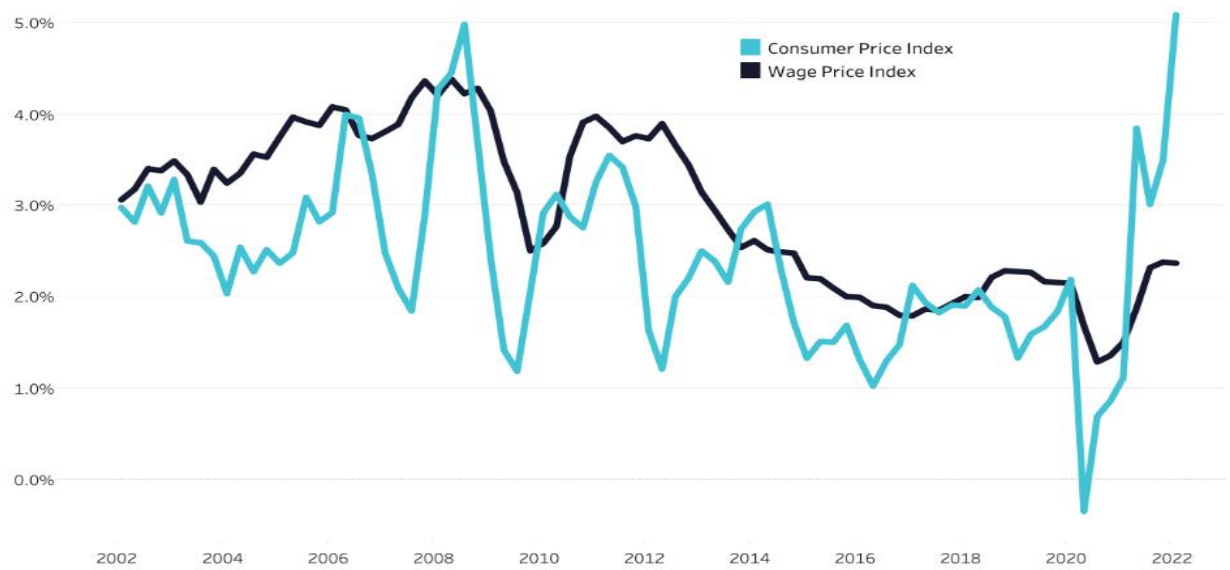
Price rises compared to income

To properly assess the impact on cost of living, price increases need to be assessed in the context of household income. If household income does not increase in line with inflation, then wages are said to be decreasing in real terms. The ABS also produces the Wage Price Index (WPI) which measures changes in the price of labour.

While over the previous 20 years the WPI has generally kept pace with CPI, since the June 2021 quarter, CPI increases have out-weighed WPI increases.

In the March 2022 quarter, the WPI annual increase for Australia was 2.4%, compared with the CPI of 5.1%.

Figure 6 – Annual change in Wage Price Index and Consumer Price Index, by quarter, March 2002 to March 2022



Source: ABS, *CPI*, Australia, March 2022 (Canberra: ABS, 2022); ABS, *Wage Price Index*, Australia, March 2022 (Canberra: ABS, 2022). Interactive version.

Further reading

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ELECTRICITY SECTOR: CONTINUING MODERNISATION

Stephen McMaugh, Science, Technology, Environment and Resources

Key issue

Australia's electricity system is undergoing a modernising transition. The key challenge will be moving to a system dominated by low-emissions renewable energy while maintaining system security and reliability, amid growing demand.

A changing system

Australia's electricity system is undergoing a period of modernising transition, consistent with global trends. Much of this modernisation is being driven by efforts to decarbonise the economy, the falling costs of renewable energy technology and the need to replace ageing generation infrastructure.

The global trend was recently exemplified when G7 Ministers of Climate, Energy and the Environment committed in May 2022 to 'a goal of achieving predominantly decarbonised electricity sectors by 2035' (p. 32) and by the International Energy Agency's efforts to set out a pathway of transition from fossil fuels to a 'clean, dynamic and resilient energy economy dominated by renewables like solar and wind'. In Australia, around 32% of emissions come from the electricity sector. The Australian Government's commitment, along with the states and territories, to net zero emissions targets, is expected to continue driving change in the sector.

Wind and solar have become the cheapest forms of new generation, even when integration costs are considered. These lower cost renewable generators are supplying an increasing share of Australia's electricity and the pace of system change has been accelerating (Figure 1). For example, Australia recently reached 3 million small-scale rooftop solar photovoltaic (PV) systems (around 1 in 4 Australian houses) and larger utility-scale solar and wind farms continue to be built. Grid-scale batteries are being installed to store and discharge electricity when needed, as well as providing other services to the grid, and construction of major pumped hydro projects has commenced (p. 66). It is expected that Variable Renewable Energy (VRE) will supply the bulk of future electricity generation, with storage and peaking gas generation providing support (p. 41).

At the same time, many of Australia's coal-fired power plants are reaching the end of their service life and their generating capacity will need to be replaced. Modelling suggests that over half of Australia's coal generation could withdraw from the market by 2032 (p. 9). They may also close due to commercial or policy decisions, such as recently announced in Western Australia.

This replacement of coal-fired generators with VRE promises to deliver a low-emissions electricity system. However, this electrification of transport, heating and industry is expected to require an expansion of Australia's electricity system to deliver almost double the annual electricity generation by 2050 as electricity becomes the principle energy source (p. 28). In addition, greater electrification also reinforces the need for electricity supplies to be reliable and secure against disruption, including from foreign actors and natural disasters.

To achieve this modernisation of the electricity system, Australia will need engineering and planning solutions to maintain reliable supply plus additional investment in transmission and energy storage. Developing the smart grid of the future will also require a gradual change, away from a highly centralised one-way flow of electricity, to a decentralised two-way system that allows consumers to participate in the sophisticated management of demand, generation and storage.

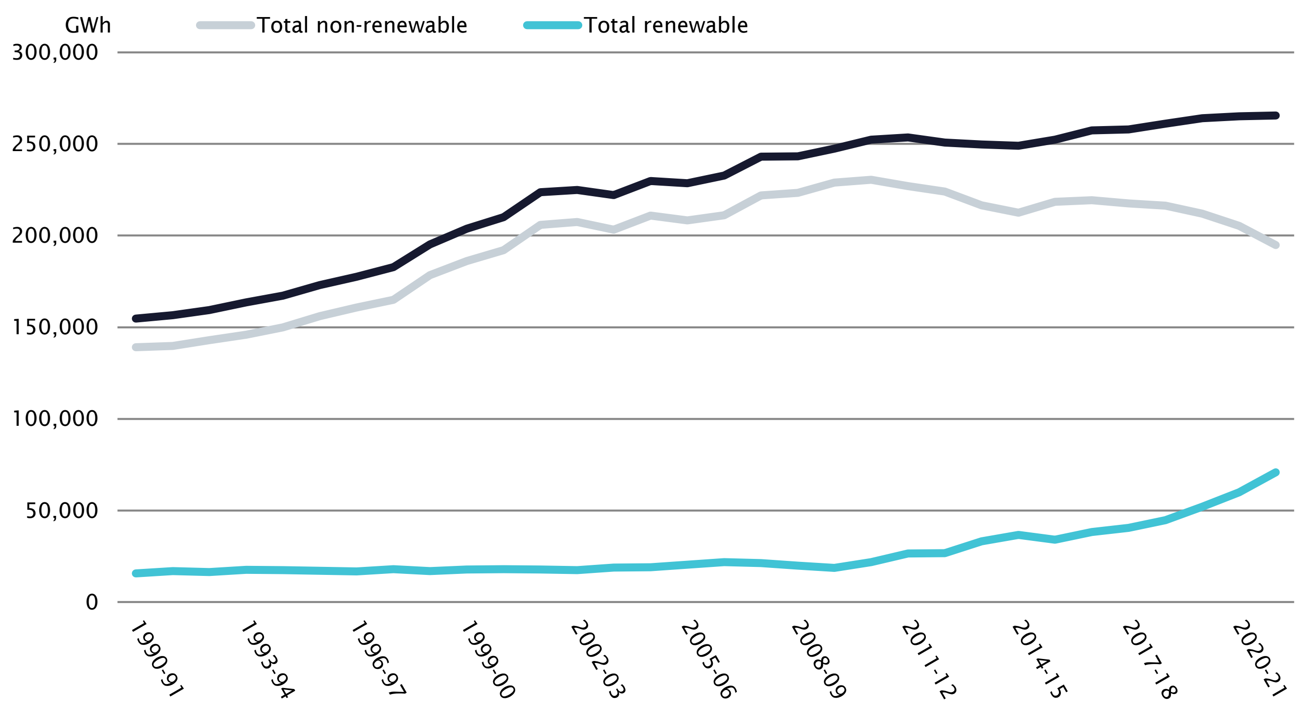
In the shorter term, the Australian electricity market is currently grappling with a major disruption. As detailed by the Australian Competition and Consumer Commission, this has been caused by a combination of factors, including planned generator outages during a period of high demand, unexpected outages and restricted fuel supply to coal generators that forced greater reliance on expensive generation sources such as gas, and high international prices for gas and coal (p. 1).

The Parliament has unsurprisingly taken a strong interest in these energy policy issues, which is likely to continue. In March 2021, the House of Representatives Standing Committee on the Environment and Energy launched an inquiry into the current circumstances, and the future need and potential for dispatchable energy generation and storage capability in Australia. This inquiry lapsed at the dissolution of the 46th Parliament. This followed the committee's 2017 inquiry into modernising Australia's electricity grid and its report, *Powering our future*.

Australia's electricity system

Australia has several separate electricity markets. The National Electricity Market (NEM) is by far the largest and covers eastern and southern Australia – Queensland, NSW, the ACT, Victoria, SA and Tasmania. Spanning around 5,000 km and with about 40,000 km of transmission lines and cables, the NEM is one of the world's longest interconnected power systems. It currently generates around 200 terawatt hours (TWh) of electricity each year, supplying around 80% of Australia's electricity consumption. WA and the NT have separate, smaller electricity systems, with different regulatory arrangements.

Figure 1 – Australia's renewable and non-renewable electricity generation



Source: *Australian Energy Statistics 2021*, Table O: Australian electricity generation, by state and territory, by fuel type, physical units.

Electricity market governance

Governance of the NEM is complex. There are 3 main market bodies: a rule-maker, a regulator and a system operator, and mechanisms for ministerial oversight.

The rule-maker for Australia's electricity markets (except WA) is the Australian Energy Market Commission (AEMC). It also advises Australia's energy ministers on improvements to regulatory design and energy market arrangements.

The Australian Energy Regulator (AER) regulates electricity networks in all jurisdictions except WA. It sets the amount of revenue that network businesses can recover from customers and enforces the laws for the NEM in southern and eastern Australia. It also enforces the Retail Law in NSW, SA, Tasmania, Queensland and the ACT.

The system operator is the Australian Energy Market Operator (AEMO), which is charged with 'keeping the lights on'. AEMO operates Australia's largest electricity markets and power systems, including the NEM and the Wholesale Electricity Market within the WA South-West Interconnected System.

The Energy National Cabinet Reform Committee (ENCRC) (previously the COAG Energy Council) oversees the energy market institutions. This ministerial forum includes the Commonwealth, states and territories, and New Zealand.

The Energy Security Board (ESB) reports to the ENCRC and provides whole-of-system oversight for energy security and reliability. The ESB has been developing a package of market reforms aimed at keeping the functions of the NEM fit-for-purpose as the electricity system undergoes modernisation.

National Electricity Rules and National Electricity Law

Constitutionally, energy is primarily a state matter. However, it was made a shared responsibility with the signing of the Australian Energy Market Agreement between the Commonwealth, states and territories in 2004, which is coordinated through the ENCRC. The agreement provides for national legislation, implemented in each participating state and territory. South Australia is the lead legislator, with other states and territories participating in the NEM applying the *National Electricity (South Australia) Act 1996* through their own legislation.

The NEL defines national electricity objectives based on central concepts such as price, quality, safety, reliability and security of supply of electricity. Reduction of greenhouse gas emissions is not among the stated objectives.

The NEM is governed by the National Electricity Rules (NER), made under the National Electricity Law. The NER set out the regulatory framework for functions including market operations, power system security, network connections and access, pricing of network services and national transmission planning. The NER are highly complex and are regularly updated, with 15 substantive chapters (running to upwards of 1,700 pages). The Northern Territory applies a modified form of the NER.

Planning for the future

The challenges of modernising the electricity system require sophisticated system planning. AEMO publishes the foremost planning document for the electricity system, the biennial Integrated System Plan (ISP), with the next edition expected to be published on 30 June 2022.

The ISP develops a range of plausible scenarios for the electricity system's evolution. These scenarios necessarily make assumptions about different rates of change and consider variables including targets for emissions reduction and renewable energy, technology, fuel and transmission costs, and rates of PV adoption (pp. 28–29). The draft 2022 plan set out 4 scenarios: slow change, progressive change, step change and hydrogen superpower. The 'step change' scenario is considered the most likely (p. 29), described as 'a consistently fast-paced transition from fossil fuel to renewable energy in the NEM' (p. 27).

The draft 2022 ISP also recognises that electrification will support emissions reduction in the broader economy (p. 35). Electrification means increasing uptake of battery electric vehicles, heat-pump hot water systems and other technologies not reliant on fossil fuels. Australia's greenhouse gas inventory illustrates the opportunity for further emissions reduction through electrification, with stationary energy (excluding electricity) and transport the next highest emitting sectors after electricity (20.2% and 18.1%, respectively). The stationary energy sector includes emissions from the combustion of fuels (such as natural gas), mostly in the manufacturing, mining, residential and commercial sub-sectors.

Transmission networks

The draft 2022 ISP foreshadows that 10,000 km of new high-voltage transmission links will be required to support the future electricity system and minimise system costs (p. 8). This will require significant amounts of land and the draft ISP draws attention to the importance of gaining appropriate social licence for new transmission projects and the transition more broadly. During the recent election campaign, under its Powering Australia plan, the Australian Labor Party committed to establishing a Rewiring the Nation Corporation (RNC) to invest $20 billion towards the modernisation of the electricity grid. Some analysts have argued that investing in storage would be more effective in ensuring reliable supply. The ISP acknowledges that the 'less transmission capacity there is, the more dispatchable capacity [e.g. storage] is needed, and vice versa' (p. 44). The ISP also indicates that, in some cases, the need for social licence may 'lead to alternative developments that reduce the need for new transmission, including batteries, gas-fired generation and offshore wind developments that connect to the existing network easements' (p. 15).

The AER requires that network businesses meet a regulatory investment test (RIT) before constructing transmission. This focuses on a cost-benefit analysis, with the central objective of minimising consumer charges. The AEMC is undertaking a review into the transmission planning framework, which includes consideration of the mechanisms available to foster social licence for transmission development. Labor has also committed to improving the RIT-T process.

Renewable Energy Zones

Renewable Energy Zones (REZ) are areas with Australia's best renewable energy resources. They are mostly located in regional Australia but also include 4 offshore wind zones (p. 40). Much of the expected utility scale VRE generation will be concentrated within REZs to efficiently use both the resource and the new transmission lines envisaged to connect the zones with the electricity network. NSW has moved to accelerate the development of its REZs. Victoria has moved similarly and the state government has amended the *National Electricity (Victoria) Act 2005* to allow Victoria to depart from parts of the national framework on transmission approvals to speed up priority projects.

Storage

A VRE-dominated NEM will require large amounts of energy storage to provide most of its dispatchable capacity (p. 46). Many competing battery technologies offer different suitability for different uses (pp. 15–24). For example, fire-safe flow batteries are heavy and are unsuitable for powering transport, where lighter lithium batteries are preferred. Researchers are actively working on alternative storage technologies that use readily available minerals and may deliver lower costs in the longer term. Aside from batteries, the Snowy 2.0 project is a prominent example of pumped hydroelectric storage, but other technologies for energy storage are being developed such as hydrogen or ammonia storage, gravity-based energy storage using large weights, compressed air and thermal storage. How quickly these technologies are developed will be determined by the market opportunity, costs, energy density, safety and availability of raw materials.

Electricity storage installed in the NEM will range from short duration, of less than 4 hours, to long duration of over 12 hours (p. 49). The bulk of the deep storage required in the NEM is expected to come from the Snowy 2.0 pumped hydroelectric storage project (pp. 49–50).

While the main role of storage technologies will be to move low-value energy to a time when it is most needed, these technologies can also play an important role in providing critical system services (for example, frequency control) through power electronics. These system services have typically been provided by gas and coal-fired generators but are increasingly being provided by grid-scale batteries. AEMO has a coordinated work program that will address the challenges of obtaining these system services solely through power electronics. AEMO and the CSIRO are also participating, with other leading nations, in cooperative global research efforts to overcome barriers to achieving electricity systems primarily powered by renewable energy.

Summary

Successfully modernising Australia's electricity systems to be both low-emissions and able to generate twice as much electricity as today, is an extraordinary task that will require high levels of investment and profound change. The final composition of a future grid that provides all the system services and energy requirements that consumers expect, while meeting decarbonisation goals, cannot be precisely defined from current knowledge and will be reached by iterative actions. Indeed, each successive iteration of the ISP has shown that change has exceeded what was previously envisaged (p. 26). Policymakers, together with industry, the market bodies and increasingly, consumers, must continue to grapple with this complex problem.

Further reading

Alan Finkel, 'Getting to Zero: Australia's Energy Transition', Quarterly Essay, 81.

Drew Clarke et al., *Australian Energy Transition Research Plan*, report for the Australian Council of Learned Academies, (Melbourne: ACOLA, 2021); and associated briefing papers.

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SUPERANNUATION AFTER 30 YEARS

Julie Sienkowski, Economic Policy

Key issue

The superannuation guarantee scheme is celebrating 30 years in operation. As the industry matures, and employees with superannuation approach retirement, new challenges and opportunities are emerging. A key change will be the introduction of ‘retirement income covenants’, which are agreements between groups of retirees and superannuation funds about how superannuation assets will be managed and income delivered in retirement. Emerging challenges include ensuring retirees have access to sound financial advice, reviewing superannuation tax concessions and addressing some retirees’ reluctance to spend their superannuation ‘nest eggs’.

The Australian Government has, over time, set out 3 pillars of retirement income – superannuation, the Age Pension and private savings. This article sets out some major issues in the superannuation system expected to emerge over the term of the 47th Parliament.

Background

The *Superannuation Guarantee (Administration) Act 1992* came into force on 1 July 1992. This Act created an obligation on employers to pay a proportion of employees’ incomes into superannuation. Superannuation was intended to provide income in retirement, to supplement or replace reliance on the Age Pension. (There were superannuation schemes in place before this, but most were created by employers, provided little flexibility and did not cover the majority of workers).

Initially, the superannuation guarantee required employers to contribute an additional 3% of eligible employee income into superannuation (4% if the employing entity had a payroll of over $1 million). Over time, the guarantee has risen to 10%, and it will increase to 10.5% on 1 July 2022, 11% on 1 July 2023, 11.5% on 1 July 2024 and 12% on 1 July 2025.

Past Australian parliaments have adjusted the superannuation settings. For example, during the 46th Parliament, changes were introduced through the *Treasury Laws Amendment (More Flexible Superannuation) Act 2021*, *Treasury Laws Amendment (2021 Measures No. 5) Act 2021* and the *Treasury Laws Amendment (Enhancing Superannuation Outcomes For Australians and Helping Australian Businesses Invest) Act 2022*.

Industry maturity and pensions

Superannuation is now a mature industry, with $3.3 trillion of assets under management as at 30 June 2021 across 95 Australian Prudential Regulation Authority (APRA)-regulated ‘retirement savings entities’. These entities are collectively responsible for managing 149 funds with 21.3 million member accounts and received $9.1 billion in fees in the year ending 30 June 2021.

Since compulsory superannuation has been in place since the early 1990s, a significant number of account holders are now approaching retirement and will be shifting from the ‘accumulation phase’ to the ‘pension phase’ of their superannuation scheme. During the accumulation phase, people are still employed and adding to their superannuation account balance. When they retire, they enter the pension phase, in which they spend down the balance.

Successive governments have been aware of this coming change and have commissioned reviews to inform policy responses. Two of the most notable are the Productivity Commission’s *Superannuation policy for post-retirement* research paper (2015) and Treasury’s *Retirement income review* (2020).

Among other topics, the 2015 Productivity Commission paper looked at data on superannuation drawdown behaviour in retirement. It investigated concerns that the freedom to make large lump-sum withdrawals could leave retirees short of future funds – and conversely that 'individuals who take their superannuation as an account-based pension draw down their superannuation "too slowly" or "conservatively", which in turn lowers their living standards' (p. 95). It advised that it was important to consider and respect 'the variety of circumstances and motivations of retirees' that affect drawdown choices (p. 97), including risk and lifestyle preferences, assets and the available superannuation balance.

The 2020 review found that people were saving well for their retirement under the scheme, but that most retirees were not well supported to manage that investment effectively: 'misconceptions and low financial literacy have resulted in people not adequately planning for their retirement or making the most of their assets when in retirement' (p. 17). It also found evidence that retirees were excessively reluctant to spend their superannuation 'nest eggs' (see 'Other emerging superannuation issues' below).

Retirement income covenants

The 47th Parliament will witness a significant evolution in the superannuation industry, with the progressive implementation of the new 'retirement income covenants' model.

The *Corporate Collective Investment Vehicle Framework and Other Measures Act 2022* introduced retirement income covenants into Australian law. These are agreements between groups of members and their superannuation funds about how funds are to be managed and income delivered during the pension phase. The Act also set out how superannuation funds should set them up and report on them.

Superannuation funds are required to design and explain these financial products to help members optimise their retirement income. In performing this role, the funds will need to balance the 3 competing objectives of maximising income, managing risk and ensuring their clients have flexible access to funds in retirement.

For example, the product might allow the retiree to have access to some of their funds and receive a regular pension, while other funds continue to be invested and earn non-taxable income, so that the superannuation balance is stable or continues to grow during retirement.

Retirement income covenant design

The interaction between the 3 pillars of retirement income – superannuation, the Age Pension and private savings – will be an important part of the design of retirement income covenants. A range of pension phase superannuation products will be required, because different groups of retirees will have different levels of superannuation savings, different levels of savings outside superannuation and different retirement aspirations.

One way of tailoring retirement income covenants to suit different groups is based on superannuation balances. Those with very low superannuation balances, who will immediately gain access to the full Age Pension, might be well served by taking a lump-sum payment. A lump-sum can be accessed whenever the retiree wishes, and while it only earns bank interest after it is withdrawn from under the superannuation fund's management, there are no management fees. The Productivity Commission's *Superannuation policy for post-retirement* paper reported that the average amount withdrawn as a lump-sum was $20,000 (p. 16).

Those with high levels of savings outside superannuation and little likelihood of being eligible for the Age Pension may be more inclined towards smaller drawdowns and riskier investments in the first stage of retirement.

Those in the middle – above the bottom 30% and below the top 20% of savers – will be a diverse group. Differences will include whether retirees own their own home, the assets they hold outside of superannuation, whether they have a partner (which impacts on longevity planning, as partners are likely to be of different ages), their health status and their retirement aspirations. In the initial phase of retirement income covenant planning, superannuation funds have been tasked with collecting data to help them better target these products to different groups of retirees.

Given that a variety of retirement income covenant models will be available, and retirees will need to make an informed choice between them, many retirees will want to seek financial advice. There are also likely to be some disengaged retirees who are unable or unwilling to make a choice. In commenting on an exposure draft of retirement income covenant legislation, the Australian Institute of Superannuation Trustees (AIST) stressed the need for a default option for this group.

The pathway to achieving retirement income covenants

The Australian Securities and Investments Commission (ASIC) and APRA have circulated advice to superannuation funds on the implementation of retirement income covenants, which includes the implementation pathway set out in Table 1.

Although the superannuation industry itself is mature, the arrival of a significant number of retirees to the pension phase is relatively new. There are likely to be changes to retirement income covenants as the industry gains experience and retirees discover what works best for them. Reporting is supposed to be transparent and enable a comparison between the performance levels of different retirement income covenant products.

Other emerging superannuation issues

Other emerging issues are retirees' growing requirement for trusted financial advice, the taxation of superannuation, and the emerging reluctance of retirees to actually spend down their superannuation balances as the original policy envisaged.

Financial advice

Following the 2008 collapse of Australian stockbroker Opes Prime and other financial scandals in the early 2000s, many Australians lost confidence in financial planning. Rules about the qualifications and remuneration of financial advisers were tightened, resulting in many former financial advisers leaving the industry.

As reported by ASIC in its October 2016 report *Financial advice: fees for no service*, some consumers remain sceptical of financial advice provided by people directly employed by financial services businesses such as banks, who could have conflicts of interest. Similar scepticism is likely to attach to retirement income advice provided by people directly employed by superannuation funds (see the Treasury's *Retirement income review*, p. 58).

Understandably, as average superannuation balances grow over time, people on the cusp of retirement will want independent and reliable financial advice. The

Table 1 – Indicative implementation pathway for retirement income covenants, 2022–2025

By 1 July 2022	Prepare retirement income strategies Assess the outcomes of existing products and assistance offered to members (in business performance review and annual outcomes assessment) Update business plan to reflect retirement income strategy Take reasonable steps to gather the information necessary to inform the strategy
From 1 July 2022	Retirement income strategy in place and summary published on website Regular monitoring of outcomes against retirement income strategy
2022–2023 (and annually)	Undertake annual outcomes assessment of retirement income products Assess initial impact of retirement income strategy as part of business performance review Capture annual review findings in business plan
By 30 June 2025	Complete first triennial review of the retirement income strategy (proposed)

Source: Australian Prudential Regulation Authority (APRA) and Australian Securities and Investments Commission (ASIC), 'Implementation of the Retirement Income Covenant', Letter to retirement savings entity licensees (7 March 2022), 2.

Explanatory Memorandum accompanying the Corporate Collective Investment Vehicle Framework and Other Measures Bill 2021 explained that the Government had rejected the idea of trying to give individual advice to every retiree as too expensive. In their submission to Treasury's exposure draft of the legislation, AIST reached the same conclusion. They suggested those seeking individual advice could be referred to the Government's Financial Information Service, and that this may need to be expanded.

The Treasury has commissioned a Quality of Advice Review, which is due to report in December 2022. The terms of reference state that the review 'will consider how the regulatory framework could better enable the provision of high quality, accessible and affordable financial advice for retail clients'.

Taxation of superannuation

A key feature of the superannuation scheme to date has been the concessional taxation of contributions to superannuation, and of the profits of superannuation funds.

Money entering superannuation funds is taxed at a concessional rate of 15%. Profits on investments made by superannuation funds are also taxed at a concessional rate. Taxes do not apply either to funds withdrawn by account holders after the 'preservation age' (generally, when the account holder is aged 60 years or above) or to any profits made on the investment of the account holder's capital during the retirement phase. In 2021, superannuation tax concessions amounted to $45 billion, comprising $20.5 billion of concessions on contributions, $22.6 billion in concessions on earnings and $2.6 billion in capital gains tax concessions.

Many commentators criticise this foregone revenue, and question whether the Government can afford to continue to treat superannuation so generously. It has also been observed that people on higher incomes receive a greater tax concession than those who earn less. For example, the concessional gain on taxable income in the highest income tax bracket is 30 percentage points (45% less 15%), but it is just 4 percentage points (19% less 15%) in the lowest tax bracket.

In its 2022 pre-election policy paper *Fixing super tax concessions*, Mercer (a multinational finance firm) suggested that one way of making the system fairer would be to give a 15% *marginal* tax concession to superannuation contributions, instead of the current blanket rate of 15%. For the highest tax bracket, this would mean a concessional superannuation tax rate of 30% and a personal gain on taxable income of 15 percentage points (45% less 30%), with no change for the lower bracket. As well as reducing foregone revenue, this would help to retain the progressive nature of income tax in Australia as those earning more would still pay more tax on contributions going into superannuation.

There is a maximum amount that can be accrued in superannuation accounts, known as the 'transfer balance cap'. This is indexed to inflation, and it is currently $1.7 million. Under previous regulations, some people managed to place much larger amounts into superannuation – and thus out of the normal income tax regime. Mercer has further suggested a grandfathering arrangement so that people could withdraw funds over the cap without penalty. This would place these amounts back in the normal tax system, while still allowing the account owners to enjoy a substantial tax-free income in retirement.

Retirees' reluctance to spend their nest egg

As at 30 June 2021, the average superannuation account balance was $106,162 overall, $93,809 for women and $117,429 for men. These balances will become more substantial over time, potentially increasing the perceived importance of this 'nest egg' for retirees. Economic uncertainty, especially inflation, is also likely to encourage more frugal spending by retirees.

The Treasury's 2022 *Retirement income review* found that some retirees were reluctant to spend their superannuation, as they had become accustomed to thinking of it as a nest egg (p. 415). The review warned:

> Incentives to draw down assets to finance living standards in retirement are not effective. The majority of people are not using their superannuation balances and other savings effectively to maintain their living standards in retirement. If they did so, they could achieve the same retirement outcome with a lower level of

saving and higher standard of living in their working life.

The review also found that people were keen to hold on to this nest egg to pay for aged care if later required, and as a form of insurance to cover large out-of-pocket medical expenses. The incoming Albanese Government made a promise to support a substantial wage rise for staff working in aged care. Clear guidance about how this will affect the cost of aged care would potentially help retirees' financial planning.

A related issue is the interaction with Age Pension eligibility. Commenting on the exposure draft of the retirement income covenant legislation, both Mercer and the Actuaries Institute urged the Government to make a clear statement about the future of the Age Pension and current levels of means testing, to give retirees more confidence to spend their superannuation money. The Grattan Institute also considered trade-offs between Age Pension eligibility and incentivising private saving and superannuation growth in its submission to the *Retirement income review* and in its *Orange book* published prior to the 2022 election.

Further reading

Michael Callaghan, Deborah Ralston and Carolyn Kay, *Retirement Income Review* (Canberra: The Treasury, 2020).

Productivity Commission, *Superannuation Policy for Post-Retirement*, Research paper (Canberra: Productivity Commission, 2015).

4

AUSTRALIAN SOCIETY

AUSTRALIA'S POPULATION: RECENT CHANGES

Grey Robertson, Statistics and Mapping

Key issue

Australia's population growth slowed in 2020–21 due to policy and behaviour changes triggered by the COVID-19 pandemic and this may have affected the age and regional distribution of the Australian resident population. These changes may in turn affect local labour and housing markets, as well as current and future service delivery.

An understanding of the size and structure of Australia's regional populations and their growth trends is essential to managing the current, and planning the future, delivery of infrastructure and services.

The COVID-19 pandemic has disrupted previous population growth trends and seen changes to population flows. In the 2020–21 data, the long-term trend of more overseas arrivals than departures reversed, and the flows of people moving to capital cities from other parts of Australia also changed. The COVID-19 related changes to population flows outlined here may be short-lived or may mark the beginning of new trends.

The Australian Census of Population and Housing (the Census) is the primary source for Australian population figures. Between each Census, Australia's population is estimated each quarter, by adding natural increase (births minus deaths) and net overseas migration (NOM). Regional population estimates are less frequent and include estimates of internal migration within Australia.

Net overseas migration (NOM) has been the major contributor to Australia's annual population growth since 2006–07. The change in NOM to more departures than arrivals slowed Australia's population growth in 2020–21, particularly in locations favoured by overseas migrants such as Sydney, Melbourne and Perth.

According to March 2020 to March 2021 data, COVID-19 may have also affected where people chose to live and move to within Australia. Specifically, changes to international and domestic migration flows may have changed the structure of the population at the small region or Commonwealth electorate level without noticeably affecting the Australian population overall. The release of Census 2021 data will assist in making data comparisons more reliable and changes easier to identify.

Recent trends in population growth

The Australian Bureau of Statistics (ABS) reports Australian population growth in the 12 months to June 2021 was entirely due to natural increase adding **134,800** people, while NOM was a loss of **88,800** people.

Table 1 shows Victoria's population decreased in 2020–21 due to reduced internal and overseas migration. The Centre for Population also notes in the 12 months to June 2021, Sydney, Melbourne, Hobart and Darwin experienced negative population growth. The combined capital cities population declined (slightly) for the first time on record.

> Overall, this was driven by a large net outflow of 85,000 overseas migrants from capital cities as well as increased internal migration from capital cities to regional areas. Natural increase (births less deaths) was largely unchanged from the previous year.

The latest quarterly data available shows that in addition to Victoria, the NT and ACT populations have declined from September 2020 to September 2021.

Table 1 – Population change, summary – states and territories year ending June 2021

	NSW	Victoria	Queensland	South Australia	Western Australia	Tasmania	Northern Territory	ACT	Australia
Estimated Resident Population (ERP)	8,189,266	6,649,159	5,221,170	1,773,243	2,681,633	541,479	246,338	432,266	**25,739,256**
Growth	22,242	-44,699	45,925	2,966	17,421	943	103	1,053	**45,989**
Growth Rate (%)	0.27	-0.67	0.89	0.17	0.65	0.17	0.04	0.24	**0.18**
Components of Population Change									
Births	97,728	70,654	61,381	19,312	33,772	5,867	3,790	5,420	**297,954**
Deaths	53,339	40,965	32,029	13,772	15,302	4,529	1,145	2,102	**163,202**
Natural Increase	44,389	29,689	29,352	5,540	18,470	1,338	2,645	3,318	**134,752**
Net Interstate Migration	-16,676	-18,300	30,939	704	4,592	49	-2,159	851	**NA**
Net Overseas Migration	-5,471	-56,088	-14,366	-3,278	-5,641	-444	-383	-3,116	**-88,763**

Note: Australia includes Other Territories comprising Jervis Bay Territory, Christmas Island, the Cocos (Keeling) Islands and Norfolk Island
Source: Australian Bureau of Statistics (ABS), *National, State and Territory Population June 2021* (Canberra: ABS, 2021).

Overseas migration by region

For 6 straight quarters (1 April 2020 to 30 September 2021) Australia had more overseas departures than arrivals, due to the international migration and quarantine policies in response to COVID-19. The median age of overseas arrivals has also increased. This may reflect a higher proportion of returning Australians and fewer international students. International student arrivals are starting to recover as at March 2022, but are still 60% lower than at March 2019.

These changed migration flows may have a small effect on the population age structure in locations featuring high numbers of students and young people moving for work. As at June 2020, people aged 20 to 49 years made up 44% of the combined capital city population, compared with 36% elsewhere.

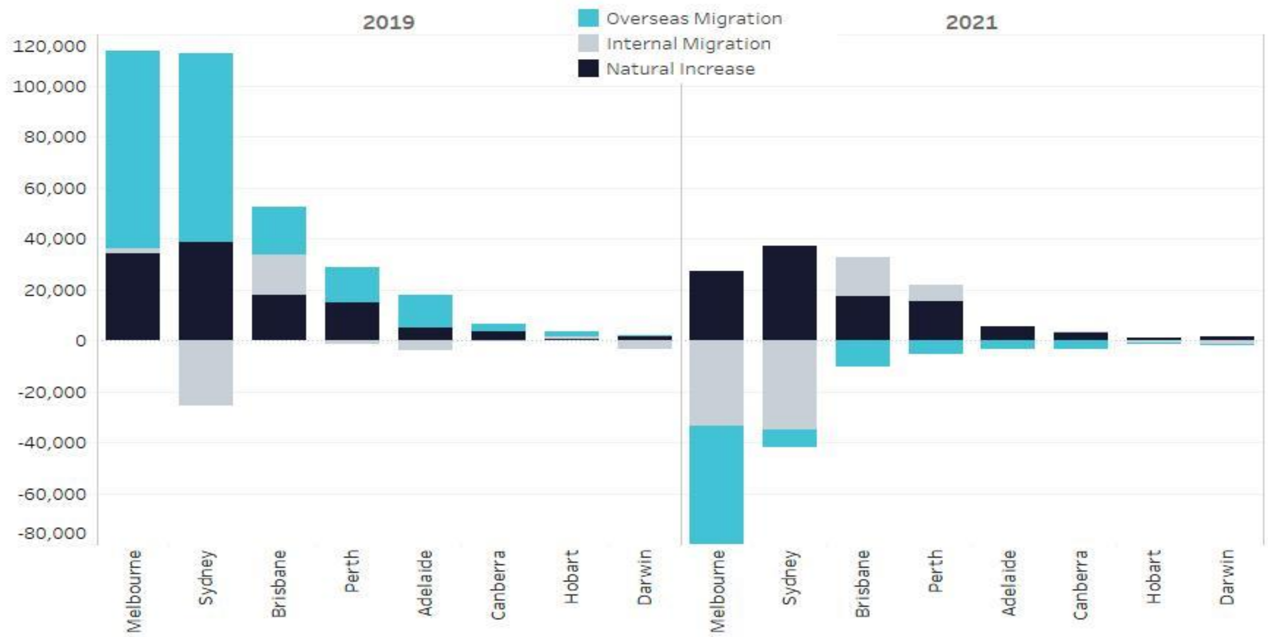
According to the ABS 29.1% of Australia's 2021 population was born overseas, a decrease from 29.8% in 2020. In the 2016 Census more than 30% of WA, Victoria and NSW residents were born overseas, and so are more likely to be affected by overseas migration flows than other states and territories. All capital cities had more overseas migrants leaving than arriving in the year ending June 2021 (see Figure 1). Outside of greater Sydney, NSW experienced more arrivals from overseas than departures in 2020–21, most likely comprising returning Australians.

Internal migration

Other than Brisbane, Perth and Canberra, Australia's capital cities had negative internal migration in 2021 (Figure 1).

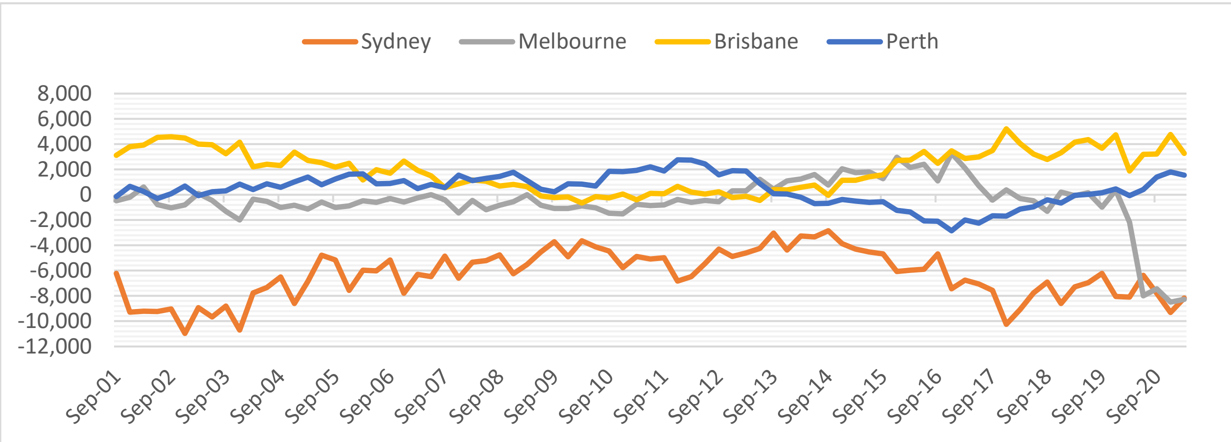
According to the Centre for Population analysis, in every state except WA non-capital city population growth overtook capital city growth. Outside of Greater Sydney and Melbourne, NSW and Victoria's increased internal migration offset the decreases in overseas migration. The Centre for Population analysis notes the number of capital city residents moving to rest-of-state regions in the year to March 2021 was higher than

Figure 1 – Capital cities population growth and components of population change 2019 and 2021



Source: ABS *Regional Population 2020–21* (Canberra: ABS, 2022); *Regional Population 2018–19* (2020). Interactive version.

Figure 2 – Net internal migration 2001–2021; capital cities with the largest net internal migration flows in 2021



Note: Regional internal migration estimates, provisional March 2021 – is a special release from the ABS, funded by the Centre for Population. This release provides quarterly regional internal migration estimates at both the state and Greater Capital City Statistical Area (GSSCA) level. Medicare address updates are used to track internal migration, the ABS June 2021 quarter of *Provisional Regional Internal Migration Estimates*, has been cancelled due to potential effects of the COVID-19 vaccination rollout on address updates. Issues with Medicare address for the June 2021 and September 2021 quarters are being explored before later estimates can be released.
Source: ABS *Regional Internal Migration Estimates, Provisional March 2021* (Canberra: ABS, 2021). Interactive version.

before the onset of COVID-19 (244,000 departures compared with 230,000 in March 2020) and net migration from cities to rest of states was 44,700 people. Victoria outside of Melbourne overtook Queensland as the fastest growing rest-of-state region. Queensland regions (particularly the Gold Coast and Sunshine Coast) no longer received high levels of overseas migration, although these regions still experienced population growth. *Provisional regional internal migration estimates* (Figure 2) show that after many years of either similar or greater numbers of arrivals, from March 2020 to March 2021 net internal migration to Melbourne had approximately 8,000 more quarterly departures than arrivals.

Perth and Brisbane have seen an increase in internal arrivals over departures from March 2020, although this may have peaked in Brisbane in December 2020. Since 2013, Brisbane has a longer-term trend of more residents arriving from elsewhere in Australia than leaving Brisbane.

Figure 3 allows the comparison of changes in internal migration origins and destinations for the 4 capital cities which experienced the largest internal migration flows between March 2020 and March 2021.

The Centre for Population's analysis of ABS Regional Population data compares capital city with non-capital city population change. The analysis includes a map of Melbourne population change from June 2020 to June 2021, showing growth in outer Melbourne.

The *Regional population, Australia, 2020–21* analysis notes:

Figure 3 – Arrivals and departures by capital city and rest of state for Sydney, Melbourne, Brisbane and Perth, March 2020 and March 2021 quarters

Departures from	**Arrivals to**									
	Greater Sydney	Rest of NSW	Greater Melbourne	Rest of Vic.	Greater Brisbane	Rest of Qld	Greater Perth	Rest of WA	Total departures	***Net gain/loss***
March 2020 quarter										
Greater Sydney	.	10,490	3,180	549	2,633	3,149	1,115	143	24,188	-8,087
Rest of NSW	6,434	.	1,695	1,490	2,295	3,932	413	205	19,281	2,547
Greater Melbourne	2,333	1,645	.	9,122	1,851	2,330	1,156	233	21,406	-2,163
Rest of Vic.	441	1,429	6,149	.	593	1,164	287	126	11,470	2,753
Greater Brisbane	1,874	1,846	1,674	532	.	9,753	510	127	17,964	1,874
Rest of Qld	1,565	2,753	1,629	856	9,714	.	708	358	19,588	4,394
Greater Perth	958	428	1,529	317	662	679	.	3,636	9,238	-72
Rest of WA	127	220	177	139	112	442	3,789	.	5,444	-152
Total arrivals	16,101	21,828	19,243	14,223	19,838	23,982	9,166	5,292	152,907	.
March 2021 quarter										
Greater Sydney	.	12,987	3,218	626	3,055	3,347	1,426	197	28,439	-8,169
Rest of NSW	7,913	.	1,763	1,657	2,754	4,440	647	266	23,145	3,706
Greater Melbourne	3,422	2,195	.	11,855	2,347	3,188	1,718	230	28,540	-8,273
Rest of Vic.	557	1,966	7,024	.	726	1,530	423	189	14,110	3,409
Greater Brisbane	2,137	2,202	1,721	581	.	10,442	672	155	19,999	3,274
Rest of Qld	2,117	3,367	1,664	935	11,148	.	902	410	23,056	3,761
Greater Perth	1,179	457	1,415	292	648	719	.	4,263	10,108	1,554
Rest of WA	148	182	200	134	169	355	4,454	.	6,131	85
Total arrivals	20,270	26,851	20,267	17,519	23,273	26,817	11,662	6,216	181,854	.

(a) Greater Capital City Statistical Areas (GCCSAs) as defined in the 2016 edition of the Australian Statistical Geography Standard.

Source: ABS *Regional Internal Migration Estimates, Provisional March 2021* (Canberra: ABS, 2021). Interactive version.

> Three of the fastest growing small areas (SA4s) in Australia were in regional areas close to the east coast capital cities. Geelong in Victoria was the second fastest growing SA4, growing at 2.1 per cent in 2020–21, behind only Ipswich in Queensland. The Hunter Valley in New South Wales (2.1 per cent) and the Sunshine Coast in Queensland (1.9 per cent) followed in third and fourth place. (p. 5)

Recent shifts do not appear to have affected regional or remote Australia population distributions, as the shift is from capital cities to other major cities.
These growth patterns away from capital cities are reflected in Commonwealth electorate population changes. Outer Melbourne and regional Victorian electorates are among those with the greatest increase, while inner city Melbourne electorates and the electorate of Sydney have seen the greatest population decreases.

Future population changes

The Centre for Population national population projections account for the impact of COVID-19 on overseas migration and include upside and downside NOM scenarios detailed in the *2021 Population statement*. Projections of population changes in capital cities and rest-of-state areas are also available.
Capital cities are forecast to return to higher growth rates than rest-of-state areas from 2022–23, as restrictions are relaxed and overseas migration returns. Melbourne is projected to be the fastest growing capital city from 2023–24 onwards, overtaking Sydney to become the nation's largest city in 2029–30 at just over 5.9 million people. The projections appear to assume that from 2024 Melbourne will have a small but gradually increasing net loss of people from internal migration flows, while Sydney will continue its long-term trend of a more substantial internal migration flow away from the city.
Unfortunately, data is not yet available to gauge the impact of recent changes to migration flows on population structures specifically within smaller regions or at the electorate level. The Estimated Resident Population (ERP) for 2021 by region and internal migration estimates are likely to be revised using data from the 2021 Census.
Accordingly, the 2021 Census results when they become available should provide a better understanding of how COVID-19 related experiences may have affected where people chose to live within Australia.

Table 3 – Commonwealth Electoral Divisions (CED) with the largest population changes 2020–2021

State	Commonwealth Electoral Division (CED)	Change 2020-2021	
		no.	%
10 CED with the greatest proportional increase			
Vic	Corangamite	6104	4.3
Vic	McEwen	5862	3.7
Vic	La Trobe	5425	3.4
NSW	Macarthur	6302	3.2
Qld	Blair	5614	3.0
NSW	Paterson	4727	2.8
Qld	Fisher	4425	2.6
Qld	Wright	4664	2.6
Qld	Fadden	5094	2.6
Vic	Lalor	4811	2.5
10 CED with the greatest proportional decrease			
Vic	Bruce	-4332	-2.3
Vic	Cooper	-3991	-2.3
NSW	Sydney	-6332	-2.6
Vic	Fraser	-5181	-2.7
Vic	Hotham	-6311	-3.0
Vic	Chisholm	-6170	-3.1
Vic	Higgins	-5680	-3.3
Vic	Kooyong	-6418	-3.6
Vic	Macnamara	-6999	-3.7
Vic	Melbourne	-15065	-6.3
	TOTAL AUSTRALIA	44875	0.2

Source: ABS *Regional Population – Estimated Resident Population, Commonwealth Electoral Divisions* (ASGS 2021), (Canberra: ABS, 2022).

Further reading

The Australian Government Centre for Population seeks to be the focal point for expertise on population issues and to inform population policy through its research publications, data, forecasts, and analysis.

Australian Institute of Health and Welfare (2021) 'Profile of Australia's Population' (snapshot written by the Centre for Population), in *Australia's Welfare 2021*.

Centre for Population, 2021 Population Statement, (Canberra: Centre for Population, December 2021).

For detailed discussion of Australia's population from 1988–89 to 2018–19, see Centre for Population, *2020 Population Statement*, (Canberra: Centre for Population, December 2020).

ABS *Regional Internal Migration Estimates, Provisional March 2021* – a special release from the ABS, funded by the Centre for Population. This release provides quarterly regional internal migration estimates at both the state and Greater Capital City Statistical Area (GSSCA) level.

Australian Government, *2021 Intergenerational Report*, (Canberra: June 2021). The 2021 Intergenerational Report projects an outlook for the economy and the Australian Government's budget over the next 40 years, including the potential influences of demographic, technological and other structural trends.

IMMIGRATION

Dr Susan Love, Social Policy

Key issue

Following the removal of international travel restrictions implemented due to the COVID-19 pandemic, migration levels may be expected to return to pre-pandemic settings. Over the long-term, permanent and temporary migration programs have been directed at promoting economic growth while contributing to social outcomes. Recent measures were introduced to support pandemic recovery. Further changes to the programs, including new visas, could lead in new policy directions.

Migration Program planning levels

The number of permanent visas allocated each year is announced in the Budget, with the latest program year Migration Program planning levels available on the Department of Home Affairs website. The Migration Program is set at 160,000 places for 2022–23, down from the historic high of 190,000 in the mid-2010s (see Figure 1).

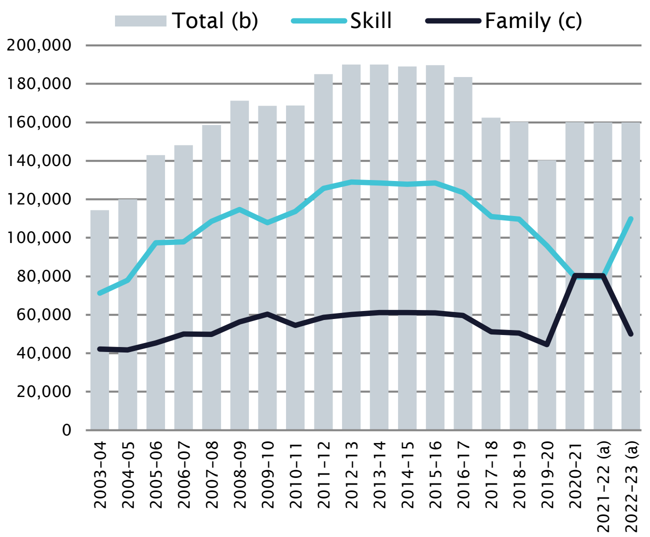
From the time of the 2018 Budget, the Coalition Government began describing the planning level as a 'ceiling' not to be exceeded, whereas previously it had been treated as a target, with the aim of granting as close to that number of visas as possible.

The permanent Migration Program consists of 2 main streams, Skill and Family, with many different categories and subclasses of visas within these. In recent decades, the program has been balanced at about two-thirds Skill stream places to one-third Family. These proportions changed during the years of COVID-19 pandemic restrictions. The trends are presented in Figure 1.

In 2019–20, the ceiling of 160,000 places was not reached, due to border and travel restrictions in the final part of the program year (from March 2020) and the impacts of the pandemic on visa processing capacity.

In 2020–21 and 2021–22, the balance of Skill and Family places was adjusted to about half-half (approximately 80,000 each). The additional places in the Family stream were assigned to Partner visas, which had a backlog of applications. The focus on Partner visas also facilitated the granting of more visas to people already in Australia, enabling the overall

Figure 1 – Migration Program outcomes 2003–04 to 2022–23



(a) Planned; does not account for 10,000 places re-assigned from Partner visas to the Skill stream for the 2021–22 year announced in the 2022–23 Budget.
(b) Total includes a small number of Special Eligibility stream visas.
(c) Includes Child stream visas.

Source: Department of Home Affairs, *Australian Migration Statistics, 2020–21*, data.gov.au; 'Migration Program planning levels', Department of Home Affairs website.

Migration Program level for 2020–21 to be reached despite border closures. In the 2022–23 Budget, the Coalition Government stated that the number of on-hand Partner visa applications had fallen and that 10,000 places from the 2021–22 allocation would be moved to the Skill stream (p. 11). (For further details, see the 'Immigration' article in the Library's *Budget review 2022–23*.)

The broad composition of the Skill and Family streams for 2022–23 sees a return to allocations similar to pre-pandemic levels. Partner visa places account for 40,500 out of the 50,000 total for the Family stream. The Skill stream is allocated 109,900 places.

The 2022–23 Budget also states that Partner visas will now be granted on 'a demand driven basis', similar to the Child stream (p. 12). This means that places within the Migration Program are provided as estimates, but they are not subject to an annual ceiling or cap (see the *Budget review* 'Immigration' article for discussion).

In 2020–21 and 2021–22, a large proportion of places in the Skill stream – over one-third – were allocated to the Business Innovation and Investment Program (BIIP) and Global Talent visa categories, the intention being to promote economic growth during the pandemic (pp. 93–94). The 2022–23 program returns to more balanced allocations across the Skill categories, while retaining relatively high levels for the BIIP and the Global Talent visa.

The Coalition Government introduced the Global Talent Visa Program in November 2019, offering a streamlined process to a permanent visa to attract highly-skilled, high-earning individuals in key industry sectors. The program is accompanied by a promotional campaign aimed at prospective applicants. In 2021, the Government introduced changes to the BIIP, streamlining eligibility and tightening investment requirements intended to maximise economic contribution of the program.

The business sector generally supports these programs (see, for example, Chapter 4 of the Joint Standing Committee on Migration's *Interim report of the inquiry into Australia's skilled migration program*). However, other stakeholders contend that they do not bring sufficient economic benefits, especially compared with other skilled categories, or that they may not demonstrate adequate transparency and integrity.

The Albanese Government has committed to create a new Pacific Engagement visa, similar to New Zealand's Pacific Access Category. This would be a substantial shift in visa policy and relations with the Pacific, allowing people from eligible countries to apply for a permanent visa if they have a job offer, without necessarily meeting the full skills requirements of the Migration Program Skill stream visas. A quota of 3,000 places is planned. Further visa measures for the Pacific are discussed below.

Temporary visas

There are no caps on the numbers of temporary visas granted – most categories are 'demand-driven'. (There are exceptions – for example, the Working Holiday Maker Program has annual caps for some countries under respective bilateral arrangements.)

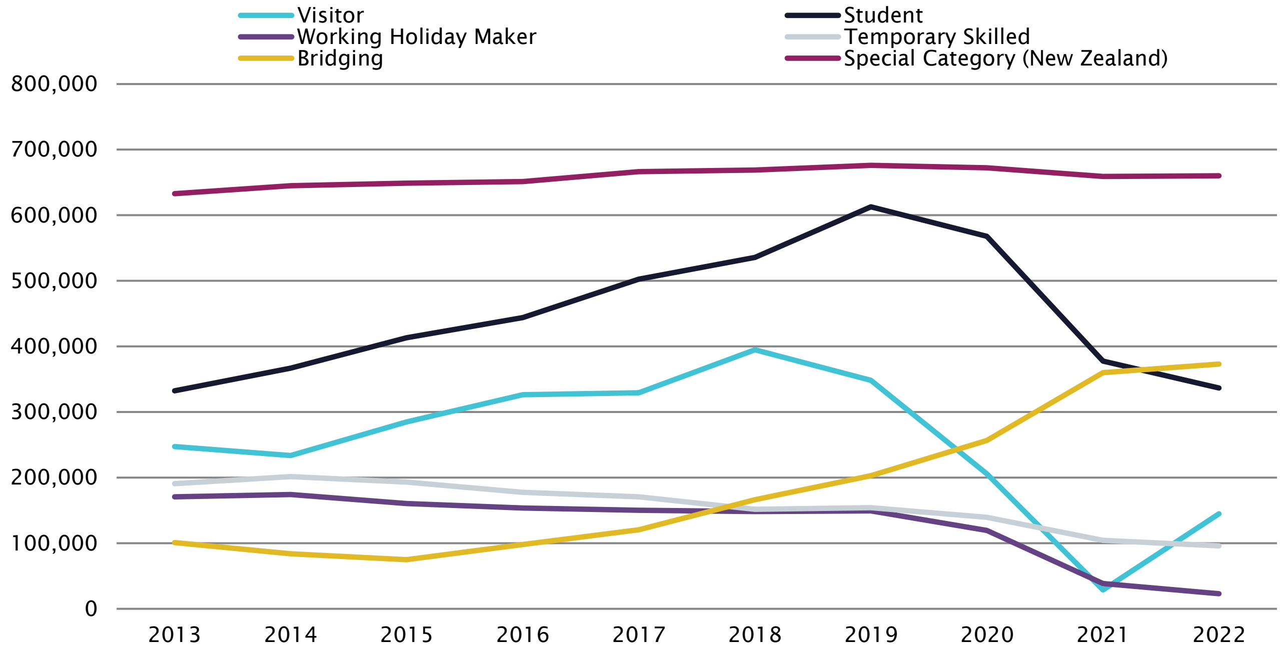
The bulk of temporary visas granted are for short-term visitors (nearly two-thirds in 2018–19). Visitor visa holders are not allowed to work. Most other temporary visas allow work rights, but generally come with conditions linked to the purpose of the visa, and do not allow access to most social security payments. Temporary visas limit the time a holder may stay in Australia. If the specified time or purpose has concluded, the holder must apply for and be granted another visa, or leave Australia.

Prior to the COVID-19 pandemic, there were over 2 million temporary visa holders in Australia. This figure varies seasonally. For example, there are many more people on Visitor visas in Australia over summer than at other times.

The number of temporary visa holders in Australia fell substantially during pandemic-related travel and entry restrictions. Very few temporary visa holders were permitted to travel to Australia, and those who were in Australia but could not continue to meet the conditions of their visa or support themselves, were encouraged to return to their home countries.

At 31 December 2019, there were over 2.4 million temporary visa holders in Australia. One year later, this figure was 1.8 million, and at 31 December 2021 this had fallen to 1.6 million, mostly due to the small numbers of Visitor visas. With the borders reopening in early 2022, the numbers have started rising, attaining 1.8 million at 31 March.

Figure 2 – Temporary visa holders in Australia (selected categories), snapshots at 31 March, 2013–2022



Source: Department of Home Affairs, 'Temporary visa holders in Australia', data.gov.au

Figure 2 shows the trends in stocks of temporary visa holders in Australia for different visa categories, comparing the numbers at 31 March 2022 with the same point in time in previous years.

At March 2022, the number of Visitor visa holders was showing an uptick, but recovery looks to be slower for other categories such as Students, Working Holiday Makers and Temporary Skilled workers. (The dataset shows that numbers in the latter categories are still down compared with March 2021, but have increased from low points in September and December 2021.)

COVID-19 measures and pandemic recovery

During the period of closed borders (March 2020 to February 2022), the Morrison Government set visa processing and entry priorities to focus on visas for people with skills in key areas of shortage created by the pandemic, that supported pandemic recovery, or could drive investment and employment.

Factors such as internal travel restrictions and loss of employment made it difficult for many temporary visa holders in Australia to maintain their visa eligibility or to apply for another visa. The Government introduced measures during the pandemic to grant limited flexibility to temporary visa holders and applicants, particularly if a person was able to work in a critical area of pandemic response and recovery.

Measures included: a Priority Migration Skilled Occupation List to prioritise eligible temporary and permanent visa applications to fill critical skills gaps; creating a 'pandemic event' visa through the Temporary Activity (subclass 408) visa to allow temporary visa holders to stay in Australia if they could continue to work; and relaxing certain work restrictions for working holiday makers and international students. More details are available in the Department of Home Affairs report, *The administration of the immigration and citizenship programs* (9th edition, pp. 4–6).

A COVID-19 concession period commenced from 1 February 2020 and does not yet have an end date. This allows for temporary concessional visa arrangements such as waiving certain visa fees and extending timeframes permitting temporary or provisional visa holders to meet criteria for certain permanent visas. With the borders reopening to fully vaccinated travellers from 21 February 2022, it is likely these arrangements will be phased out as the pandemic recovery continues and normal visa processing and travel resumes. However, even as pandemic restrictions eased, the Morrison Government continued to adjust visa settings, including for the 'pandemic event' visa, to encourage economic recovery.

Business stakeholders have argued that the permanent Migration Program planning levels should be increased at least in the next few years to stimulate economic recovery, although as noted above, the current Budget maintains the planning level at 160,000 places. Many economists also recommend a higher migration level, while other analysts argue that the settings and composition of the program, such as better focusing the Skill stream to attract younger, higher-earning migrants, or improving skills matching, are more important than the specific numbers.

The permanent Migration Program does not aim to fill lower-skilled jobs, and shortages in these areas have been exacerbated by the fall in temporary visa holders during the pandemic. Student visa holders and Working Holiday Makers often work in sectors such as hospitality, retail and agriculture, and employers may not be able to rely on filling vacancies with temporary visa holders if numbers are slow to recover. Drawing on these categories of temporary visa holders – where the primary purpose of the visa is not employment – also raises concerns around the policy intent of these visas and of migrant worker exploitation.

To assist with labour shortages in the agricultural sector during the pandemic, the Government prioritised entry of workers under the Seasonal Worker Programme (SWP), which allows approved employers to recruit workers from participating Pacific Island countries. In April 2022, the SWP and the Pacific Labour Scheme were merged to form the Pacific Australia Labour Mobility (PALM) scheme.

While not specifically a COVID-19 measure, the Coalition Government also introduced a new Australian Agriculture visa program. The 'Ag visa' was negotiated between the Liberal and National parties, aiming to compensate for the anticipated loss of UK backpacker workers from the sector as a result of the Australia–UK Free Trade Agreement (2021) (which is not yet in force in Australia). The agreement includes an exemption for UK working holiday makers from having to undertake a period of specified agricultural work to qualify for a second-year or third-year visa. Only Vietnam has so far signed a memorandum of understanding for the Ag visa.

The Australian Labor Party (ALP) indicated in its pre-election policy statements that it would wind back the Ag visa and merge it into the PALM scheme, honouring the arrangement with Vietnam but otherwise continuing to limit eligibility to Pacific Island countries and Timor Leste.

Visa transitioning and pathways to permanent residence

Migration Program planning levels are only one factor in how many people migrate to Australia each year. The Australian Bureau of Statistics measures net overseas migration (NOM). NOM is the difference between people arriving in Australia and people departing from Australia. Migrant arrivals to Australia are counted in NOM if they are in Australia for a total of 12 months or more during a 16-month period. Therefore, this counts people who arrive on a permanent visa, but also those who arrive on a temporary visa and stay for a year or more, for example to study or work.

In 2018–19, prior to the pandemic, NOM was 241,300. In 2020–21, it was -88,800, that is, more people left Australia than arrived. The 2022–23 Budget (p. 114) projects that NOM will return to near pre-pandemic levels (around 235,000) in 2024–25. For further information, see the *Budget review* 'Immigration' article and the article, 'Australia's population: recent changes', in this *Briefing book*.

Usually, around half of permanent visas are granted to people already in Australia on temporary visas. This proportion increased during the pandemic to 67.5% in 2020–21 (p. 3). Given the permanent Migration Program levels of 160,000 per year and that many of these visas will be granted to people already in Australia, it is evident that temporary migration is projected to make up a significant proportion of NOM.

While most temporary visa holders will leave Australia at some point, others may transition through several temporary visas before obtaining a permanent visa, or they may remain in Australia on temporary visas without ever obtaining a permanent visa. In most cases, a temporary visa holder must meet the criteria for a permanent visa in the same way as any other applicant. However, some temporary visas place limits on applying for a subsequent visa.

For example, the short-term stream of the Temporary Skill Shortage visa allows only one subsequent application for another TSS visa. The TSS (subclass 482) visa replaced the subclass 457 visa in March 2018. The Joint Standing Committee on Migration's report on *Australia's skilled migration program* recommended changing the short-term TSS to allow a pathway to permanent residence, stating that 'All employer nominated visas should provide the option of a pathway to permanency' provided that requirements, such as skills, age and English language levels, are met (p. 42). Stakeholders, including the Australian Chamber of Commerce and Industry, also recommended implementing a pathway for all temporary skilled migrants. The ALP has indicated it would support this (see, for example, pages 103–108 of the committee's report).

New Zealand citizens living in Australia are a unique case, as the Special Category (subclass 444) visa allows them to stay and work indefinitely despite it being a temporary visa (see Figure 2). If they wish to become permanent residents (and eventually Australian citizens), most must apply for a permanent visa in the Migration Program. The New Zealand stream of the Skilled Independent (subclass 189) visa was introduced in 2016 to facilitate the pathway to permanent residence for certain subclass 444 holders, although applicants need to meet requirements, including an income threshold. There are calls to broaden the eligibility for this pathway, enabling more New Zealanders to become permanent residents. Observers note this may reduce vulnerabilities for some of those living in Australia and enable them to make a greater contribution to the economy and society, but may come at higher social security costs.

Further reading

Department of Home Affairs, *The Administration of the Immigration and Citizenship Programs*, 9th edition, (Canberra: Department of Home Affairs, 2022).

Joint Standing Committee on Migration, *Final Report of the Inquiry into Australia's Skilled Migration Program*, (Canberra: Australian Parliament, 2021).

Susan Love, *Where to Find Immigration Data: a Quick Guide*, Research paper series, 2021–22, (Canberra: Parliamentary Library, 2022).

Senate Select Committee on Temporary Migration, *Select Committee on Temporary Migration*, final report, (Canberra: The Senate, 2021).

Harriet Spinks, *Australia's Permanent Migration Program: a Quick Guide*, Research paper series, 2021–22, (Canberra: Parliamentary Library, 2021).

AGED CARE

Rebecca Storen, Social Policy

Key issue

The issues surrounding aged care and the challenges of providing care and services to an ageing population have been well documented over the last 20 years, with the Royal Commission into Aged Care Quality and Safety (Royal Commission) being the latest in a long line of reviews calling for change.

More than one year on, much work remains to implement the rights-based aged care system envisioned by the commissioners and, as aged care costs grow, the need to ensure safe, high quality care by a well-supported and fit-for-purpose workforce continues.

The aged care system faces many challenges and issues, some of which have been around for some time, such as costs, while others are emerging. The system design has competing priorities, seeking to control costs while also emphasising the need for safe, high-quality care and support that meets people's needs. These issues are exacerbated with changing population demographics, increasing care needs and expectations, alongside ongoing workforce challenges.

This has resulted in gaps and shortfalls in the provision of appropriate care. In response to significant and ongoing concerns about aged care, the Royal Commission was established, which concluded that profound change is needed to provide a system that not only provides safe, high-quality care and support, but also empowers and respects people's rights. Aged care, as discussed in this article, refers to the system primarily regulated and funded by the Australian Government to provide care and support to older people who are no longer able to live without assistance in their homes and who are assessed as being eligible for services.

The *Aged Care Act 1997* (the Act) is the principal piece of legislation setting out the obligations and responsibilities of aged care providers who receive Australian Government funding. The objects of the Act include provision of funding for aged care and promoting high-quality care and accommodation that meets people's needs. To support these objects, the Act provides for:

- responsibilities of approved providers (providers that meet the Aged Care Quality Standards)
- subsidies and supplements (from the Government)
- fees and payments (from the care recipient)
- responsibilities of approved providers

In 2019–20, Government expenditure was approximately $19.4 billion for Commonwealth Home Support Programme (CHSP), home care and residential care. Care recipients contributed another $5.3 billion.

Source: Aged Care Financing Authority, *Ninth Report on the Funding and Financing of the Aged Care Sector*, (Canberra: Aged Care Financing Authority, 2021), 21.

- how a person is approved for aged care services.

The *Aged Care Quality and Safety Commission Act 2018* and its associated Rules set out the function of the Aged Care Quality and Safety Commission, the quality regulator for aged care.

People accessing aged care

In 2020–21, approximately 1.5 million people accessed aged care services across Australia, mostly through community-based programs (p. 13). Figure 1 provides a breakdown of aged care clients by jurisdiction.

While aged care services are generally accessed by people aged 65 years and over, there is no specific age requirement to access aged care services delivered under the Act (p. 8). People under 65 years who require care and support due to a disability may be eligible for the National Disability Insurance Scheme (NDIS). NDIS participants can continue in the scheme once they reach 65, and may also be eligible for some aged care services.

Unmet need

There is no single measure to quantify people's unmet care and support needs. In its most recent survey of disability, ageing and carers, the Australian Bureau of Statistics found that most people over 65 years receive some form of help for at least one activity, either formally or informally. Of the 1.3 million older people needing assistance, 31% said their need was partially met and 3.1% their need was not met at all.

One of the indicators in the Productivity Commission's *Report on government services* measures hospital patient days used by those eligible and waiting for residential aged care. In 2019–20, ten per 1,000 patient days were used by patients waiting to enter

Figure 1 – Aged care clients and Australian Government expenditure on aged care by jurisdiction (2020–21)

Clients by program type	NSW	Vic	Qld	SA	WA	Tas	ACT	NT	Aust
Commonwealth Home Support Program	228,581	224,789	192,120	79,935	60,861	24,678	9,820	4,598	825,383
Home Care Packages levels 1-2	46,870	35,967	23,027	8,860	7,410	2,877	1,427	465	125,597
Home Care Packages levels 3-4	34,017	29,090	22,324	9,658	12,423	2,773	1,581	583	110,957
Home Care Packages	72,677	59,072	40,456	16,584	17,622	5,049	2,696	943	212,293
Permanent	79,676	63,249	47,747	21,424	21,576	6,121	3,079	642	243,117
Respite	25,452	15,566	12,898	8,053	3,649	1,535	602	207	67,775
Residential care	89,941	70,250	53,085	24,752	23,211	6,884	3,313	744	271,472
Short Term Restorative Care	1,444	1,702	1,485	378	794	164	127	133	6,227
Transition Care	7,638	5,528	4,587	2,406	2,512	614	335	196	23,802

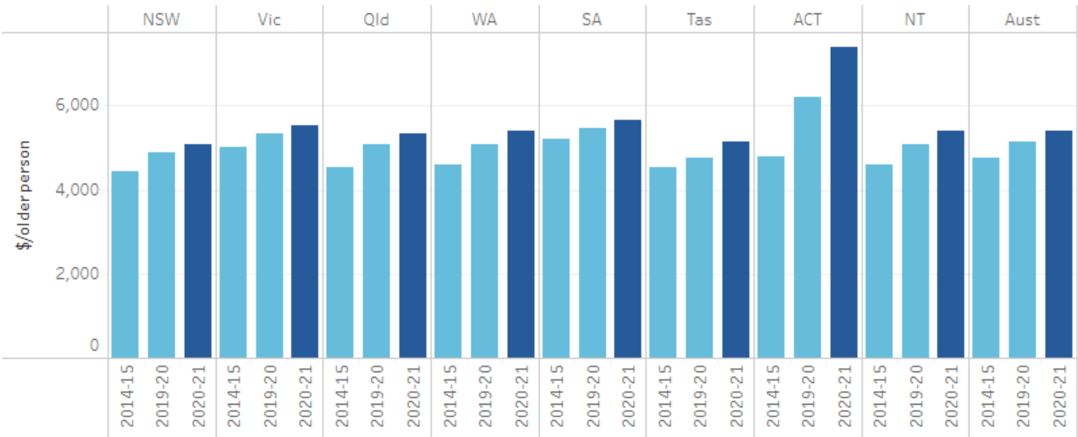
Total Expenditure (i)

NSW	$7,279,489,324.05	Tas	$585,164,571.26
Vic	$5,963,256,915.35	ACT	$437,692,605.32
Qld	$4,573,489,235.74	NT	$167,605,112.32
SA	$1,976,391,245.38	Other(c)	$339,261,631.73
WA	$2,306,024,365.48	Aust	$23,628,375,006.63

Notes
- Client data is presented at program level only. An individual may receive services through more than one program within the year but the number of unique individuals accessing aged care is not available.
- [expenditure] The 'other' category includes expenditure that cannot be attributed to a state or territory.
- Expenditure figures exclude aged care revenue and some additional Australian Government expenditure, such as expenditure through the Australian Aged Care Quality and Safety Commission
- For all notes on the data, please refer to the source spreadsheet.

Source: Department of Health (DoH), *Aged care data snapshot–2021*, 3rd release, client summary and expenditure summary tabs, 2022. Interactive version.

Figure 2 – Hospital patient days used by those eligible and waiting for residential aged care, by jurisdiction and year



Note: Victoria has developed alternative pathways for people waiting for residential aged care.

Source: Productivity Commission, 'Aged Care Services: Indicator Results: Unmet Needs', *Report on Government Services 2022*, (Canberra: Productivity Commission, 2022).

residential aged care nationally (Figure 2).

Reports have also shown that despite existing programs, informal carers of older people still have high unmet needs (see, for example, the Royal Commission's *Final report* (from p. 204) and *The value of informal care in 2020* from Carers Australia).

Rights-based aged care

The Royal Commission's *Final report* stated that achieving the fundamental reforms it envisaged will require a new Act – one focused on people's needs and wellbeing rather than one defined by Government funded programs (p. 13). Recommendation 1 proposed that the objects of the new Act include providing '… a system of aged care based on a universal right to high quality, safe and timely support and care to […] assist older people to live an active, self-determined and meaningful life' (p. 15).

The Morrison Government accepted this recommendation, with the new Act intended to commence from 1 July 2023. However, the Government's response was silent on the issue of a rights-based Act, stating work would begin on a new 'consumer-focused' Act (p. 1).

Funding

The Australian Government is the primary funder of aged care, with contributions from care recipients and funding from state and territory governments for particular programs. Government expenditure on aged care services in 2020–21 was approximately:

- Australian Government: $23.2 billion
- state and territory governments: $348 million (Table 14A.3).

The 2021 *Intergenerational report* (IGR) estimated that the Australian Government funded approximately 80% of aged care in 2018–19, with care recipients funding most of the remaining 20% (p. 103). However, the contribution from care recipients is no longer routinely reported as the Aged Care Financing Authority was abolished following passage of the *Aged Care and Other Legislation Amendment (Royal Commission Response No. 1) Act 2021*. Note however the explanatory memorandum to the Bill stated a new aged care financing advisory body would be established (p. 20).

The IGR estimated that aged care spending as a proportion of the economy will increase substantially from 1.2% of gross domestic product in 2020–21 to 2.1% in 2060–61 (approximately $113 billion in 2020–21 dollars) (p. 104).

Financial health of the sector

StewartBrown, an accountancy firm, undertakes a quarterly benchmarking survey with approximately a third of all aged care providers. Its most recent publicly available report states:

> The Survey for the 3 month period ending September 2021 continues to highlight the declining financial sustainability of the sector, with residential aged care becoming a major focal point of consternation.
>
> The average operating results for residential aged care homes in all geographic sectors was an operating loss of $7.30 per bed per day despite the additional Basic Daily Fee supplement of $10 per bed day …

A report from the University of Technology Sydney, analysing mid-year results for the first half of 2021–22 for aged care providers, makes similar findings, estimating that over 60% of residential care homes are operating at a loss (p. 9).

Care recipient fees

Care recipients may be required to financially contribute towards the cost of their care and services. For some fees, people generally need to complete an income or means assessment (undertaken by Services Australia) to determine their means tested care fee and accommodation costs. In residential aged care and home care, most people will be asked to pay a basic daily fee, calculated as a proportion of the single basic age pension.

Care funding in residential care

The Aged Care Funding Instrument (ACFI) is the resource allocation tool used to assess people's main care needs as a basis for funding allocation in residential aged care. An ACFI assessment is undertaken by the aged care provider. Concerns relating to the growth of ACFI subsidies and its ability to cover the cost of care are longstanding.

In 2019, the Government announced a trial of a new funding tool, the Australian National Aged Care Classification (AN-ACC), to replace ACFI. The 2020–21 Budget provided $91.6 million to fund a 12-month shadow assessment in which most residents would receive an independent assessment using the AN-ACC model.

The Government announced the AN-ACC model would replace ACFI from 1 October 2022 (p. 108) and introduced the Aged Care and Other Legislation Amendment (Royal Commission Response No. 2) Bill 2021 to enable this change. However, the Bill lapsed at the dissolution of the 46th Parliament.

Accommodation deposits

Before a person enters permanent residential aged care, they must agree an accommodation price with the provider; however, the outcome of their means assessment will determine if they need to financially contribute towards their accommodation cost or if the cost is partially or fully covered by the Australian Government. People required to make accommodation payments can nominate to pay it as a lump sum, a daily payment or a combination of both. In 2019–20, the average refundable accommodation deposit was estimated at approximately $334,000 (p. 109).

Accommodation bonds, the predecessor to accommodation deposits, were introduced in the Act to encourage capital investment in residential stock to assist providers to meet building standards and improve building stock (pp. 11–12). As at 30 June 2020, the total value of accommodation deposits held by providers was estimated to be $32.2 billion, comprising 57% of providers' total assets and 79% of liabilities (p. 109). Under the Accommodation Payment Guarantee Scheme, the Australian Government guarantees the repayment of accommodation deposits if a provider defaults on its refund obligations.

It is estimated that approximately 80,000 new aged care beds will be needed over the next decade to meet projected demand, and that providing these, in conjunction with refurbishing and rebuilding existing stock, will require capital funding of approximately $51 billion (p. 8).

In the Royal Commission's *Final report*, Commissioner Briggs recommended refundable accommodation deposits be phased out from 2025 (p. 884). The

Government stated that this would be considered further as part of the development of a reformed accommodation framework (p. 94).

Governance, safety and quality

System governance

In its *Final report*, the Royal Commission emphasised the requirement for robust system governance, identifying the need for a number of institutions, including:

- a system governor
- an independent standard setting body
- an independent pricing authority (p. 40).

The commissioners differed on the form some of these institutions should take, with Commissioner Pagone proposing an Independent Commission model and Commissioner Briggs a Government Leadership model.

In its response, the Government broadly supported the Government Leadership model, including the establishment of an independent Inspector-General of Aged Care and the expansion of the Independent Hospital Pricing Authority (IHPA) (pp. 4–13). Among other things, the Morrison Government sought to expand the functions and governance of the IHPA through the Aged Care and Other Legislation Amendment (Royal Commission Response No. 2) Bill 2021.

Safety and quality

The Royal Commission was established, among other things, to inquire into the quality and safety of aged care services and they are discussed throughout the *Final report*. Chapter 3 in particular focuses on elements of quality and safety, such as how to define high-quality aged care and tools to improve it with the commissioners making 12 specific recommendations (numbers 13–24), including:

- amending the *National Health Reform Act 2011* to expand the function of the Australian Commission on Safety and Quality in Health Care (ACSQHC) (the health regulator) to create standards, guidelines and indicators for aged care quality and safety (p. 122)
- developing a star rating system, which includes performance against clinical and quality indicators and staffing levels (p. 131).

The Government accepted in principle the recommendation to expand the ACSQHC, stating it would transfer the responsibility for formulating the clinical care standards to the ACSQHC while the Department of Health would retain responsibility for the non-clinical care standards (p. 17). The star rating system is anticipated to commence in residential aged care from the end of 2022.

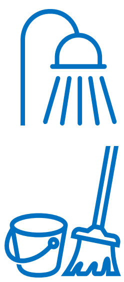
Workforce

As outlined in the Royal Commission's *Final report*:

> Getting the aged care workforce right is vital to the success of any future aged care system …
>
> While many excellent people work in aged care, there are systemic workforce problems that must be addressed. Of the public submissions we

In 2020, direct care was provided by

- almost 209,000 people working in in residential aged care
- over 64,000 people working in home care
- almost 60,000 people working in CHSP



In 2020, personal care workers made up between 70%–88% of the direct care workforce in residential aged care, home care and CHSP

Source: DoH, *2020 Aged Care Workforce Census Report*, (Canberra: DoH, 2021): 8, 24, 38.

> received, approximately 70% identified staffing as a concern …
>
> The aged care workforce is poorly paid for difficult and important work. There are often not enough staff members to provide the care that is necessary … (pp. 371–2).

The commissioners identified several key elements needed to achieve their vision for the workforce, including:

- strategic leadership and workforce planning
- greater proportion of health practitioners
- minimum qualifications for personal care workers
- improved pay and conditions
- registered personal care workers (p. 372).

In addition, several of their other recommendations would have an impact on staffing numbers, such as recommendation 39, which includes clearing the existing home care package waiting list (pp. 183–184).

Vacancies and attrition

A 2022 report for Catholic Health Australia estimated a total of 59,067 full time equivalent (FTE) aged care vacancies across the sector, the majority being for qualified personal care workers (p. 6).

In the 2020 aged care workforce census, organisations were asked about the attrition of the direct care workforce between November 2019 and November 2020. Findings showed that in the 12-month period, the proportions of employed direct care workers leaving their employment were:

- 29% from residential care (p. 21)
- 34% from home care (p. 35)
- 26% from CHSP (p. 48).

The report does not provide details on whether people who left their jobs moved elsewhere in the sector or left the sector entirely.

Projections

The Royal Commission engaged Deloitte to project the number of direct care workers required to implement its recommendations at different ranges of minimum staffing levels for residential aged care (see Figure 3). The star rating system used in this model is from the US, with a 4-star rating for minimum staff time per resident per day best aligning with Recommendation 86 on minimum staffing levels. The baseline projection suggested that 316,500 FTE would be required by 2050 (Figure 3). Compared with 2020 levels, the 4-star rating in 2050 would require an additional:

- 35,900 nurse practitioner and registered nurse roles
- 6,000 enrolled nurse roles
- 113,600 personal care workers (p. 375).

Remuneration

A report prepared by Korn Ferry HayGroup for the Aged Care Workforce Strategy Taskforce included a section on remuneration benchmarking, which found:

- personal care workers are paid significantly lower than similar roles in the general Australian market

Figure 3 – Projected number of direct care FTE in aged care

	2020	2030	2040	2050
Baseline (current policy)[16]	186,100	226,700	269,700	316,500
Minimum 3 star[17]	186,100	238,800	280,000	333,000
Minimum 4 star[18]	186,100	256,800	301,800	363,500
Minimum 5 star[19]	186,100	273,300	322,800	392,700

Source: Royal Commission into Aged Care Quality and Safety (Royal Commission), *Final Report: Care Dignity and Respect, Volume 3A: The New System*, (Adelaide: Royal Commission, 2021), 375.

and are generally paid between the (bottom) 10th percentile to 25th percentile of all organisations assessed

- nurses are generally paid lower than the median fixed annual reward of similar-sized roles and often paid between the 25th to 50th percentile of all organisations assessed (pp. 97–98).

Undertaking research with its 218,000 members working in aged care, HESTA, a superannuation fund, released an aged care workforce report in 2021, finding:

- the estimated median gross salary for its aged care members was $47,127
- almost 40% of aged care members earn less than $50,000 per year before tax
- aged care members have the lowest median super balance for all health and community services
- 43% of aged care members are aged 50 and over
- 25.6% of aged care members made a claim to access their super early under the COVID-19 arrangements. Of this group, the median super balance after the claim was less than $15,000 (pp. 8; 9; 22; 23).

In March 2022, the Australian Aged Care Collaboration released a report looking at the average wage for aged care workers and costs of living. Using the income of a personal care worker at $900 for an ordinary full-time week ($773 after tax) the authors found:

- a single household, after covering basic expenses, would have approximately $112 left for the week
- a single-parent household would be unable to cover their basic expenses at -$148
- a 2-parent household would have $17 left.

The Royal Commission identified issues with remuneration, recommending that aged care employee organisations collaborate with the Australian Government and employers to apply to the Fair Work Commission to vary wage rates for 3 awards: the Aged Care Award 2010, the Nurses Award 2010 and the Social, Community, Home Care and Disability Services Industry Award 2010 (p. 415).

The Health Services Union and the Australian Nursing and Midwifery Federation have lodged an application to the Fair Work Commission to vary the 3 awards. If successful, this application would increase the wage rates for aged care employees under the awards by 25%. As part of its election policy, the Australian Greens stated it would increase pay by 25% for aged care workers. The Australian Labor Party has committed to implementing the outcome of this case.

What next for aged care?

Aged care is a heavily regulated sector, with legislation and policy development and implementation tightly linked. The reasons behind this, partially at least, are a combination of system governance, especially as the Australian Government is the primary funder, and the need to ensure people receive safe and quality care and services. Alongside the funding and workforce challenges, there is a need to acknowledge sector fatigue, not only with an ongoing pandemic but also in the face of another possible set of reforms to which organisations and the workforce will need to adapt, while still providing day-to-day care and support. While this is certainly not without its challenges, the work of the Royal Commission identifies opportunities for developing and implementing a fit-for-purpose aged care system that enables people to age well in Australia now and into the future.

Further reading

Royal Commission into Aged Care Quality and Safety (Royal Commission), *Final Report: Care, Dignity and Respect*, (Adelaide: Royal Commission, 2021).

Department of Health (DoH), *Australian Government Response to the Final Report of the Royal Commission into Aged Care Quality and Safety*, (Canberra: DoH, 2021).

DoH, *Respect, Care, Dignity: a Generational Plan for Aged Care in Australia*, (Canberra: DoH, 2021).

Rebecca Storen, *Aged Care: a Quick Guide*, Research paper series, 2020–21, (Canberra: Parliamentary Library, 2021).

COVID-19: IMPACTS ON HEALTH AND THE AUSTRALIAN HEALTH SYSTEM

Rebecca Storen, Social Policy

Key issue

The COVID-19 pandemic continues to have direct and indirect health impacts for people, as well as the health system (and its workforce). More than 2 years into the pandemic, Australia has high levels of vaccination among the population but continues to see significant numbers of cases and deaths. Attention is also turning to the longer-term impacts of COVID-19, as evidence emerges that anywhere from 10% of people who have had SARS-CoV-2 infection may experience ‘long COVID’ (post COVID-19 condition) in the weeks to years following acute infection.

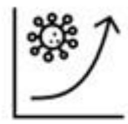
A snapshot in time

As at 27 June 2022, Australia had:

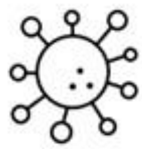
An estimated 220,089 active SARS-CoV-2 cases

2,967 people in hospital

20,105,570 people had received at least one COVID-19 vaccine dose



9,599 SARS-CoV-2 related deaths



An estimated 7,946,440 SARS-CoV-2 cases to date

13,862,235 people had received 3+ COVID-19 vaccine doses

Source: Department of Health, ‘Coronavirus (COVID-19) case numbers and statistics’ and ‘COVID-19 vaccine rollout update – 26 June 2022’, 27 June 2022.

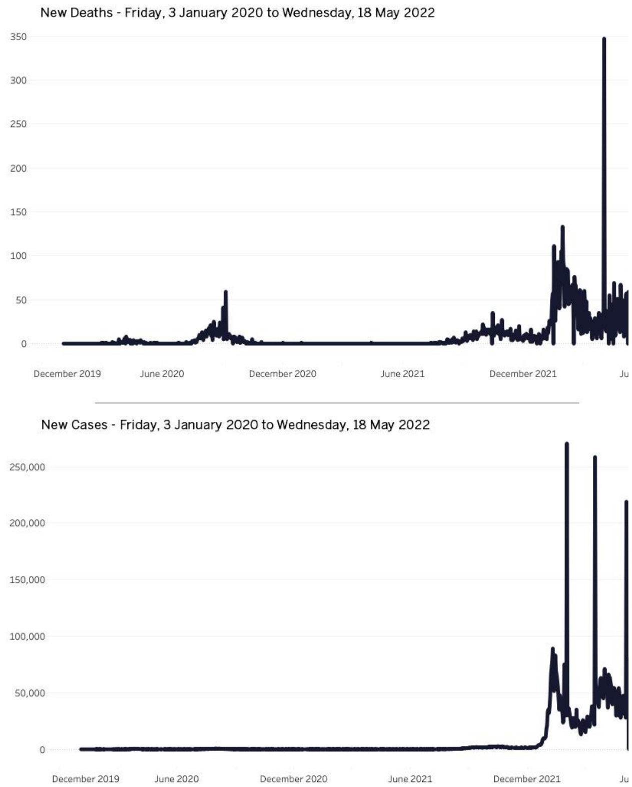
More than 2 years into the COVID-19 pandemic, the number of SARS-CoV-2 infections (the virus that causes COVID-19) continues to climb, with 2022 already seeing the highest number of COVID-19 related deaths in Australia. A range of measures have been introduced by the Australian, state and territory governments to try and minimise transmission, ration health services and equipment and to save lives. This article focuses on a select few areas including hospital funding, Medicare and vaccines. Some of the direct and indirect health implications of COVID-19 are briefly considered, with an emphasis on the newly classified ‘post COVID-19 condition’ (also known as long COVID) and the suggested impacts of this condition. This article does not address mental health or the health workforce, but these topics are discussed elsewhere in the *Briefing book*.

Cases and deaths

Australia reported its first cases of COVID-19 on 25 January 2020, its first death on 1 March 2020 and the first recorded case of community transmission was reported the following day. Figure 1 provides the number of cases and deaths reported daily between January 2020 and June 2022.

As discussed in the 'Australia in numbers' *Briefing book* article, recent estimates from the Department of Health suggest COVID-19 may become a leading cause of death in Australia in 2022.

Figure 1 – Daily Coronavirus cases and deaths in Australia



Note: the chart provides the daily numbers by date they were reported to the World Health Organization (WHO). As such, some of the large spikes in the dataset are artificial and due to reporting patterns rather than exact cases identified on any one day.

Source: World Health Organization (WHO), 'Daily cases and deaths', *COVID-19 Dashboard* (Geneva: WHO, 2 June 2022). Interactive version.

Cases and deaths in residential aged care and NDIS services

As at 24 June 2022, there have been 2,562 COVID-19 outbreaks in residential aged care (an outbreak is defined as one or more positive residents, or 2 or more positive staff cases). There have been:

- almost 47,000 resident cases
- more than 2,800 deaths (the majority occurring in 2022)
- more than 43,000 staff cases (p. 1).

As at 24 June 2022, of people receiving aged care services in their home, 205 have tested positive to COVID-19 and 13 have died.

As at 23 June 2022, for the National Disability Insurance Scheme (NDIS), as reported to the NDIS Commission and the National Disability Insurance Agency, there have been:

- almost 18,000 cases among NDIS participants (active and recovered)
- 77 deaths of NDIS participants
- more than 25,000 staff cases across NDIS services (active and recovered).

Health system

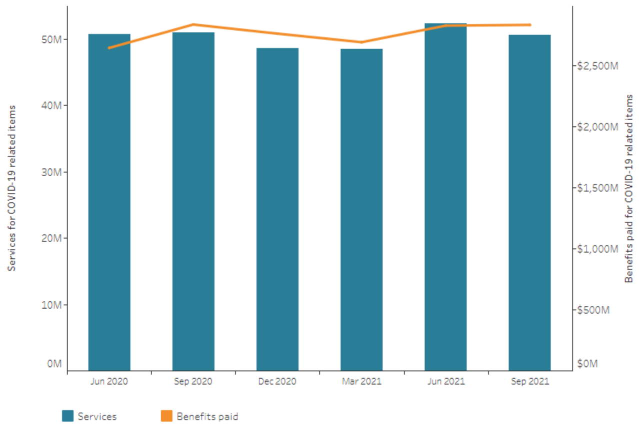
Hospitals and the National partnership on COVID-19 response

The National Health Reform Agreement (NHRA) sets out high-level health system responsibilities and reform objectives, and is the mechanism through which the Australian Government funds public hospital services. In May 2020, the Australian, state and territory governments entered into a new agreement through an addendum to the NHRA (2020–2025). Under the new agreement, 'the Morrison Government has provided a funding guarantee to all states and territories to ensure no jurisdiction is left worse off as a result of the COVID-19 pandemic'.

On 6 March 2020 the Prime Minister announced the *National partnership on COVID-19 response* (National Partnership), between the Australian and state and territory governments. Under this agreement, from 21 January 2020, the federal government pays 50% of costs incurred by state and territory health systems for the diagnosis and treatment of people with, or suspected of having, COVID-19, and activities to prevent the virus from spreading. The National Partnership is in place 'for the period of the activation of the Australian Health Sector Emergency Response Plan for Novel Coronavirus 2019 (COVID-19 plan) as declared by the Australian Health Protection Principal Committee (AHPPC), and then for sufficient additional time to allow for the final reconciliation of any payments made under the Agreement' unless terminated or extended as agreed by all parties (Clauses 10 and 11). The 2022–23 Budget extends funding for the National Partnership until 30 September 2022 (p. 2).

The National Partnership also provides for states and territories to enter into agreements with private hospitals to ensure the public system has sufficient hospital services capacity, the cost of which will be equally shared between the Australian and relevant state or territory government. The Australian Government will also contribute 100% of funding to the states to guarantee the financial viability of private hospitals (Schedule B).

Figure 2 – Medicare services and benefits processed for COVID-19 related MBS items by quarter



Source: Australian Institute of Health and Welfare (AIHW), *Impacts of COVID-19 on Medicare Benefits Scheme [sic] and Pharmaceutical Benefits Scheme: Quarterly Data – Impact on MBS Service Utilisation* (Canberra: AIHW, 18 February 2022).

Primary care

Early in the COVID-19 pandemic a series of measures were announced for primary health care to diagnose and manage potential and confirmed SARS-CoV-2 cases, and to minimise transmission. These measures also covered the provision of care and support for people's ongoing health needs (for example, prenatal care and managing chronic disease).

Temporary Medicare Benefit Schedule (MBS) items

A key introduced measure has been temporary MBS items for telehealth (video and/or telephone) consultations, with some of these items subsequently transitioned to permanent arrangements from January 2022. The Australian Institute of Health and Welfare (AIHW) provides a summary of the COVID-19 temporary MBS services and benefits processed quarterly (Figure 2). Between 1 April 2020 and 30 September 2021 there were 302,125,508 services processed and approximately $16.6 billion in benefits paid for COVID-19 related MBS items.

The Australian National Audit Office (ANAO) is currently undertaking a performance audit of the Department of Health's management of the expansion of telehealth services in response to COVID-19. Its report is due in December 2022.

Schedule A of the National Partnership states that the Australian Government, under a separate agreement, is responsible for 100% of funding for private pathology testing for COVID-19 (p. 15). In addition, the Australian Government agreed to supplement 50% of the costs of COVID-19 testing undertaken at public health testing facilities (p. 22). In the 2022–23 Budget, the Government announced it would extend SARS-CoV-2 pathology MBS items until 30 September 2022 (p. 89). It is currently unclear what funding arrangements will be in place from 1 October 2022 onwards.

Medicines

In response to the COVID-19 pandemic, the Australian Government, in conjunction with state and territory governments, implemented several changes to medicines regulation, including:

- extending and expanding the continued dispensing arrangements, allowing an approved pharmacist to supply an eligible medicine where the person has immediate need and it is not practicable to obtain a

Pharmaceutical Benefits Scheme prescription

- enabling pharmacists to substitute some medicines in short supply without prior approval from the prescriber if the specified medicine is unavailable
- limiting sales and dispensing of some medicines
- enabling image-based prescriptions, allowing a prescriber to create a digital image of a paper prescription following a Medicare-subsidised telehealth consultation.

In addition, electronic prescriptions became more widely available from mid-2020 following legislative changes and technical upgrades.

Vaccinations

Evaluation and regulation

The Therapeutic Goods Administration (TGA) is responsible for evaluating and regulating therapeutic goods (which includes vaccines) to ensure they are high quality, safe to use and work as intended. The TGA has several options available to fast-track the approval of therapeutic goods to enable faster access. One of these is the provisional approval pathway, which grants temporary registration where the need for early access outweighs risks. This process has been used for COVID-19 vaccines. Figure 3 provides an overview of the COVID-19 vaccines that have provisional registration (as at May 2022).

Figure 3 – COVID-19 vaccines with provisional registration in Australia

Effective date	Sponsor	Name	Type
19 January 2022	Biocelect Pty Ltd on behalf of Novavax Inc	NUVAXOVID (NVX-CoV2373) For individuals aged 18 years and over	Protein vaccine
a. 9 August 2021 b. 3 September 2021 c. 7 December 2021 d. 17 February 2022	Moderna Australia Pty Ltd	SPIKEVAX (elasomeran) a. For individuals aged 18 years and over b. For individuals aged 12 years and over c. Booster dose for individuals aged 18 years and over d. For individuals aged 6 years and over	mRNA
25 June 2021	Janssen-Cilag Pty Ltd	COVID-19 Vaccine Janssen For individuals aged 18 years and over	Viral vector
a. 15 February 2021 b. 8 February 2022	AstraZeneca Pty Ltd	VAXZEVRIA (previously COVID-19 Vaccine AstraZeneca) a. For individuals aged 18 years and over b. Booster dose for individuals aged 18 years and over	Viral vector
a. 25 January 2021 b. 22 July 2021 c. 26 October 2021 d. 3 December 2021 e. 27 January 2022 f. 7 April 2022	Pfizer Australia Pty Ltd	COMIRNATY (tozinameran) a. For individuals aged 16 years and over b. For individuals aged 12 years and over c. Booster dose for individuals aged 18 years and over d. For individuals aged 5 years and over e. Booster dose for individuals aged 16-17 years old f. Booster dose for individuals aged 12-15 years old	mRNA

Source: Therapeutic Goods Administration (TGA), 'COVID-19 vaccine: provisional registrations' (Canberra: TGA, 2 May 2022).

COVID-19 vaccine program

The Australian Government has entered into supply agreements for several COVID-19 vaccines. On 7 September 2020, the Government announced it had signed the first agreement with AstraZeneca for production and supply of its University of Oxford COVID-19 vaccine, if the trials proved successful. This was followed by agreements with Novavax and Pfizer in 2020 and Moderna in 2021.

Due to commercial sensitivities, information on the full financial implications of the COVID-19 vaccine program is limited. However, according to Government estimates at the time of the 2022–23 Budget, total expenditure on the vaccine program (including rollout) has been more than $17 billion (p. 164).

The National Partnership sets out the Australian Government's commitment, with the state and territory governments, to support the COVID-19 vaccine rollout including:

- an upfront payment of $100 million, shared across jurisdictions based on population
- a 50% contribution to the agreed price per vaccination dose delivered by the states
- from 21 April 2021, a 50% contribution to additional costs incurred by states to set up additional COVID-19 vaccination sites (Schedule C).

The ANAO is undertaking a performance audit of the planning and implementation of the COVID-19 vaccine rollout. The report is due to be tabled in July 2022.

Health implications of the COVID-19 pandemic

Elective surgeries

In an effort to ration health resources, on 25 March 2020 the National Cabinet announced all non-urgent elective surgeries in the public and private system would be suspended. Since then, various jurisdictions have implemented restrictions on elective surgeries in response to subsequent outbreaks (for example, in Greater Sydney in July 2021 and in parts of Victoria in January 2022).

It is difficult to measure the full impact of the COVID-19 related delays to surgery, especially given delays in public specialist appointments and access to surgery were already issues of concern prior to the pandemic. However, what is known is that delays to clinically necessary surgery have social and financial cost implications. Delayed surgery affects people's quality of life and may result in reduced or no capacity to work and reliance on medication to manage pain and other symptoms, which in turn can lead to poorer health outcomes and financial stress (p. 13).

According to the AIHW, the proportion of people waiting more than one year for elective surgery increased from 2.8% in 2019–20 to 7.6% in 2020–21. The median waiting time for admission for elective surgery also rose from within 39 days in 2019–20 to 48 days in 2020–21 – this was higher for Aboriginal and Torres Strait Islander peoples, at 57 days.

Long COVID (post COVID-19 condition)

Clinical case definition and standardised data collection

In September 2020, the WHO created International Classification of Diseases (ICD) codes for post COVID-19 condition. The ICD is the international system for classifying diseases, injuries, symptoms, procedures and cause of death, and enables comparable morbidity and mortality statistics. This coding enables Australia and the international community to collect and compare data on people who have a history of SARS-CoV-2 infection, which is particularly important as the long-term health implications of an infection and the disease associated with it (that is, COVID-19) is currently poorly understood.

Early in the pandemic it became apparent that some people who had, or were suspected of having had, a SARS-CoV-2 infection were experiencing symptoms weeks after the infection that could not be explained by an alternative diagnosis. Different terms have been proposed to describe this condition, including long COVID. To standardise clinical case definitions and nomenclature to better support clinical care, epidemiological reporting, research and policy making, the WHO undertook work to define a clinical case definition of 'post-COVID-19 condition', through a Delphi process (which identifies a consensus view from an expert group). The description of post COVID-19 condition is a condition that:

> … occurs in individuals with a history of probable or confirmed SARS-CoV-2 infection, usually 3 months from the onset of COVID-19 with symptoms and that last for at least 2 months and cannot be explained by an alternative diagnosis. Common symptoms include fatigue, shortness of breath, cognitive dysfunction but also others and generally have an impact on everyday functioning. Symptoms may be new onset following initial recovery from an acute COVID-19 episode or persist from the initial illness. Symptoms may also fluctuate or relapse over time.

More than 200 symptoms have been reported for post COVID-19 condition. Figure 4 provides a snapshot of common symptoms.

Incidence and prevalence of post COVID-19 condition

The incidence of post COVID-19 condition is unclear, but research to date suggests that the long-term impacts and burden of symptoms may be high.

One of the few studies currently available that has measured the health outcomes for people 2 years after hospitalisation from acute infection, shows:

- people experiencing at least one post COVID-19 symptom decreased from 68% at 6 months to 55% at 2 years, with fatigue or muscle weakness the most commonly reported symptoms
- most people (89%) improved enough to return to their original work within the 2-year period
- participants reported decreases in anxiety or depression over time from 23% at 6 months to 12% at 2 years
- participants still had more symptoms and lower health-related quality of life at 2 years than the control group.

Other research on post COVID-19 condition indicates that there is a difference between the experience of people who have had severe COVID-19 (and been hospitalised) and those who have had less severe symptoms. Estimates have suggested that 10–35% of people who did not require hospitalisation may experience at least one long COVID symptom, while for people who were admitted to hospital, this may be as high as 85%.

The Office for National Statistics in the UK provides regular population estimates of prevalence of ongoing symptoms following infection based on self-reported

Figure 4 – Common symptoms of post COVID-19 condition

Source: Researching COVID to Enhance Recovery (RECOVER), 'What is long COVID?', (US, RECOVER, 2022).

symptoms and activity limitations. Key points from the 1 June 2022 report include:

- an estimated 2 million people (over 3% of the population) living in private households experienced long COVID as of 1 May 2022
- 71% of these people (approximately 1.4 million) reported symptoms that adversely affected their day-to-day activities and 20% (approximately 400,000 people) reported that their ability to undertake day-to-day activities was 'limited a lot'
- fatigue was the most common symptom reported (55% of people), followed by shortness of breath, a cough and muscle aches
- the prevalence of self-reported symptoms was highest for:
    - people aged 35–69 years
    - females
    - people living in 'more deprived' areas (as measured by indices of deprivation, which has 7 domains including income, employment and crime)
    - people working in social care (such as aged care), teaching and education, and health care
    - people with another activity-limiting health condition or disability.

Association with COVID-19 vaccines

Research is emerging on the association between long COVID symptoms and COVID-19 vaccines, although uncertainties remain.

Research suggests that adults who were vaccinated before they had a SARS-CoV-2 infection were less likely to develop long COVID symptoms, measured at 4 weeks to 6 months post-infection. One study found that fully vaccinated people were 50% less likely to experience long COVID symptoms 28 days or more after infection. Other studies have suggested that the protection from long COVID symptoms offered by vaccines may be lower, with results indicating that vaccination may reduce the likelihood of long COVID by approximately 15%.

There is also mixed evidence that suggests unvaccinated people with long COVID who were subsequently vaccinated may experience fewer long COVID symptoms than people who remained unvaccinated (p. 14). This is supported by a more recent UK study of more than 28,000 participants, which found that vaccination after SARS-CoV-2 infection appeared to be associated with reduced symptoms of long COVID for at least a few months following vaccination. The authors note the need for long-term follow up, especially in relation to the Omicron variant of the virus.

Future considerations

Domestic and international attention is turning to the lessons from COVID-19 and future pandemic prevention and preparedness. This work considers issues such as supporting prevention activities, the importance of early warning systems and the need for up-to-date systems that enable robust data collection and use as well as the importance of data sharing. In Australia, the Australian Labor Party has committed to establishing a Centre for Disease Control, which would be responsible for leading the federal response to future communicable disease outbreaks. Evaluating Australia's prevention and preparedness for future health emergencies may include a focus on institutional and legal arrangements to enhance ways to minimise the health, social and economic impacts of a future outbreaks and may include reviewing the emergency powers under the *Biosecurity Act 2015* and National Cabinet arrangements.

The ongoing pandemic continues to present challenges for the Australian health system and the health workforce (also see the article in this *Briefing book* on 'Health workforce'), with most temporary response measures due to expire in coming months. Long COVID clinics are opening around Australia seeking to address the chronic health issues that are likely to emerge, especially as cumulative case numbers continue to rise. In response to long COVID and the potential persistent and long-term health outcomes people experience, some countries have started to consider classifying long COVID as a disability (for example, see information from the US). The long-term impacts of SARS-CoV-2 infection and the COVID-19 pandemic on people and the Australian community are unknown but evidence suggests that for some people, post COVID-19 condition may continue to impact their quality of life for years to come.

Further reading

Emma Vines, *COVID-19 Vaccines: a Quick Guide*, Research paper series, 2021–22, (Canberra: Parliamentary Library, 2021).

Parliamentary Library's COVID-19 publications.

Parliamentary Library, 'Pandemics and Attempts to Reform the WHO', *FlagPost* (blog), *Parliamentary Library*, 19 May 2022.

Australian Institute of Health and Welfare COVID-19 publications and data.

FUNDING THE NATIONAL DISABILITY INSURANCE SCHEME

Dr Rosalind Hewett, Social Policy, and Elliott King, Economic Policy

Key issue

The cost of the National Disability Insurance Scheme (NDIS) has far exceeded initial projections. Although the NDIS is an uncapped program, the legislation underpinning the scheme requires those administering it to have regard to the scheme's financial sustainability. With the current and forecast cost of the NDIS surpassing initial expectations, questions remain about how the NDIS will be funded into the future.

How the NDIS will be funded was an election issue, with most political parties and many independents discussing it during their campaigns. The experience of the NDIS to date has seen a larger than estimated intake of people and escalating costs. This is of concern for the NDIS's viability as the scheme's costs are a major expense for the Australian Government.

This article examines the cost of the NDIS to date, the projected cost, and proposals to help fund it. It focuses on the costs of 'reasonable and necessary supports', as they are the largest NDIS related expenditure. It does not examine the costs involved in administering the regulator, the NDIS Quality and Safeguards Commission, or the administering agency, the National Disability Insurance Agency (NDIA).

What is the NDIS?

The NDIS is an uncapped, demand-driven scheme intended to support the independence and social and economic participation of people with disability. The scheme takes an insurance approach that focuses on reducing long-term costs by providing supports which build participants capacity; this may mean higher costs in the short-term to reduce costs over the participant's lifetime. This contrasts with the previous systems which utilised annual block-funded programs where providers received funding to provide a fixed service to their clients.

The scheme was established in 2013 and became available to eligible Australians in all states and territories on 1 July 2020. The scheme is implemented through bilateral agreements between the Commonwealth and the states and territories. All jurisdictions have transitioned onto the NDIS except Western Australia, which is due to complete its full transition to the NDIS by July 2023.

The *National Disability Insurance Scheme Act 2013* requires that any person or body that performs functions and exercise powers under this Act have regard to the need to ensure the financial sustainability of the NDIS when giving effect to the objects and principles of the Act (see subsections 3(3) and 4(17)). Financial sustainability is not clearly defined, but, according to the NDIA's *Insurance principles and financial sustainability manual*, the NDIS could be considered sustainable provided both participants and financial contributors perceive the scheme as affordable, that costs are under control and supports are value for money, and that participants believe they are securing high-quality supports to allow them reasonable access to life opportunities (pp. 17–18).

The Australian Institute of Health and Welfare (AIHW) estimates that 1 in 6 people in Australia, about 4.4 million people, have a disability. To be eligible for support under the NDIS, a person must:

- have a permanent and significant impairment which reduces their functional capacity
- be aged from birth up to 65 when the access request was made
- reside in Australia, hold Australian citizenship, a permanent visa, or a special category visa holder.

As at 31 March 2022, the NDIS had 531,309 active participants (p. 127), or about 12.1% of the AIHW's estimated population of people with a disability. This is

Table 1 – Projected state and territory contributions to the NDIS*

State/ territory	Commencement of bilateral agreement	2018–19	2019–20	2020–21	2021–22	2022–23
NSW	2018	$3.2 billion	$3.3 billion	$3.5 billion	$3.6 billion	$3.7 billion
Vic	2019	N/A	$2.6 billion	$2.7 billion	$2.8 billion	$2.9 billion
ACT	2019	N/A	$168.8 million	$175.5 million	$182.6 million	$189.9 million
Qld	2020 (some clauses from 2019)	N/A	N/A	$2.1 billion	$2.2 billion	$2.3 billion
SA	2018	$747.9 million	$777.7 million	$808.7 million	$840.9 million	$874.4 million
Tas	2019	N/A	$244.3 million	$254.0 million	$264.1 million	$274.6 million
NT	2019	N/A	$103.6 million	$107.7 million	$112.0 million	$116.5 million
WA**	2017	N/A	N/A	N/A	N/A	N/A

* The amounts set out in Table 1 are taken from the most recent agreements and are not the total amounts contributed by the states and territories over the life of the scheme. Previous bilateral agreements can be found on the NDIA's website.

** Western Australia's contributions are subject to a complex set of conditions based on actual participant numbers and are divided into NDIA costs and participant costs. Western Australia is not due to reach full-scheme status until 2023.

Source: Bilateral Agreements between the Commonwealth of Australia and the states and territories on the National Disability Insurance Scheme, as follows: *New South Wales*, 2018; *Victoria*, 2019; *Australian Capital Territory*, 2019; *Queensland*, 2019: 1, 14; *South Australia*, 2018; *Tasmania*, 2018; *Northern Territory*, 2019.

about 120,000 more than estimated at full scheme in the Productivity Commission's (PC) 2011 report *Disability care and support* (p. 2), and 46,000 more than the PC's 2017 inquiry (p. 87) (410,000 and 475,000, respectively).

How is the NDIS currently funded?

Participant supports (also referred to as services for participants) are co-funded through a pooled approach by the Australian Government and state and territory governments.

Commonwealth contributions to the NDIS are taken from the Consolidated Revenue Fund. To help meet the costs of the NDIS, the Medicare levy was increased from 1.5% to 2% of taxable income from 1 July 2014. The amount raised through the levy increase is directed to the DisabilityCare Australia Fund to reimburse governments for NDIS expenditure.

State and territory contributions are capped and set out in bilateral agreements, which are all scheduled to end by December 2023 (see Table 1).

How much does the NDIS cost?

The 2022–23 Portfolio Budget Statement (PBS) for Social Services estimated that expenditure on the NDIS for the 2021–22 financial year (including Australian Government and state and territory government contributions) was $29.3 billion (p. 124), making it the third largest program expense for that year (*Budget paper no. 1*, p. 144) if including agency costs (or fourth without). Table 2 presents the split of Commonwealth funding, and state and territory contributions over the forward estimates.

The estimates presented in the PBS assume full package utilisation by participants. This means that actual payments tend to be materially lower than estimated costs as utilisation rates never reach 100%. Table 3 presents data from the latest NDIA quarterly report showing actual payments and committed supports up to the third quarter of 2021–22.

Although the NDIA's quarterly reports do not present a breakdown of each jurisdiction's contribution per year, the PC's *Report on government services* (RoGS) began including a breakdown in 2021, using 2019–20 data. According to the 2022 RoGS, in 2020–21 the Australian Government contributed $12.9 billion to services for NDIS participants, compared with $7.2 billion in 2019–20. This was in addition to contributions by state and territory governments (see Figure 1).

Table 2 – Budget estimates for reasonable and necessary supports, 2021–22 to 2025–26

Contributor ($billion)	2021–22	2022–23	2023–24	2024–25	2025–26
Commonwealth	18.3	22.3	25.9	28.8	31.5
States and territories	11.1	11.2	12.1	12.6	13.1
Total	29.3	33.9	38.0	41.4	44.6
Commonwealth (% of total)	62%	66%	68%	70%	71%
States and territories (% of total)	38%	34%	32%	30%	29%

Note: 'states and territories' is the sum of 'contributions from state and territory governments' and 'revenue from other independent sources' which relates to services provided in-kind to participants on behalf of state and territory governments. 'Commonwealth' is the sum of 'payment from related entities' and 'expenses not requiring appropriation in the Budget year'.

Source: Australian Government, *Portfolio Budget Statements 2022–23: Budget Related Paper No.1.12: Social Services Portfolio*, 124.

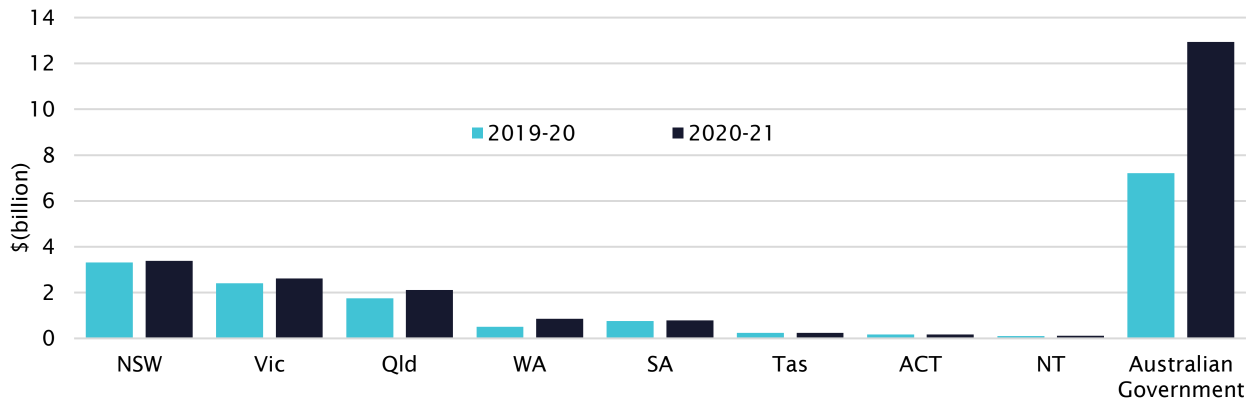
Table 3 – NDIS committed supports, payments and plan utilisation to 31 March 2022

($million)	2013–14	2014–15	2015–16	2016–17	2017–18	2018–19	2019–20	2020–21	2021–22 to date
Total committed	134.0	497.2	940.4	3,244.1	7,775.3	14,575.5	24,420.9	32,329.0	26,434.7
Total paid	85.8	370.9	704.2	2,187.1	5,440.9	10,402.8	17,308.8	23,474.9	18,853.6
Utilisation to date	64%	75%	75%	67%	70%	71%	71%	73%	71%

Note: the amount paid will differ from the amount committed or estimated by the NDIA. This is largely due to the cost of the NDIS in a given year being dependent upon participants utilising their care plans to their fullest extent. Utilisation can be influenced by a variety of factors.

Source: National Disability Insurance Agency (NDIA), *NDIS Quarterly Report to disability ministers, 31 March 2022*, (Canberra: NDIA, 2022): 205.

Figure 1 – Commonwealth, state and territory government contributions to the NDIS (2020–21 dollars)



Note: data is subject to several limitations, as outlined in notes attached to the original source.

Source: Productivity Commission (PC), *Report on Government Services 2022: Services for people with disability* (Canberra: PC. 2022). Table 15A.1.

Table 4 – Comparison of NDIS projections to 2029–30 (accrual basis)

$million	2021–22	2022–23	2023–24	2024–25	2029–30
PC 2017*	23,708	25,238	26,839	28,500	38,130
AFSR Dec 2020 update	28,139	32,900	36,906	40,659	60,324
AFSR 2020–21	29,223	33,886	37,973	41,373	59,284
PBS 2021–22	26,487	28,257	29,425	31,884	Not available

Note: This table collates information from separate tables in the NDIA's 2020–21 annual report and includes the Interim Update's projections to provide a comparison of estimates across different publications. The 'Dec 2020 update' is the interim update to the AFSR which updates the 2019–20 AFSR with data gathered in the period between 30 June 2020 and 31 December 2020.

*The 2017 PC costings reported here have been adjusted by the NDIA to allow for items not covered by the PC's model. This adjustment includes an explicit allowance for 4 items which account for an additional $1.5 billion per annum.

Source: National Disability Insurance Agency (NDIA), *Annual Report 2020–21*, (Canberra: NDIA, 2021): 106–110.

Long-term projections

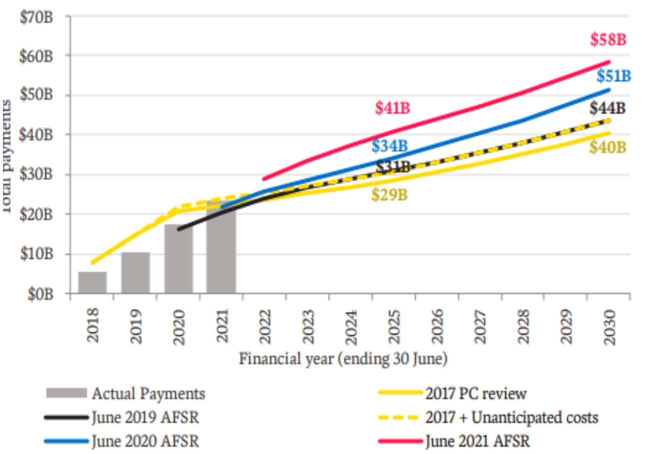
Long-term projections of the NDIS are fraught with difficulty due to the lack of certainty around new entrants into the scheme and estimating non-mortality exits – currently around 30% to 40% of the assumed rate (Taylor Fry, *Review of NDIA actuarial forecast model and drivers of scheme costs*, p. 26) – and limited longitudinal data on which to base cost assumptions. The early summary forms of the *Annual financial sustainability reports* (AFSR), as published in the NDIA's annual reports, and PC reviews drew on data from the 2009 Survey of Disability, Ageing and Carers (SDAC) and data derived from the NDIS trial sites to project what a (theoretical) fully operational NDIS would cost. These earlier projections could not account for subsequent policy changes (for example, the inclusion of children with developmental delay) or unanticipated inflation shocks (for example, higher than expected remuneration orders), nor the lack of robust statistics about the size of the eligible population.

This has led to some questions being raised about the reliability of projections out to 2024–25 and 2029–30 as it appears that there are competing projections (p. 62). Table 4, drawn from the NDIA's 2020–21 annual report, compares NDIS projections based on different sources.

The differences in each projection are due to different assumptions and the data availability at the time. The Taylor Fry *Review of NDIA actuarial forecast model and drivers of scheme costs* explored these issues and found that the assumptions underpinning the NDIA's model were reasonable, though potentially underestimated the expected cost of the full scheme (pp. 46–50). Figure 2, reproduced from the Taylor Fry review, plots the different projections from the 2018–19 to 2020–21 AFSRs, the PC's projections (both the original estimates and the adjusted figures), and actual payments as at 30 June 2021. Reasons for this cost escalation are discussed below.

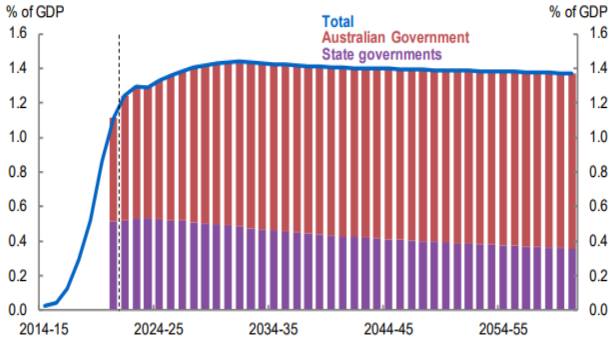
In addition to the PC's and NDIA's projections are the long-term projections in the 2021 *Intergenerational report* (IGR) produced by the Treasury. The IGR

Figure 2 – Change in projected payments from different forecast models



Source: Taylor Fry, *Review of NDIA actuarial forecast model and drivers of Scheme costs*, report prepared for the Disability Ministers Forum, (Canberra: DSS, 2021): 46.

Figure 3 – *Intergenerational report* projections of NDIS expenditure as a proportion of GDP



Note: Total government spending includes spending by the Australian Government and state governments. The Australian Government contribution does not include payments made under the DisabilityCare Australia Fund or NDIA agency costs.

Source: Australian Government, *2021 Intergenerational Report: Australia over the Next 40 years*, (Canberra: The Treasury, 2021), 108.

projected that NDIS costs would likely plateau around 2029–30 at 1.4% of gross domestic product (GDP), remaining at about that level out to 2060–61 (see Figure 3). As Figure 3 shows, the Australian Government's share of NDIS expenditure increases over this period. It should be noted the IGR does not consider changes to the states and territories' contributions and takes the current rates (which will be renegotiated in 2023) as given.

The IGR's projection of 1.4% of GDP by 2029–30 is less than the 2020–21 AFSR's projection of 1.95% of GDP in that year (p. 54). The reason for the difference between the AFSR's and the IGR's projections is not entirely clear as the IGR does not explain whether the model used by Treasury is the same as employed by the NDIA.

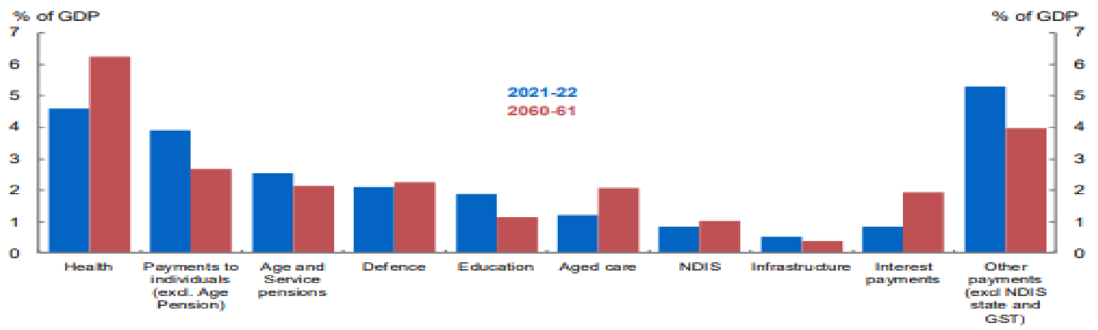
A helpful comparison of how much the NDIS is expected to cost the Australian Government as a proportion of GDP compared with other government programs is presented in Figure 4.

Why are projections for the NDIS going up?

The Scheme Actuary, in the 2020–21 AFSR, gave several reasons for why the cost of the NDIS has exceeded earlier projections. These include:

- more participants joining the scheme than expected (pp. 5–6)
- the cost of participants' plans being on average higher than previously forecast (pp. 9–10)
- fewer participants who receive early intervention support exiting the scheme than anticipated (p. 8). This is despite early intervention being intended to reduce the functional impact of a participant's disability over their lifetime and reduce their need for

Figure 4 – Government spending on the NDIS compared with other programs as a proportion of GDP



Note: Other payments in this chart includes a range of payments such as funding for the Australian Public Service, superannuation, official development assistance, law and order, the arts, community development and tourism. It excludes GST payments and state government contributions to the NDIS.

Source: Australian Government, *2021 Intergenerational Report: Australia over the Next 40 Years*, (Canberra: The Treasury, 2021), 93.

ongoing NDIS support.

Other reasons may include:

- there being fewer services for people with disability provided by other levels of government than anticipated, a situation described by one of the architects of the scheme as the 'NDIS cliff', in which the NDIS provides considerable supports and state and territory disability services provide very few services (p. 7)
- increased awareness of the NDIS and the services it offers for populations who previously did not engage with disability systems, as well as increased awareness and diagnoses of some disabilities (for example, increased diagnoses of autism spectrum disorder).

However, advances in medical research and clinical care have seen increases in the life expectancy and improvements in the quality of life of many people living with different conditions. As a result, the level of support participants need over their lifetime may be reduced. Examples of advances include:

- reduced incidence and severity of cerebral palsy
- increased life expectancy and better quality of life for people with cystic fibrosis
- medication that can slow and in some cases halt the progression of spinal muscular atrophy (recently listed on the Pharmaceutical Benefits Scheme).

Examining the benefits of the NDIS

The roll-out of the NDIS has placed greater control and choice in the hands of people with disability. The NDIS now supports a larger cohort of people than would have been supported under previous systems (pp. 131–34).

But it is less clear whether the NDIS has generated the system-wide benefits originally envisioned. In proposing an NDIS in 2011, the Productivity Commission argued that the benefits of the NDIS 'would significantly outweigh the cost … The NDIS would only have to produce an annual gain of $3800 per participant to meet a cost-benefit test' (p. 2). Benefits that the Productivity Commission envisaged included (p. 941):

- wellbeing gains to people with disabilities and their informal carers
- efficiency gains in the disability sector
- savings to other government services
- increased workforce participation for both people with disability and their informal carers.

The original proposal for a NDIS assumed that the scheme would eventually become close to budget neutral by 2050 (p. 788). This was predicated on offsets from other government programs, the introduction of a National Injury Insurance Scheme (which was to be implemented concurrently with the NDIS), efficiencies in the market for disability supports, and greater levels of employment for people with disability and their informal carers. There is yet to be an evaluation of whether the NDIS is yielding these wider benefits.

An impediment to evaluations, as the Productivity Commission pointed out in its 2017 inquiry into NDIS costs, is the long-term nature of most of the anticipated benefits (the 2017 review being conducted only 3 years after the first trial sites began). The Joint Standing Committee on the NDIS has also not conducted a wide-ranging evaluation to date, although it recently recommended that the Australian Government and disability ministers commission independent research into the benefits of the NDIS to the Australian economy. The Committee also recommended that the NDIA, the Scheme Actuary, and the NDIA Board review their methods and approaches of managing the financial sustainability of the scheme to ensure that 'appropriate emphasis is placed on measuring the benefits of the scheme and promoting those benefits to the broader Australian community' (p. 74).

In response to questions on notice from the committee, the NDIA has stated that an independent review of NDIS costs, which will include an examination of participant outcomes, is scheduled to be undertaken by the end of 2023. As such, the recent focus on the benefits of the NDIS, and how these relate to the costs of the scheme, will likely continue into the 47th Parliament.

Proposals to fund the NDIS into the future

As governments grapple with an NDIS forecast to cost far more than originally anticipated, it may be time to re-examine previous proposals put forward on how to source funding for the NDIS. These include:

- increasing the Medicare levy to 2.5%
- establishing an NDIS savings fund to meet the future demands of the scheme, using underspends and savings from social welfare payment expenditure
- establishing a pool of reserves as is typical of other insurance schemes. These schemes typically invest reserves in financial markets (see the Productivity Commission's 2017 report on NDIS costs, pp. 460, 464–467)
- increasing the contribution of the states and territories proportionally.

Whether these options are revisited as part of the scheduled independent review of scheme costs in 2023 remains to be seen (p. 31). However, it should be noted that Labor has stated its intent to 'review NDIS design, operation and sustainability' and 'use the existing budget in the forward estimates to fund … the NDIS'.

Further reading

Elliott King, 'National Disability Insurance Scheme Funding', *Budget Review 2021–22*, Research paper, 2020–21, (Canberra: Parliamentary Library, 2021).

Rosalind Hewett, National Disability Insurance Scheme: a Quick Guide, Research paper series, 2021–22, (Canberra: Parliamentary Library, 2022).

Joint Standing Committee on the National Disability Insurance Scheme, *Final Report: Current Scheme Implementation and Forecasting for the NDIS*, (Canberra: Joint Standing Committee on the National Disability Insurance Scheme, 2022).

MENTAL HEALTH

Dr Rosalind Hewett, Social Policy

Grey Robertson and Joanne Simon-Davies, Statistics and Mapping

WARNING: *The following article includes information on suicide and mental illness. For help or information contact Beyond Blue on 1300 224 636, or Lifeline on 13 11 14.*

Key issue

Prior to the COVID-19 pandemic, it has been estimated that 45% of Australians aged 16–85 years have experienced a mental illness during their lifetime. In its recent inquiry, the Productivity Commission estimated that 17% of people experienced an episode of mental illness in the 12 months to September 2019. While most conditions were mild, it estimated that 1.5 million people had a moderate or severe condition that can require specialist mental health support (p. 90). Mental ill-health can significantly impact people's lives and is the largest contributor to years lived in ill-health for people under 50 years in Australia (p. 88).

There have been many reviews into the mental health system, but successful implementation of reforms has proven challenging with people still struggling to access the care and supports they need. In addition, the pandemic has placed significant stress on the mental health system, with workforce challenges and increased demand, that may have impacts for some time to come.

Even before the COVID-19 pandemic, concerns were raised about the capacity of the mental health system to meet demand for services. Even with recent commitments from federal, state and territory governments, successive natural disasters and the pandemic appear to have increased demand for mental health services. Some of the changes arising during the pandemic may have long-term impacts on the sector, such as the exodus of the workforce following burnout. There may also be long-term effects from post COVID-19 condition (also known as long COVID) on the mental health of Australians.

This article provides an overview of the mental health system, access and workforce issues and the prevalence of mental illness in Australia, and notes where changes have occurred during the pandemic.

The incidence of mental illness in Australia

The Australian Institute of Health and Welfare (AIHW), drawing on pre-pandemic data, estimates that 45% of the population aged 16–85 will experience mental illness at some point in their life. According to AIHW, the most common mental illnesses in Australia are:

- anxiety disorders such as panic disorder (14% of the population)
- affective disorders such as depression (6%)
- substance use disorders such as alcohol dependence (5%).

In 2019–20, a total of 310,471 presentations to public emergency departments were mental health-related, representing 3.8% of all presentations. This proportion was slightly higher than in 2018–19, when mental health-related emergency department presentations comprised 3.6% of all presentations.

Funding and responsibility for services

Responsibility for funding, delivering and regulating mental health services is shared between the Australian Government and state and territory governments. The

Australian Government funds:

- Primary Health Networks, which coordinate primary health care in their respective regions
- Medicare
- the Pharmaceutical Benefits Scheme (PBS).

The Australian Government and state and territory governments co-fund:

- public hospitals
- helplines, mental health crisis and support services
- the National Disability Insurance Scheme.

The Australian Government also provides some clinical and non-clinical community-based mental healthcare (such as Adult Mental Health Centres) and funds non-government organisations such as headspace. The states and territories administer and deliver hospital, emergency and outpatient services, fund community-based services, and are responsible for employing the public hospital workforce.

In 2019–20, national recurrent spending on mental health-related services was around $11 billion, or $431 per person in the population. This represented an annual average increase of 3% since 2015–16 in real terms. Government spending on mental health-related services in 2019–20 comprised about 7.6% of total national health expenditure, which represented the same proportion as in 2015–16 and slightly more than the 7.3% in 1992–93 when data collection began. Spending by state and territory governments increased by an average annual rate of 2.8% between 2015–16 and 2019–20. Final data on spending during the pandemic is not yet available.

The Morrison Government committed in 2021 to providing additional funding of $2.3 billion over 4 years from 2021–22 for mental health, including measures for prevention, treatment, workforce and governance. This was expanded in 2022 by an announcement of $547 million committed over 5 years to further address these areas. Policy initiatives from the Australian Government during the 46th Parliament include the:

- National Mental Health and Suicide Prevention Plan
- National Agreement on Mental Health and Suicide Prevention
- National Children's Mental Health and Wellbeing Strategy
- National Mental Health Workforce Strategy (not yet publicly released)
- National Disaster Mental Health and Wellbeing Framework (p. 378, also not yet publicly released).

Access and workforce

According to the Australian Bureau of Statistics' (ABS) 'First Insights from the National Study of Mental Health and Wellbeing, 2020–21', some 3.4 million Australians aged 16–85 years (17%) saw a health professional for their mental health during 2020–21. It notes in addition to mental health-related consultations with health professionals, about 612,000 Australians accessed other services for their mental health via phone or digital technologies, including crisis support or counselling services, mental health support groups and forums, and online treatment programs and tools to improve mental health.

The mental health workforce includes:

- GPs, who provide an initial point of contact for many people seeking assistance with mental illness and can refer patients to more specialised services through, for example, Mental Health Treatment Plans
- Psychologists
- counsellors and psychotherapists (who may provide services that do not attract Medicare rebates)
- psychiatrists
- social workers with specialist qualifications and training in mental health
- occupational therapists
- nurses and doctors working in hospital emergency departments and in-patient mental health units
- mental health nurses and other staff working in outpatient services, community-based ambulatory care services and day clinics
- staff working for mental health crisis and support services, such as national hotlines.

In 2019–20, some 11% of Australians accessed Medicare-subsidised mental health specific services provided by psychiatrists, GPs, psychologists and

Figure 1 – Number and full-time equivalent of staff per 100,000 people in mental health-related areas

	Number	FTE per 100,000 people
Psychiatrists	3,615	13.7
Mental health nurses	24,111	90.2
Psychologists	28,412	95.3
Community mental health care services staff	13,948	139.6

Source: Australian Institute of Health and Welfare (AIHW), 'Mental Health Services in Australia: Mental Health Workforce', 17 May 2022; AIHW, 'Mental Health Services in Australia: Specialised Mental Health Care Facilities', 17 May 2022.

other allied health professionals, with 45% of these services provided by psychologists. Figure 1 provides an indication of the full-time equivalent (FTE) number of staff per 100,000 people in some areas of the mental health workforce.

In 2020, the Productivity Commission acknowledged 'substantial shortages' in some mental health-related occupations, particularly in regional and remote areas, even before the pandemic (p. 188). Accessing in-patient services in hospitals was reported to be especially challenging (p. 424). A literature review carried out as part of the development of Australia's National Mental Health Workforce Strategy also flagged shortages – for example, an undersupply of 18,500 mental health nurses by 2030 – because of an ageing workforce, high staff turnover, limited new recruits and relatively high rates of attrition among younger members of the workforce (p. 16).

Since the pandemic began, some stakeholders have called for Australia to double the number of psychiatrists, psychologists and mental health nurses to meet additional demand. The Australian Psychological Society (APS) reported in February 2022 that 1 in 3 psychologists who responded to its members survey were unable to take new clients, an increase from 1 in 5 in June 2021. This compared with only 1 in 100 psychologists not taking on new clients pre-pandemic. Of those who were able to accept more patients, 65% reported worsening wait times (averaging 55 days). The APS reported that psychologists were working on average 17 unpaid hours each week and flagged the risk of burnout and a mass exodus.

Staff shortages are an issue across the health sector, but have become particularly acute during the pandemic. Issues in attracting and retaining the mental health workforce include:

- a global shortfall of healthcare workers, particularly nurses and midwives, who comprise more than 50% of the current shortage. This shortfall has been exacerbated by the deaths of an estimated 80,000 to 180,000 health workers with COVID-19 between January 2020 and May 2021. The World Health Organization has noted that upper middle and high-income countries are increasingly relying on recruitment of international personnel.
- psychological distress and professional burnout among the mental health workforce
- difficulties obtaining accreditation – for example, one newspaper article in December 2021 highlighted that difficulties associated with passing an exam that has been scrapped in other English-speaking countries is leading to future psychiatrists choosing to leave Australia to work overseas.

Impact of the COVID-19 pandemic

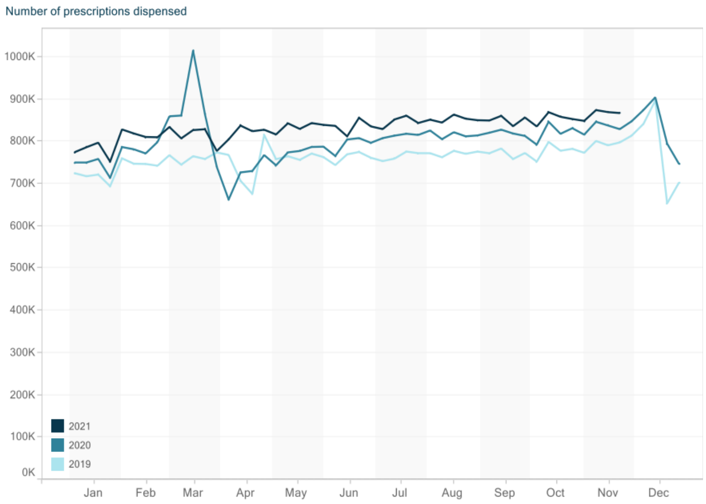
Evidence of the potential additional incidence of mental illness during the pandemic is mostly drawn from population measures of psychological distress and changing patterns of service use. These early indicators suggest a large increase in mental distress compared to before the pandemic, and that mental health outcomes for some groups may be worse than others, particularly young people.

According to the ABS's 'First insights from the National Study of Mental Health and Wellbeing 2020–21', in 2020–21:

- 15% of Australians aged 16–85 years experienced high or very high levels of psychological distress
- 20% of Australians aged 16–34 years experienced high or very high levels of psychological distress.

The 2017–18 National Health Survey found a similar proportion (13%) of adult Australians experienced high

Figure 2 – Number of PBS mental health-related prescriptions dispensed, by week, January 2019–November 2021



Source: AIHW, *Mental Health Impact of COVID-19*, (Canberra: AIHW, March 2022), 8.

or very high levels of psychological distress. However, approximately 15% of Australians aged 18–34 experienced high or very high levels of distress, less than the rates noted above during the pandemic.

The Melbourne Institute's *Coping with COVID-19* report highlighted the connection between financial stress and mental distress. The report, using a single item measure for mental distress (p. 16), showed rates of mental distress were approximately 4 times higher for people experiencing financial stress (42%), compared with people not experiencing financial stress (11.5%). The report also noted that pre-pandemic, 8% of parents of children reported high levels of mental distress, while during the pandemic, this rate had tripled to 24%, and was at a higher rate than for Australians without children at home (pp. 15; 18). Findings from the Australian National University's COVID-19 Impact Monitoring Survey Program also pointed to high rates of psychological distress among young adults during the pandemic.

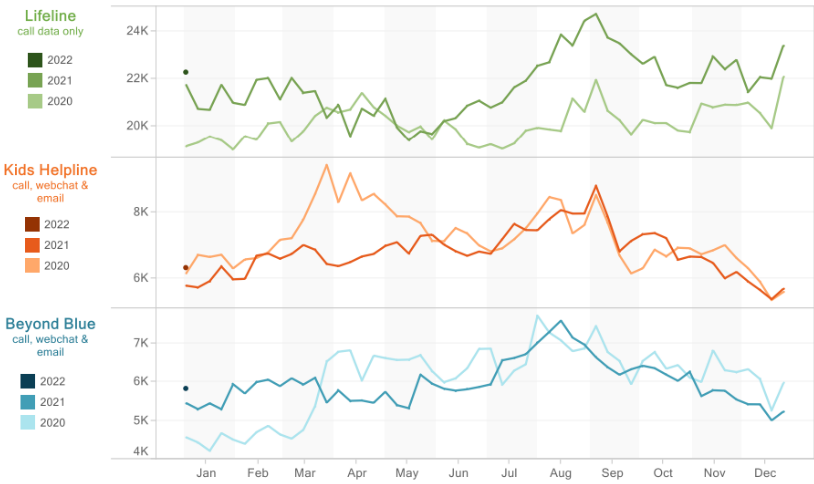
Mental health services and prescriptions used during the pandemic

The change in usage of mental health services during the pandemic provides another indicator of increased demand. For example, the AIHW reported that in the 4 weeks to 9 January 2022, 644,690 Medicare Benefits Schedule (MBS) items related to mental health services were processed, which was 11.6% higher than the same period 2 years earlier (p. 4). About 30% of these services were delivered via telehealth, an option that was not widely available before the pandemic (p. 30).

The number of mental health-related prescriptions dispensed under the PBS has increased by tens of thousands over the past several years. Mental health-related prescriptions spiked in the 4 weeks to 29 March 2020, increasing by 18.5% compared with the same period in 2019 (see Figure 2). There was a 3.9% increase in mental health-related prescriptions in the 4 weeks to 28 November 2021, compared to the 4 weeks to 29 November 2020, and prescriptions for antidepressants increased by 5% during these periods (p. 7).

As shown in Figure 3, crisis support services

Figure 3 – Crisis and support organisation contacts, by week, January 2020–January 2022



Source: AIHW, *Mental Health Impact of COVID-19*, (Canberra: AIHW, March 2022), 10.

experienced fluctuating demand during the pandemic, with demand peaking from June 2021 to September 2021. This coincides with a series of extended lockdowns in NSW, Victoria and the ACT.

Research on mental health risks, COVID-19 and disasters

Many Australians experienced bushfires and their effects during Australia's 'Black Summer' of 2019–20 and may still be experiencing ongoing impacts. Parts of the country have experienced severe flooding in 2021 and 2022. This is in addition to the global COVID-19 pandemic. As such, in the space of less than 3 years, many Australians have experienced multiple disasters.

There is a growing body of research on the mental health implications of disasters, which has found that disasters can lead to short-term and long-term impacts on people's mental health and indicates that some people go on to develop clinical mental illness.

Evidence suggests that post-traumatic stress disorder (PTSD) is the disorder most often associated with exposure to a traumatic disaster event. The estimates of PTSD prevalence vary greatly, in part due to the unique factors associated with situations such as the disaster type, severity of the exposure (for example, the injuries and losses experienced) as well as the study methods used. Reviews estimate that PTSD may occur in up to one-third of people highly exposed to a disaster (p. 508). However, some studies have suggested that PTSD prevalence can be as high as 100%, as identified in work with children exposed to sudden and unexpected acts of mass violence (p. 172).

Depression, one of the most common mental illnesses in the general population, may be the most prevalent condition following a disaster (p. 172). In addition, studies have shown that people with pre-existing symptoms may be at increased risk of being negatively affected by disasters, as it may exacerbate their symptoms (p. 1124).

Longitudinal studies have suggested that psychological symptoms following a disaster may reach their peak a year after the disaster before beginning to improve. However, symptoms may persist for some people for months and years afterwards (p. 173).

The literature shows that one factor that influences the impacts of a disaster on people's mental health is their age. There is evidence that children, particularly those under 8 years of age, are especially vulnerable, with the most common symptoms and diagnoses following disasters including anxiety disorders (such as PTSD) and depression (p. 6). Other studies have suggested that middle-aged people are at the greatest risk of developing mental illness following a disaster as they have 'more chronic life stress and burdens and needing to support others' (p. 174).

Socio-economic status (SES) has been identified as one of the essential risk factors associated with psychological symptoms following a disaster. This is partially due to people of low SES being more vulnerable to being displaced due to housing stress (which, in itself, is a well-known stressor for mental illness). Additional issues include having the financial resources to recover, with some evidence indicating that people with low SES may experience more obstacles in accessing aid and support to assist with post-disaster recovery (pp. 8–9).

General research on mental illness indicates that it is common for mental illness to recur years or decades later among those who have recovered. For example, a third to half of patients diagnosed with a major depressive disorder may relapse within a year of discontinuing treatment, while around 36% of people diagnosed with an anxiety disorder may have their anxiety disorder recur within 41 years.

Even with this research, we do not know how long or the extent to which the mental health impacts of the pandemic and recent natural disasters will persist. We also do not know what the mental health impacts of long COVID are, although we do know that extended fatigue (a common symptom of long COVID) and psychiatric conditions often co-occur, and that fatigue increases the risk of a later psychiatric disorder. Further, emerging research indicates that people who have had COVID-19 may also experience poor mental health. For example:

- A large cohort study published in February 2021 of 62,354 people diagnosed with COVID-19 in the US found a diagnosis of COVID-19 was associated with an increased incidence of psychiatric diagnosis in patients with no previous psychiatric history (particularly anxiety disorders). The incidence of psychiatric diagnoses in the 14 to 90 days after COVID-19 diagnosis overall was 18%, including 6%

that were a first diagnosis.

- In a large retrospective cohort study in the US, researchers found that 17% of people diagnosed with COVID-19 had a diagnosis of anxiety disorder 6 months after infection.
- A study examining data from 11 UK longitudinal studies involving 54,442 participants found that 'COVID-19 illness was associated with deterioration in mental health outcomes in the UK population', although the authors noted similar associations for both suspected and confirmed cases of COVID-19. The study 'did not observe improvements in mental health in the immediate months post-infection' (p. 12). It should be noted that this study had not been certified by peer review at the time of writing of this article.

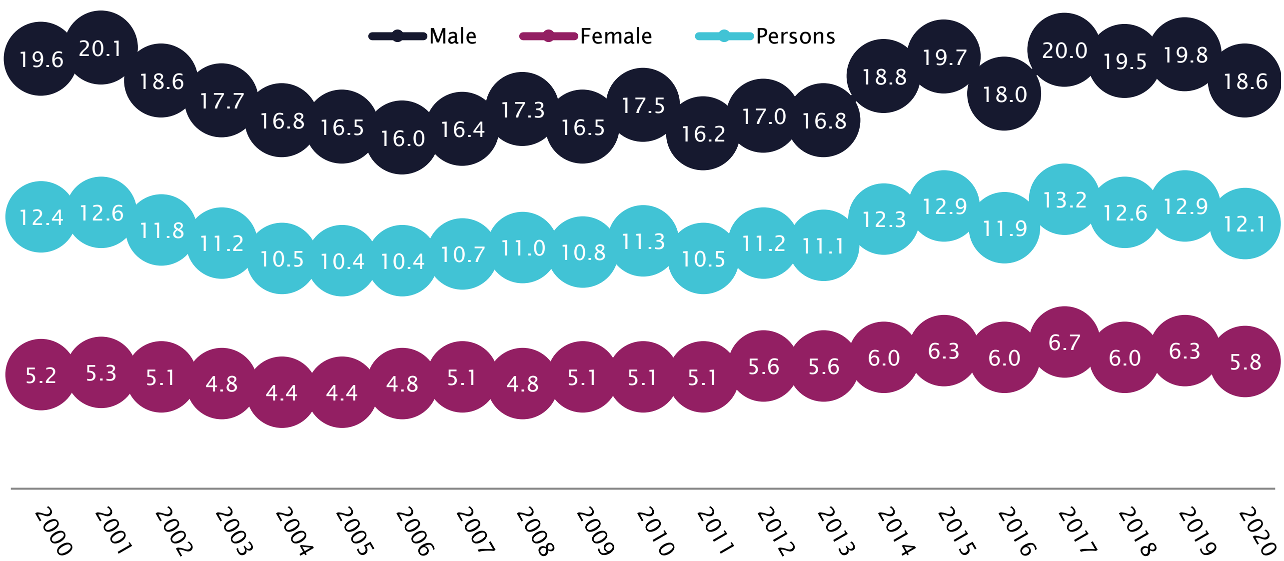
Suicide and the pandemic

Between 2017 and 2019, suicide was the leading cause of death for people aged 15–44 in Australia.

However, while the data indicates a greater incidence of mental distress and treatment for mental illness in 2020 and 2021, it appears that suicide rates did not change nationally or in the states most affected by lockdowns. Data available in Victoria and NSW on suspected suicides by month do not show any correspondence between lockdowns and cases in those states, and nationally, suicide rates per 100,000 people between 2000 and 2020 have remained relatively stable (Figure 4). Any effects of the pandemic on suicide risk may have been countered by protective factors such as income support.

It should be noted that while international studies suggest most people who die by suicide suffer from mental illness, most people with mental illness do not die by suicide. Statistics based on the small number of deaths by suicide should be interpreted with caution and may not provide a useful indicator of the incidence of mental illness.

Figure 4 – Age-standardised* suicide rate per 100,000 by sex, 2000–2020



*Standardised death rates enable the comparison of death rates between populations with different age structures by relating them to a standard population.

Source: Australian Bureau of Statistics (ABS), *Causes of Death, Australia, 2020*, (Canberra: ABS, 2021).

Concluding comments

Issues with the mental health system are well-established and have been noted in for example the Productivity Commission's 2020 inquiry into mental health. However, systemic issues have been compounded by the pandemic through both workforce burnout and increased demand that, for some groups (particularly young people and those affected by long COVID) are likely to continue into the future. Recent Australian Government measures, such as those announced in the 2021–22 and 2022–23 Budgets and the National Agreement on Mental Health and Suicide Prevention, have been welcomed by the sector. However, additional reforms and continued commitments across governments are needed.

Further reading

Joanne Simon-Davies, 'Suicide and Mental Health During the COVID-19 Pandemic', *FlagPost* (blog), *Parliamentary Library*, 1 October 2021.

Rosalind Hewett and Emma Vines, *Mental Health Services in Australia: a Quick Guide*, Research paper series, 2021–22, (Canberra: Parliamentary Library, 2022).

Australian Bureau of Statistics (ABS), 'First Insights from the National Study of Mental Health and Wellbeing, 2020–21', (Canberra: ABS, 8 December 2021).

HEALTH WORKFORCE

Emma Vines and Rebecca Storen, Social Policy

Key issue

The 46th Parliament oversaw the launch of new strategies and plans that respond to challenges related to the sustainability, regulation and support of the health workforce. However, concerns continue to arise over these and other issues, such as the registration, distribution, training and retention of healthcare professionals.

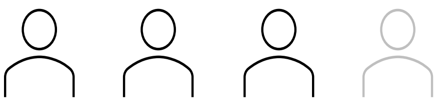
The health workforce will need to grow to meet the anticipated demand of an ageing population with increased incidence of comorbidities. Now more than ever, the existing workforce is under sustained pressure due to the COVID-19 pandemic.

In 2020, there were:

187,597
allied health practitioners

105,293
medical practitioners

349,589
nurses & midwives



In 2020, 75% of health practitioners were registered in major cities

Responsibility for health workforce planning and most regulation is shared by the Australian and state and territory governments, with input, especially for training and education, from other organisations, such as universities and specialist colleges. The Australian Government has several policy levers available to it that impact the workforce, including:

- the development and implementation of strategies and plans
- funding Commonwealth supported places (CSP) in higher education
- the power to place restrictions on Medicare provider numbers and various programs to encourage health professionals to practise in rural and remote Australia.

According to the new *National medical workforce strategy 2021–2031* (Medical Strategy), in 2020–21, the Australian Government spent $1.5 billion on health workforce and training programs, with an additional $320 million allocated to universities for CSPs in medicine (p. 12).

Caring for the workforce

The COVID-19 pandemic has exposed and exacerbated significant vulnerabilities within the health system as it has highlighted the challenges of caring for its greatest resource, its workforce. Although this is not a new issue, the pandemic has focused attention on it due to the unprecedented pressure people working in the health sector are under and the anticipated long-term effects this may have on individuals and the system more broadly.

While responsibility for the workforce often sits with employers under mostly state and territory legislation, the sheer scale of some problems, such as burnout, and the potential risks associated with them, means that an interconnected response is needed across the sector.

Emotional wellbeing, burnout and COVID-19

Concerns over health professionals' wellbeing have been heightened by the COVID-19 pandemic. As stated in one article, 'the staffing crisis is self-perpetuating, creating a vicious cycle. The worse it gets, the more remaining staff are under pressure'.

Several emerging studies have examined this issue, with the Frontline Healthcare Workers Study – one of the largest Australian surveys conducted so far during the pandemic – finding that mental health symptoms had become commonplace among frontline workers with:

- 59.8% of participants experiencing mild to severe anxiety
- 70.9% experiencing moderate to severe burnout
- 57.3% experiencing mild to severe depression.

Another study, which surveyed almost 1,000 Victorian health professionals, found 22.5% reported moderate to severe depression, 14% reported moderate to severe anxiety and 20.4% reported moderate to severe post-traumatic stress symptoms, with higher rates reported by paramedics and nurses. In addition, 65.1% of participants reported emotional exhaustion, which the authors state reflects moderate to severe burnout. Burnout has been associated with poorer quality care and patient safety and linked to moral distress in Australian frontline health workers during the pandemic.

These issues have been noted at a national level, with initiatives introduced to try to address the increased pressure on health professionals, including:

- COVID-19 surge health workforce package, introduced to clear a recruitment backlog
- funding to the Black Dog Institute to provide an online platform to support health professionals
- *National mental health and wellbeing pandemic response plan* highlighting the need for national workplace initiatives to respond to the greater burden being placed on frontline workers (p. 26)
- *Australian health sector emergency response plan for novel coronavirus (COVID-19)*, which noted the importance of measures to protect the healthcare workforce, which would, by extension, also support and maintain health system capacity (p. 24).

Despite these measures, concern remains over the sustainability of the healthcare workforce, the retention of staff and the quality of service delivery possible from an exhausted and stretched workforce. It is also worth noting that emotional wellbeing and burnout is only one component of caring for the workforce, and issues such as physical safety and moral distress are equally important considerations.

Regulation of the workforce

The National Registration and Accreditation Scheme (National Scheme) was established following the passage of the Health Practitioner Regulation National Law (National Law) in each state and territory parliament and came into effect in 2010. Under the National Law, 15 national boards are responsible for registering and regulating the 16 health professions that have 'protected titles'. The professions with protected titles include doctors, nurses, pharmacists and psychologists. As part of its function, the Australian Health Practitioner Regulation Agency (Ahpra) manages registration and renewal for health practitioners and publishes a register of practitioners.

In February 2022, the Health Ministers Meeting agreed to amend the National Scheme through the Health Practitioner Regulation National Law Amendment Bill. The Bill was introduced in May 2022 to the Queensland Parliament, as the host jurisdiction of the National Law.

Some health professions are 'self-regulated' (that is, not regulated under the National Law), including social workers, speech pathologists and audiologists. For healthcare workers outside the National Scheme, there is a Code of Conduct for Health Care Workers, which establishes expected standards of care and allows for investigations into alleged breaches of the code. The implementation and regulation of the code is a state and territory responsibility.

During the last Parliament, the Senate Community Affairs References Committee conducted an inquiry into the administration of registration and notifications by Ahpra and related entities under the National Law. The inquiry made 14 recommendations aimed at not only simplifying and amending the registration process, but also recommending aged care workers, social workers and personal care workers be included in the

Table 1 – Employed health professionals per 100,000 population, by remoteness area, 2018

	Major cities	Inner regional	Outer regional	Remote	Very remote
Dentists	57.4	40.6	35.5	27.1	21.1
General practitioners	105.2	108.9	103.5	136.6	152.8
Nurses and midwives	1,030.2	1,004.6	970.5	1,137.0	1,191.3
Occupational therapists	57.3	48.0	44.7	32.7	19.6
Optometrists	18.1	15.7	10.8	8.4	6.9
Pharmacists	81.4	69.3	66.8	65.3	45.7
Physiotherapists	94.5	65.7	52.6	44.7	50.9
Podiatrists	16.0	16.4	10.4	10.7	6.9
Psychologists	74.6	47.7	33.5	27.1	18.5
Specialists	143.1	82.7	62.9	60.6	22.2

Notes: Calculations are based on the FTE clinical rate and report health practitioners working in clinical practice using the Estimated Resident Population as at 2019. Numbers represent those employed and working in their registered profession. See original source for all data notes.

Source: Australian Institute of Health and Welfare, 'Rural and remote health' – Figure 3 data table, 2020.

National Scheme (pp. xiii–xiv). This recommendation reflects the position of the Australian Association of Social Workers, which expressed concern that 'social worker' was not a regulated, protected title (p. 7). The Morrison Government did not respond to the inquiry prior to the election.

Workforce challenges

The provision of a sustainable health workforce that provides safe, high-quality care to everyone who needs it is a continuing challenge, and one experienced worldwide that has been made even more difficult with the unprecedented demands placed on the system and the workforce by the COVID-19 pandemic. This section briefly considers some of the 'wicked problems' associated with the system, touching on geographic distribution, medical education and training, and the complex and evolving health system.

Geographic (mal)distribution

The majority of health professionals work in major cities, with the number of practitioners decreasing steadily by remoteness area, despite reports illustrating that people living outside major cities have increased health risk factors, chronic conditions and higher mortality rates. As illustrated in Table 1, some health professions are in very short supply by geography, particularly specialists and psychologists (noting that issues accessing psychologists have been reported across Australia).

Accessibility to health professionals by geography is not a new issue, with several policy levers available to encourage more people to practise in rural and remote areas. Approaches currently used by the Australian Government include:

- programs to offer students clinical placements in rural and remote locations – for example, the Rural Health Multidisciplinary Training program
- postgraduate training programs, such as the Junior Doctor Training Program
- financial incentives for health professionals – for example, the Workforce Incentive Program
- working with the relevant Colleges and the Medical Board of Australia to recognise 'rural generalist medicine' as a distinct field of general practice
- location restrictions on overseas-trained doctors and medical graduates, limiting where they may practise to access Medicare benefits
- rules associated with CSPs, such as the Bonded Medical Program (BMP), in which participants need to meet their return-of-service obligations by working in a Distribution Priority Area (DPA) 'BMP' location.

Workforce classifications

The Department of Health uses the DPA and District of

Workforce Shortage (DWS) as health workforce classifications for medical practitioners (and general practitioners) and medical specialists, respectively. In general, a location is classified as DPA or DWS if the community has insufficient access to doctors. However, some locations automatically qualify as DPA:

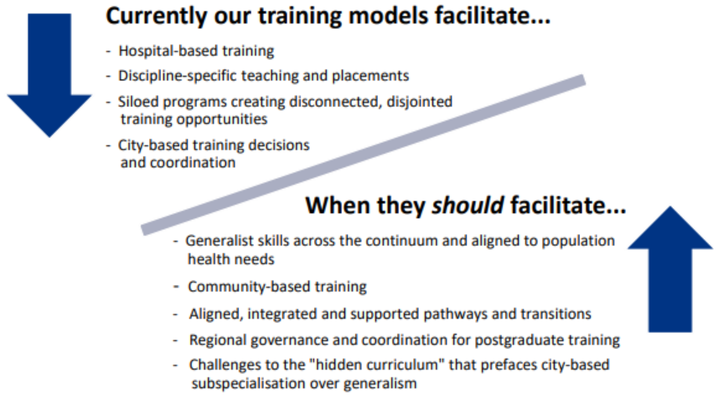
- locations classified as Modified Monash 3 to 7
  - the Health Workforce Locator is an interactive map that shows workforce classifications categories
- Northern Territory

A Senate inquiry into the provision of primary care in regional locations recommended in its interim report, among other things, that the Department of Health urgently review the Modified Monash Model (p. xiii).

Medical education and early postgraduate training

The Australian Government tightly controls the number of medical CSPs, which are allocated to accredited medical schools through funding agreements. While the Government does not impose a cap on the total number of medical students enrolled, the cap on medical CSPs does significantly impact enrolment numbers. This approach to CSP allocation by the minister is currently only applied to medical CSPs.

Figure 1 – Current and proposed outcomes for medical training models



Source: Medical Deans Australia and New Zealand, *Training Tomorrow's Doctors: All Pulling in the Right Direction*, discussion paper, September 2021, 7.

One of the priorities in the Medical Strategy is to reform the training pathways. The strategy estimates that a person invests 10–20 years in their medical education before attaining specialist registration. This training usually includes a medical degree, followed by an internship, residency and specialist training to meet the standards to become a fellow of a specialist medical college. In dollar terms, the overall cost of this training is approximately $1 million to $2.6 million (p. 45).

The Medical Deans Australia and New Zealand propose redeveloping the medical training continuum to deliver a sustainable medical workforce that better meets people's health needs, which is the right size, shape and distribution (p. 2). The Medical Deans state 'in essence, the current training continuum is not delivering the doctors our communities need and is hindering our ability to prepare doctors for their roles in the future' (p. 7 and see Figure 1).

Internships and an increased focus on generalist competencies and skills

The Australian Medical Council (AMC) is currently working on changes to the medical internship training, which arose from 2 separate, although somewhat overlapping, reviews.

In 2014, the Council of Australian Governments (COAG) commissioned an independent review of the existing model of medical intern training with the aim of considering potential reforms. The final report was released in October 2015. The Australian Health Ministers' Advisory Council accepted most of the recommendations, including that internships move to a 2-year 'transition to practice model' to emphasise generalist competencies and skills. At the same time, the AMC had commenced a review of the National Framework for Medical Internship. Given the overlap with the COAG review, the AMC are undertaking activities to respond to both reviews.

The work to date by the AMC on the 2-year framework indicates that people would be eligible for general registration at the end of their first year and specialist training at the end of their second year. As part of this shift to a 2-year program, the Medical Strategy 'proposes that specialist medical colleges reduce the length of training by recognising prior learning where relevant' (p. 64).

Postgraduate training bottlenecks

Despite some calls for an increase in CSPs for medical students to better meet rural workforce needs and decrease dependency on overseas-trained doctors (p. 6), the later stages of the training system have limited capacity to absorb additional medical graduates. The Australian Medical Students' Association has stated 'there is a significant risk that increasing medical student numbers, without proportional increase of internship places and speciality training positions, will detrimentally exacerbate the bottlenecks we have in training doctors…'. Instead, it called on the Morrison Government to provide adequate funding for the Medical Strategy, with a specific focus on the proposed data strategy, establishing an advisory body to inform a holistic approach, as well as creating additional training places in regional areas.

An increase in medical graduates with limited consideration of postgraduate training places has previously occurred (p. 7). At the time, the state and territory governments, which are primarily responsible for the provision of internships, raised concerns that they did not have capacity to offer places to all additional graduates. In response, the Morrison Government announced the Additional Medical Internship to increase places for Australian-educated international students, mainly in private hospitals (pp. 176–7). Postgraduate training places in private hospitals is an element of the Stronger Rural Health Strategy under the Junior Doctor Training Program.

Complex and evolving system

Bulk-billing

As Medicare rules and legislation become increasingly complex, health professionals are at risk of being unaware of all rules under the scheme. A small study of medical practitioners concluded that doctors are 'ill-equipped to manage their Medicare compliance obligations, have low levels of legal literacy and desire education, clarity and certainty around complex billing standards and rules' (p. 1). The first author, Margaret Faux, has suggested that while the (Morrison) Government stated that 80–90% of patients are bulk-billed, this may only be occurring properly in around 30% of cases due to doctors misunderstanding the bulk-billing rules. Faux also suggested the high bulk-billing rates promoted by the Morrison Government enabled it to keep Medicare rebates low.

In its General Practice Health of the Nation, the Royal Australian College of General Practitioners states that the rate of bulk-billing in general practice has been declining for years, though it noted recent artificial growth due to COVID-19 items. Indexation of Medicare rebates is shown to have not kept pace with inflation while patient out-of-pocket costs have increased by almost 50% in a decade (section 3.2).

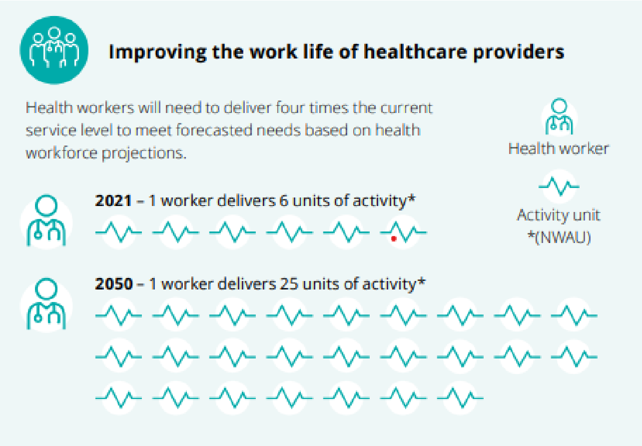
Digital technology

Realising the opportunities and overcoming the challenges of using digital technology in the health system is not an issue unique to Australia. A recent OECD (Organisation for Economic Co-operation and Development) report on empowering the health workforce noted that digital transformation in the health sector is not merely about technical change, but requires changes in human attitudes and skills, how work is organised, and legal and financial frameworks. Digital technologies on their own cannot transform the health sector, requiring health professionals and patients to put them to productive use.

Services alongside governments are investing in digital technologies and with the release of the *National digital health workforce and education roadmap* in 2020, national work has commenced to support the existing and future health workforce in developing the skills to realise the benefits of digital technologies. The roadmap envisages a technologically confident and capable health workforce, and improved sustainability of the system, while delivering safe and quality care.

A recent joint report led by Deloitte suggests that many people are willing and ready to use 'virtual care' (70% of survey participants) and even more are ready to share their health data in a digitally enabled health system. The authors estimate that if the system does not change, then the health workforce will need to be 4 times more productive by 2050 to meet forecast demand (see Figure 2).

Figure 2 – Current and anticipated demand on health workers without systemic change



Source: Baxby et al., *Australia's Health Reimagined* (Deloitte, Digital Health Cooperative Research Centre, Consumers Health Forum of Australia and Curtin University, March 2022), 12.

New and anticipated strategies and plans

The Coalition Government developed a number of workforce strategies and plans, along with broader plans that include workforce elements. These include:

- *National medical workforce strategy 2021–2031*
- *National Aboriginal and Torres Strait Islander health workforce strategic framework and implementation plan 2021–2031*
- *National care and support workforce strategy*
- the anticipated *National mental health workforce strategy*
- National nursing strategy and a nurse practitioner plan, both under development
- *Australia's primary health care 10 year plan 2022–2032*
- *National preventive health strategy 2021–2030*

The strategies seek to identify measures for workforce sustainability, health professionals' wellbeing, geographic distribution and changing models of care. The focus now shifts to implementation, which will require commitment, collaboration and ongoing support and resourcing, and ultimately define the success of these strategies and plans.

What next?

An effective, sustainable and accessible health workforce has been a concern for successive governments. While changes to training and recruitment have been prioritised alongside high-level workforce strategies, gaps remain. This is particularly the case in terms of access to health practitioners in regional, rural and remote areas. While new workforce strategies and frameworks have been welcomed, until they are implemented, they have little practical impact.

However, it is not only the pre-pandemic issues that challenge the sustainability of the health workforce. The last few years have highlighted and heightened issues underpinning the capacity of Australia's healthcare system, as well as the incredible demands placed on health workers. Burnout among health professionals and its implications is unlikely to be a short-term problem. Addressing this issue will require resourcing and cooperation across governments and the sector.

Further reading

Hazel Ferguson, *Australian Government Funding for University Medical Places*, *FlagPost* (blog), *Parliamentary Library*, 25 May 2022.

Parliamentary Library, 'Your Electorate: Health' (including bulk-billing rates and hospitals).

Australian Institute of Health and Welfare, *Australia's Health 2020 – Health Workforce*, (Canberra: AIHW, 2020).

INDIGENOUS CONSTITUTIONAL RECOGNITION AND REPRESENTATION

Sally McNicol and James Haughton, Social Policy

Key issue

The issues of Aboriginal and Torres Strait Islander people's inclusion in law, policy-making and the Australian *Constitution* have a long history. Where do matters currently stand and what are the current issues to be considered at the federal level?

The Albanese Labor Government has made a commitment to implementing the Uluru Statement from the Heart in full, but the detail of what this would look like in practice is not yet known.

Constitutional recognition – recent history

Australia has seen almost a century of debate over how to best recognise prior occupation of Australia by Aboriginal and Torres Strait Islander people. The last decade has seen proposals for constitutional recognition made by the:

- Expert Panel on Recognising Aboriginal and Torres Strait Islander Peoples in the Constitution (2012)
- Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples (2013–15)
- Kirribilli Statement (2015)
- Referendum Council (2017)
- Uluru Statement from the Heart (2017; reaffirmed in 2022 by the Yarrabah Affirmation)
- Joint Select Committee on Constitutional Recognition Relating to Aboriginal and Torres Strait Islander Peoples (2018).

As stated in the final report of the 2018 Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples, the Uluru Statement from the Heart (Uluru Statement) largely defines the parameters of the current debate (pp. vii–viii). Anthony Albanese began his election victory speech by committing to the Uluru Statement from the Heart 'in full' and acknowledging Linda Burney as 'Australia's next Indigenous Affairs Minister'.

Uluru Statement from the Heart

In May 2017, the First Nations National Constitutional Convention (convened by the bipartisan-appointed Referendum Council) met to develop an approach to constitutional reform to recognise Aboriginal and Torres Strait Islander peoples, drawing on a series of preceding First Nations Regional Dialogues. The majority resolved, in the Uluru Statement, to call for 'constitutional reforms to empower our people and take ***a rightful place*** in our own country'. A minority, including now-Australian Greens Senator for Victoria, Lidia Thorpe, walked out of the convention as they believed recognition of Aboriginal Sovereignty and a treaty (or treaties) were preferable to inclusion in the *Constitution*.

The Uluru Statement called for a 'Voice' enshrined in the *Constitution* that will empower Aboriginal and Torres Strait Islander peoples to shape the policy and legislation governing their affairs. It suggested that the establishment of a Voice to advise the Australian Parliament will address structural disempowerment. It did not define the form such a body should take.

The Uluru Statement also proposed that a Makarrata Commission be established to supervise a process of agreement-making and 'truth-telling'. Makarrata is a

Yolngu word meaning 'a coming together after a struggle'. According to the Uluru Statement from the Heart FAQs webpage, 'The Makarrata Commission would allow these processes to be struck at a national level and regionally with First Nations, by providing support and momentum and helping the parties reach agreement'.

Truth-telling draws on the view expressed in dialogues leading to the Uluru Statement that recognition requires an understanding that 'the true history of colonisation must be told: the genocides, the massacres, the wars and the ongoing injustices and discrimination' (p. 32). The 2018 Joint Select Committee saw truth-telling as 'an opportunity for Aboriginal and Torres Strait Islander peoples to record evidence about past actions and share their culture, heritage and history with the broader community' (cl. 6.5).

The Yarrabah Affirmation

The Yarrabah Affirmation, declared on 10 April 2022 by prominent Indigenous leaders, restates a commitment to the Uluru Statement and calls for a referendum during the term of the 47th Parliament to enshrine a First Nations Voice in Australia's *Constitution*. The Yarrabah Affirmation proposes 2 possible dates for a referendum: 27 May 2023 (the anniversary of the 1967 referendum) and 27 January 2024 ('the day after Invasion Day/Australia Day').

Responses to the Uluru Statement

The Referendum Council Final Report

In June 2017 the Referendum Council recommended (p. 2) that a referendum be held to provide in the *Australian Constitution* for a representative body to give Aboriginal and Torres Strait Islander peoples a Voice to the Commonwealth Parliament, with its form to be decided by Parliament. They proposed that a specific function of such a body, to be set out in separate legislation, should be to monitor the use of the heads of power in section 51(xxvi) (the 'race power') and section 122 (the 'territories power') of the *Constitution*.

The council also recommended that an extra-constitutional Declaration of Recognition be enacted by legislation passed by all Australian parliaments, ideally on the same day, to articulate a symbolic statement of recognition to unify Australians.

In October 2017, the Turnbull Government responded to the report, expressing the view that establishing an additional representative body to Parliament was not desirable or capable of winning acceptance in a referendum.

2018 Joint Select Committee

In 2018, the Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples was asked to consider the work of the 2012 Expert Panel, the previous Joint Select Committee, the Uluru Statement and the Referendum Council.

The committee acknowledged the broad stakeholder support for a Voice enshrined in the *Constitution* (p. 116) and recommended a co-design process to achieve a model that would best suit the needs and aspirations of Aboriginal and Torres Strait Islander peoples (pp. 78–79). It recommended the co-design process should report, and the Voice be legislated, within the term of the 46th Parliament (p. 78). The committee also supported the process of truth-telling (p. 185). Finally, the committee recommended the establishment of a National Resting Place for Aboriginal and Torres Strait Islander remains, which could be a place of commemoration, healing and reflection (p. 185; this recommendation was subsequently acted on with the Morrison Government's announcement of Ngurra, a national Aboriginal and Torres Strait Islander cultural precinct and resting place). The committee stated that it did not have time to deeply consider the proposal for a Makarrata Commission and agreement-making (p. 137), but did note that agreement-making was already occurring at local and regional levels (p. 144).

Indigenous Voice co-design process 2019–2021 and Final Report 2021

In October 2019, the Minister for Indigenous Australians, Ken Wyatt, announced a 2-stage Voice co-design process, with 2 co-design groups tasked with developing options at the local and regional and national levels. The process was overseen by a Senior Advisory Group chaired by eminent Aboriginal leaders Tom Calma and Marcia Langton. The terms of reference (pp. 239–245) made explicit that constitutional reform was out of scope. The National Co-design Group was tasked with developing 'models to enhance local and regional decision-making and options to provide a voice for Indigenous Australians to government'.

The *Indigenous Voice co-design process: final report* was provided to the Australian Government in July 2021 and publicly released in December 2021. The *Final report*:

> … presents the proposals and recommendations for an Indigenous Voice—a cohesive and integrated system comprised of Local & Regional Voices and a National Voice—with connections to existing Aboriginal and Torres Strait Islander bodies. This Final Report also presents considerations for implementing an Indigenous Voice and details the consultation and engagement process. (p. 9)

Chapter 2 of the *Final report* discusses a National Voice, including:

- membership considerations for a National Voice (sections 2.3–2.6)
- links with Local and Regional Voices (section 2.7)
- proposed functions of a National Voice, examining in some detail the reasons for a National Voice to be a Voice to both Parliament and Government (section 2.8, pp. 151–153). This section also considered how a National Voice might interact with other Aboriginal and Torres Strait Islander stakeholders, using the National Agreement on Closing the Gap as a potential case study (p. 158)
- the Australian Parliament and Government (section 2.9, discussed in text box below)
- how to ensure a National Voice is appropriately supported (sections 2.10–2.11).

When releasing the *Final report*, the Minister for Indigenous Australians, Ken Wyatt, stated that work would begin on forming 35 Local and Regional Voice mechanisms, 'as per the process set out in the Report'. The 2022–23 Budget provided $31.8 million under the *Indigenous Voice – Local and Regional Voice Implementation* measure to 'commence establishment of 35 Local and Regional Voice bodies' (p. 161). The Morrison Government did not comment on the options set out in the *Final report* for a National Voice.

While the *Final report* did not discuss constitutional reform, it did include a recommendation that the Australian Government:

A National Voice
The Australian Parliament and Government

Section 2.9 of the *Final report* (pp. 159–172) examines how the advice function of a National Voice to the Australian Parliament and Government might work. The National Co-design Group proposed a formal interface with Parliament and Government with:

- consultation standards – when and how to consult with the National Voice, including an obligation to consult on proposed laws which are 'overwhelmingly relevant' to Aboriginal and Torres Strait Islander people or which are designated 'special measures' under the *Racial Discrimination Act 1975*
- a set of transparency mechanisms modelled on existing parliamentary practices, including a statement on all Bills (explaining whether the National Voice should be consulted and, if so, whether this occurred) to be included in the Explanatory Memorandum (similar to the current statement of compatibility with human rights), the ability to table advice in Parliament, and establishing a new parliamentary joint standing committee related to the Voice.

The *Final report* emphasised that the Voice would not have a veto and would be non-justiciable, 'meaning that there could not be a court challenge and no law could be invalidated based on whether there was alignment with the consultation standards or transparency mechanisms' (p. 18; see also pp. 166–167).

> … note the support for the enshrinement of the Indigenous Voice in the Constitution that was expressed particularly through the submissions received as part of the consultation process (Recommendation 6, p. 14).

On 26 May 2022, the incoming Minister for Indigenous Australians, Linda Burney, stated that the work done during the Voice co-design process would not be discarded by the incoming Labor Government:

> It would be disrespectful and, quite frankly, stupid not to take into very deep consideration the work that's been done by the expert advisory group … They have delivered their final report, and I am sure that parts of that report are very relevant for new discussion and new direction.

It should be noted that, according to the Referendum Council's report accompanying the Uluru Statement from the Heart, only the existence of a Voice, not any particular form, would be entrenched in the *Constitution* (pp. 2; 36). The form of the Voice would be a matter for legislation.

2022 election platforms

During the 2022 election campaign the Australian Labor Party committed to fully implementing the Uluru Statement from the Heart, stating that it was the only political party committed to doing so. This was reaffirmed upon election. The Australian Labor Party has an existing First Nations Caucus Committee (established in 2016) that reviews legislation impacting First Nations people and is a platform for raising matters of concern for First Nations people to party members and leadership. In 2021, Senator Malarndirri McCarthy observed that 'If we are talking about a First Nations Voice to the Parliament, we need to make sure we have a First Nations Voice within the practice of a party'.

The leader of the Australian Greens, Adam Bandt, has stated that 'The Greens were the first party to support the Uluru Statement from the Heart in full, and we still do' and they would not block legislation for a Voice. The Greens campaigned for a national Truth and Justice Commission (p. 2), stating that this would lay the foundations for developing a Treaty or Treaties. At his address to the National Press Club during the election campaign, Mr Bandt reaffirmed the Greens' position that a Truth and Justice Commission should precede the creation of a Voice.

The Liberal Party's Plan for Northern Australia restated its commitment to implementing Local and Regional Voices (p. 9). During the campaign, when Prime Minister Morrison was asked whether a Coalition Government would hold a referendum on a constitutionally enshrined Voice, he replied 'It's not our policy to have a referendum on the Voice, so why would I be doing that?'. Since the election the new Opposition Leader, Peter Dutton, has stated that he is 'open to discussion' and 'wants to see the detail' of the proposal. Julian Leeser, the new Shadow Minister for Indigenous Australians, was the co-chair of the Joint Select Committee on Constitutional Recognition Relating to Aboriginal and Torres Strait Islander Peoples and is a prominent supporter of a constitutionally enshrined Voice.

Potential next steps

A Voice could be established by legislation with or without a constitutional amendment. However, a legislated Voice would be vulnerable to defunding or abolition by the government of the day, as were the National Aboriginal Consultative Committee (1973–77), the National Aboriginal Conference (1977–85), the Aboriginal and Torres Strait Islander Commission (1989–2005), the National Indigenous Council (2005–07), the National Congress of Australia's First Peoples (2009–19) and the Prime Minister's Indigenous Advisory Council (2013–c. 2019).

Establishing a constitutionally enshrined Voice will require a referendum to amend the *Constitution*. A referendum requires a Bill to be passed by Parliament, which establishes the wording of the proposed amendment and the question to be put to voters. A number of options for an amendment are discussed in Chapter 3 of the Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples' final report (pp. 79–119). This chapter also discusses the arguments over whether the form of a Voice should be determined before, or after, a referendum.

To successfully amend the *Constitution*, a majority of voters overall (including in territories) and a majority of voters in a majority of the states (at least 4 out of 6 states) must approve the proposed amendment. Referendums are overseen by the Australian Electoral Commission (see its detailed guide). Studies of opinion polls since the Voice was first proposed indicate that this level of support exists, but there are many 'undecided' voters, and levels of support in smaller states are difficult to determine. Whether an amendment has bipartisan support is likely to influence the chance of success. The Australian Reconciliation Barometer poll has indicated (in 2018 and 2020) that approximately 90% of Aboriginal and Torres Strait Islander people support a constitutionally protected Indigenous representative body.

Constitutional and representative structures for Indigenous peoples in comparable countries

New Zealand has legislated reserved Maori seats in Parliament and the Treaty of Waitangi. The treaty has an uncertain legal status, but is commonly referred to as the 'founding document' of New Zealand, which does not have a single, codified constitution.

The US Constitution is held to recognise (via Supreme Court interpretation of Article I, Section 8) the status of 'Indian Tribes' as distinct, sovereign, but subordinate governments, to be governed at a federal rather than state level. There are approximately 374 (pre-20th century) ratified US treaties with Native American peoples, but Congress may unilaterally abrogate them. In fulfilment of a previously unexercised treaty right, the Cherokee Nation is seeking to seat a non-voting representative delegate in Congress.

In Canada, section 35(1) of the Constitution Act 1982 states that 'The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognised and affirmed'. This section gives historic and modern treaties, as well as native title ('aboriginal rights'), the protection of constitutional law. Section 25 of the Constitution Act 1982 requires that other constitutional rights and freedoms are not interpreted in ways which abrogate or derogate from aboriginal rights and freedoms. The Canadian Government is also held by the courts to have a fiduciary duty to protect aboriginal rights, which has not been established in Australia (see *The honour of the crowns: state-indigenous fiduciary relationships and Australian exceptionalism*). Canada does not have codified, indigenous-specific representation in or to its Parliament, but section 35.1 of the Constitution Act 1982 requires that 'representatives of the aboriginal peoples of Canada' must be consulted before any alteration to sections 25 or 35. The majority Inuit territory of Nunavut has a representative in the House of Commons.

While in the US and New Zealand all treaties date to the era of colonisation and frontier expansion, in some provinces of Canada 'modern' treaty negotiation is an ongoing process, particularly in British Columbia. This may offer some insights into the kinds of agreements that might be overseen by a Makarrata Commission, if one were to be established.

Further reading

Yarrabah Affirmation, (Yarrabah: 2021).

Daniel McKay, *Uluru Statement: a Quick Guide*, Research paper series, 2016–17, (Canberra: Parliamentary Library, 2017).

Joint Select Committee on Constitutional Recognition Relating to Aboriginal and Torres Strait Islander Peoples, *Final Report*, (Canberra: the committee, 2018).

James Haughton and Apolline Kohen, *Aboriginal and Torres Strait Islander Treaties, Constitutional and Legal Recognition and Representation in Australia: a Chronology*, Research paper series, 2021–22, (Canberra: Parliamentary Library, 2022).

CLOSING THE GAP

Sally McNicol, Social Policy

Key issue

Closing the Gap started as a collective commitment of Australian federal, state and territory governments to address 'the fundamental divide between the health outcomes and life expectancy of the Aboriginal and Torres Strait Islander peoples of Australia and non-Indigenous Australians'. The current commitment has evolved beyond its initial scope to a focus on systemic changes that, if achieved, will support Aboriginal and Torres Strait Islander peoples to thrive.

An agreement signed in 2008 between the Australian and state and territory governments, the National Indigenous Reform Agreement (NIRA), fell short in meeting agreed targets. The National Agreement on Closing the Gap was subsequently negotiated with Aboriginal and Torres Strait Islander representatives, commencing on 30 July 2020. The Australian Local Government Association is also a party to the National Agreement (unlike the NIRA).

The National Agreement is complex and has new priority reforms and implementation measures that must be co-designed and delivered by all parties. Its outcomes will not be achieved quickly or easily, and adequate resourcing and continuing bipartisan commitment will be critical to its success.

The National Agreement on Closing the Gap (the National Agreement) commenced on 30 July 2020, superseding the commitment to the Closing the Gap targets that were set out in the National Indigenous Reform Agreement (NIRA) (p. 8). The National Agreement is ongoing (until replaced by a future agreement).

Unlike the NIRA, the National Agreement includes Aboriginal and Torres Strait Islander representatives as signatories, through the Coalition of Aboriginal and Torres Strait Islander Peak Organisations (the Coalition of Peaks), and commits all levels of government to a new way of working with Aboriginal and Torres Strait Islander peoples. Crucial to this 'new way' are 4 Priority Reform areas, which focus on changing the relationship between governments and Aboriginal and Torres Strait Islander peoples. The National Agreement also contains an expanded set of socioeconomic outcome areas, a number of which are the responsibility of state and territory governments.

The National Agreement is highly complex. It addresses deficiencies of the previous Closing the Gap strategy through commitments to significantly greater involvement of Aboriginal and Torres Strait Islander peoples in the design and delivery of policy and services, all jurisdictions taking greater responsibility to achieve the goals and targets set out in the National Agreement, and enhanced, more consistent monitoring and review processes.

Commitments to actions that will occur during the 47th Parliament range across:

- key policy areas, including justice and housing
- specific locations (including Western Sydney and the Kimberley region, as well as others not announced at the time of writing)
- greater resourcing of Aboriginal and Torres Strait Islander organisations
- regular monitoring and evaluation.

These are discussed in greater detail below.

What is meant by 'Closing the Gap'?

Closing the Gap refers, broadly, to the collective commitment of Australian federal, state and territory governments to addressing 'the fundamental divide between the health outcomes and life expectancy of the Aboriginal and Torres Strait Islander peoples of Australia and non-Indigenous Australians'.

In the *Social justice report 2005*, the then Aboriginal and Torres Strait Islander Social Justice Commissioner, Tom Calma, urged Australian governments to 'commit to achieving equality of health status and life expectation between Aboriginal and Torres Strait Islander and non-Indigenous people within 25 years' (Recommendation 1, p. 69). At the time, the life expectancy gap was thought to be 17 years; better data has since shown it was approximately 11 years. Health and Aboriginal and Torres Strait Islander non-government organisations responded with a Close the Gap campaign, including the annual National Close the Gap Day. Prime Minister Kevin Rudd and Opposition Leader Brendan Nelson committed to the goal in 2008.

The first 10 years (2008–2018)

The Closing the Gap framework was formalised by the Council of Australian Governments (COAG) in 2008. Under the NIRA, the Australian Government and all state and territory governments committed to specific goals to lessen Indigenous disadvantage. The Closing the Gap strategy (Schedule A of the NIRA) recognised that closing the gap in Indigenous disadvantage was ambitious and would require a long-term, generational commitment focusing on health, education and employment outcomes.

Under the NIRA, 6 Closing the Gap targets were agreed in 2008. An additional target, on school attendance, was agreed in 2014, and a revised version of the 2008 early childhood education target was agreed in 2015 (AIHW 2018, p. 2). The prime minister reported annually to Parliament on progress towards the targets. The Australian Human Rights Commission also issued annual Close the Gap reports.

None of the 4 targets that expired in 2018 were met, and only 2 (early childhood education and Year 12 attainment) of the remaining 3 were on track when the *Closing the Gap report 2020* was tabled in Parliament.

'Refreshing' Closing the Gap and a more inclusive approach

In 2016, ahead of 4 of the targets expiring in 2018, COAG agreed to refresh the Closing the Gap framework and work more closely with Aboriginal and Torres Strait Islander peoples to do this.

In February 2018, a special gathering of prominent

Why were the targets not met?

Many reviews and analyses of various aspects of the NIRA and the Closing the Gap strategy were prepared over the course of the NIRA, including a 10-year review by the Close the Gap Campaign Steering Committee, a 2019 briefing paper to the Joint Council on Closing the Gap and a 2021 analysis of the NIRA's effectiveness.

Factors identified as contributing to the targets not being met include:

- a lack of significant partnering with Aboriginal and Torres Strait Islander people (both in deciding the targets, and in their ongoing implementation)
- ambitious (as opposed to realistic) targets
- a focus on achieving the targets without a consistent focus to improve service delivery
- a lack of evidence as to whether the actions taken actually made a difference
- the non-renewal of associated National Partnership Agreements when these expired in 2013, and the subsequent decrease in involvement by the states and territories
- a change in government in 2013, giving rise to 'policy drift' from the original objectives of the Closing the Gap strategy.

Aboriginal and Torres Strait Islander Australians presented COAG with a statement setting out priorities for a new Closing the Gap agenda and calling for governments to partner with Aboriginal and Torres Strait Islander peoples in the agreement's next iteration.

In March 2019, a formal Partnership Agreement on Closing the Gap was established between the Australian Government, state and territory governments, the Coalition of Peaks and the Australian Local Government Association. Over the following 16 months, including through the first nation-wide COVID-19 lockdown period, the partnership negotiated a new National Agreement on Closing the Gap.

The National Agreement on Closing the Gap

The National Agreement on Closing the Gap (the National Agreement) commenced on 30 July 2020, superseding the commitment to the Closing the Gap targets set out under the NIRA. The National Agreement commits all levels of government to a new way of working with Aboriginal and Torres Strait Islander peoples.

While the National Agreement contains socioeconomic outcomes and targets (building on those in the NIRA), at its centre are 4 Priority Reform areas. These are intended to be tools to change the way governments work with Aboriginal and Torres Strait Islander peoples in order to help 'accelerate improvements' in their lives (clause 25):

- Priority Reform 1: Formal Partnerships and Shared Decision Making
- Priority Reform 2: Building the Community-Controlled Sector
- Priority Reform 3: Transforming Government Organisations
- Priority Reform 4: Shared Access to Data and Information at a Regional Level.

Priority Reform 1
Formal Partnerships and Shared Decision Making

The intention of Priority Reform 1 is 'to accelerate policy and place-based progress against Closing the Gap' through sharing decision-making authority with governments (clause 28). Commitments under this priority reform include developing 5 policy partnerships by 2022, and 6 place-based partnerships by 2024 (clauses 30–31 and 38–39). Government parties have also agreed to 'undertake a stocktake of partnership arrangements already in place' by October 2022 with a view to 'review[ing] and strengthen[ing] existing partnerships' by October 2023 (clause 36).

The first policy partnership, the Justice Policy Partnership, was established in September 2021, with an initial focus on children aged under 14 (p. 4). Funding was committed in the 2022–23 Budget (p. 110) to develop a Social and Emotional Wellbeing Policy Partnership. The remaining 3 policy partnerships will be in the areas of housing, early childhood care and development, and Aboriginal and Torres Strait Islander languages.

Priority Reform 2
Building the Community-Controlled Sector

The target for this priority reform is to 'Increase the amount of government funding for Aboriginal and Torres Strait Islander programs and services going through Aboriginal and Torres Strait Islander community-controlled organisations' (clause 81a.ii). The key commitment under this priority reform is to build 'formal Aboriginal and Torres Strait Islander community-controlled sectors to deliver services to support Closing the Gap' (clause 42). Elements needed for a strong sector are described in 4 'streams': workforce, capital infrastructure, service provision, and governance (clause 45). Sector Strengthening Plans develop actions against each of these streams for agreed community sectors, with the first 4 being early childhood care and development, health, housing, and disability (clauses 50–53). (At the time of writing, the housing and disability plans were not publicly available – see the Implementation Tracker webpage). There is scope to agree on additional sectors in 2023 (clause 53).

Priority Reform 3
Transforming Government Organisations

The aim of Priority Reform 3 is 'to improve accountability and respond to the needs of Aboriginal and Torres Strait Islander people' (clause 58). The target for this priority reform is a 'decrease in the proportion of Aboriginal and Torres Strait Islander people who have experiences of racism'. All government parties have committed to implement 6 'transformation elements' (clause 59) and report publicly on their progress by October 2023 (clause 67d).

Priority Reform 4
Shared Access to Data and Information at a Regional Level

The intent of this priority reform is to enable Aboriginal and Torres Strait Islander organisations and communities 'to obtain a comprehensive picture of what is happening in their communities and make decisions about their futures' (clause 70). This priority reform supports the achievement of the first 3 priority reforms. It includes a commitment to establish data projects in up to 6 locations across Australia by 2023 (clause 74).

In addition to the Priority Reform areas, the National Agreement contained 17 socio-economic outcome areas (as at June 2022), with each having at least one target, for a total of 18 targets (outcome 15, relating to land and waters, has 2 targets). There are also targets for the 4 Priority Reform areas. Targets are 'specific and measurable goals that will be monitored to show how progress is being made across each of the outcome areas', while the outcomes are 'the desired result for Aboriginal and Torres Strait Islander people'.

A further 2 socio-economic targets were yet to be finalised. Targets may be varied, and new targets added, with the agreement of parties to the National Agreement. These targets are 'refreshed' and expanded from the previous Closing the Gap strategy.

Funding and implementation of the National Agreement

The National Agreement emphasises that accountability rests with all governments. This is particularly important for the socioeconomic outcome areas relating to justice (outcomes 10 and 11) and child protection (outcome 12) where the states and territories hold many of the legislative levers.

All parties have agreed to develop implementation plans that set out how policies and programs are aligned to the National Agreement and what actions will be taken to achieve the Priority Reforms and outcomes, including information on funding and timeframes for actions. These will be reported against annually, with the first reports due in mid-2022.

Clauses 112 to 114 of the National Agreement provide a high-level acknowledgement of the resourcing necessary for implementation. This includes an agreement that by July 2022 government parties will 'review and identify current spending on Aboriginal and Torres Strait Islander programs and services to identify reprioritisation opportunities to Aboriginal and Torres Strait Islander organisations, particularly to community-controlled organisations'. These reviews will be 'discussed at Joint Council in the second half of 2022, where consideration will be given to whether additional joint budget work is needed to meet the activities under the Agreement'.

'The risk of inadequate funding' was considered in a recent Centre for Aboriginal Economic Policy Research discussion paper (pp. 10–11). The paper proposed several additional reforms to mitigate against this (and other) risks, including (pp. 13–14):

- an assessment of the costs of closing the gap by the Productivity Commission
- that the triennial reviews (both Productivity Commission and Indigenous-led) assess the adequacy of the levels of investment
- establishing an 'Indigenous managed public spreadsheet of government investments in closing the gap'.

In anticipation of all parties to the National Agreement developing implementation plans within 12 months, minimal funding was committed at the time of signing.

The Australian Government's implementation plan was released on 5 August 2021. New funding commitments were also detailed in the *2021–22 Mid-year economic and fiscal outlook* (2021–22 MYEFO, pp. 214–216). The Morrison Government's commitment had included more than $1 billion of new funding, of which $378.6 million was committed to the Territories Stolen Generations Redress Scheme that provides support to Stolen Generations survivors who were removed from their communities in the Northern Territory, ACT and Jervis Bay. An amount of $254.4 million was allocated towards health infrastructure (2021–22 MYEFO, p. 214) of which $100 million was provided under the already existing Indigenous Australians' Health Program (Commonwealth Closing the Gap Implementation Plan, p. 24).

The Australian Labor Party (ALP) affirmed its commitment to Closing the Gap in its 2022 election platform. Relevant funding announcements from the ALP during the campaign include those relating to justice reinvestment, remote housing and infrastructure, women's safety, management of land and waters, health, and First Nations languages in schools.

The Australian Greens' 2022 party platform included commitments relating to First Nations health, justice, women's safety, a national compensation scheme for the Stolen Generations, Birthing on Country projects, Caring for Country and Sea Country.

Monitoring progress of the National Agreement

Progress against every Closing the Gap target is tracked by the Productivity Commission and displayed on the Closing the Gap Dashboard. Baseline data is available for the socio-economic targets. At the time of writing, data was not yet available for the Priority Reform targets. The information is to be updated regularly (at least once a year) as more data becomes available. At the time of writing, 8 of the socio-economic targets had updated information available.

An Implementation Tracker monitors the implementation status of commitments made under the National Agreement, including any delays in implementation. Commitments are classified as 'complete', 'delayed', or 'not yet reportable'.

All parties are required to prepare publicly available annual reports. Additionally, the Productivity Commission prepares an annual data compilation report.

Every 3 years, the Productivity Commission will review progress under the National Agreement (clauses 121–124). In April 2022, the Morrison Government requested a first review of the agreement, which is due to be completed by December 2023.

There will also be triennial independent Aboriginal and Torres Strait Islander-led reviews conducted within 12 months of each Productivity Commission review (clauses 125–128). The first review is to be completed by July 2024.

Conclusion

Working towards closing the gap in health, economic and other opportunities for Aboriginal and Torres Strait Islander peoples is a critical challenge for the 47th Parliament. The policy landscape is complex, but long-term attention that seeks to lessen the negative impacts of historical Indigenous disadvantage is needed. The current National Agreement is highly complex. Its desired outcomes are ambitious, and it is broadly acknowledged that its targets will not be achieved quickly or easily. Significant resourcing and continued bipartisan support at all jurisdictional levels is needed over the longer term. Governments will need to divest some control to Aboriginal and Torres Strait Islander peoples, with shared decision-making acknowledged as one of the Priority Reform areas under the National Agreement. These commitments are taking place at a critical juncture for Aboriginal and Torres Strait Islander peoples in Australia, including in relation to cultural heritage reform and constitutional recognition (for further information, see the related articles elsewhere in this *Briefing book*). The alternative to effective and sustained bipartisan action will be continuing and widening socio-economic disparities felt by Aboriginal and Torres Strait Islander peoples.

Further reading

Closing the Gap website

M. C. Dillon, *The New Policy Architecture for Closing the Gap: Innovation and Regression*, Discussion Paper no. 299/2021, Centre for Aboriginal Economic Policy Research, (Canberra: Australian National University, 2021).

ABSTARR Consulting Pty Ltd, *Partnership Agreement on Closing the Gap: Partnership Health Check 2021*, (Melbourne: ABSTARR, 2021).

Joint Council on Closing the Gap, *Joint Council Response to the 2021 Partnership Health Check*, 2021.

Joint Council on Closing the Gap Partnership Working Group, *Lessons Learned from the National Indigenous Reform Agreement*, document released under Freedom of Information 23 November 2020, NIAA FOI Disclosure Log FOI/1920/023/IR, 23 August 2019.

Chris Holland, *A Ten-Year Review: The Closing the Gap Strategy and Recommendations for Reset*, (Canberra: Close the Gap Campaign Steering Committee, 2018).

Australian Institute of Health and Welfare (AIHW), *Closing the Gap Targets: 2017 Analysis of Progress and Key Drivers of Change*, (Canberra: AIHW, 2018).

PROTECTING INDIGENOUS CULTURAL HERITAGE

Dr Evan Hamman, Law and Bills Digest

Key issue

Following the destruction of Juukan Gorge Aboriginal heritage sites by Rio Tinto (in May 2020) numerous stakeholders have argued that Australian laws for the protection of cultural heritage are inadequate. Such calls for reform are not new. In 1996, *a review of the Aboriginal and Torres Strait Islander Heritage Protection Act 1984* found a 'lack of Aboriginal involvement and respect for custom' (p. xiv).

The Joint Committee Report into the destruction at Juukan Gorge, released in October 2021, further highlighted 'serious deficiencies' in Aboriginal and Torres Strait Islander cultural heritage protection (p. 149). An independent review of national environmental law, released in October 2020, also found a 'culture of tokenism and symbolism' (p. 6) and that 'Indigenous knowledge and views [were] not fully valued in decision-making' (p. 59).

In November 2021, the Coalition Government announced a partnership with First Nations People to further investigate reform in this area. In its National Platform, the Australian Labor Party committed to effective protection of First Nations cultural heritage. The Australian Greens have also expressed desire for change, promising strong laws to protect First Nations cultural heritage.

What is cultural heritage?

Cultural heritage does not have a universally accepted definition. However, it can include both tangible and intangible aspects (for example, objects, artefacts and remains, traditional knowledge, oral traditions, stories and rituals). While cultural heritage is used in other contexts, for example, in relation to European cultural heritage (including in Australia), this article focuses specifically on the cultural heritage of Aboriginal and Torres Strait Islander people (at times referred to as Aboriginal heritage or Indigenous cultural heritage).

The use of the term 'cultural heritage' in Australia, is in large part due to the adoption of the 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage (the World Heritage Convention). The convention's definition of cultural heritage, found in Article 1, focuses on *tangible heritage*, including monuments, groups of buildings and sites, although there is scope to include cultural landscapes, which include, for example, Australia's tentative listing for World Heritage inscription of the 50,000-year-old Murujuga Cultural Landscape.

Cultural heritage at the Commonwealth level

The Commonwealth framework for identifying and protecting cultural heritage comprises several pieces of legislation. Each of these utilises a different perspective on cultural heritage. The World Heritage Convention's definition of cultural heritage, for instance, is used by the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) to help protect Australia's World Heritage sites and fulfill Australia's obligations under the convention. Not all of Australia's World Heritage sites are, however, recognised under the convention for holding Aboriginal and Torres Strait Islander heritage. Those that are, include:

- Kakadu National Park
- Tasmanian Wilderness
- Uluru-Kata Tjuta National Park
- Willandra Lakes Region

- Budj Bim Cultural Landscape

This does not mean that Aboriginal and Torres Strait Islander people do not have important cultural connections to other World Heritage-listed sites in Australia. The Great Barrier Reef, for example, is not only listed under the convention for its natural values, but is also home to approximately 70 Aboriginal and Torres Strait Islander groups.

Places of cultural heritage significance that are not inscribed as World Heritage may be recognised in other ways. For example, National Heritage Places under the EPBC Act can include Aboriginal heritage such as the Brewarrina Aboriginal Fish Traps (Baiame's Ngunnhu), the Budj Bim National Heritage Landscape and the Dampier Archipelago (including Burrup Peninsula).

In addition, Aboriginal and Torres Strait Islander cultural heritage may be recognised in sites included on the Commonwealth Heritage List. Examples include Jervis Bay Territory and Uluru-Kata Tjuta National Park.

In addition to the EPBC Act, the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth) (ATSIHP Act), focuses on 'areas and objects that are of particular significance to Aboriginals in accordance with Aboriginal tradition' (section 4). The ATSIHP Act, discussed further below, is considered legislation of last resort. Under the Act, Australia's Environment Minister can make ministerial declarations to protect culturally significant areas from threats such as mining, development or other activities.

While not explicitly defining 'cultural heritage', the *Native Title Act 1993* (Cth) does recognise 'communal, group or individual rights and interests of Aboriginal peoples or Torres Strait Islanders in relation to land or waters' (that is, 'Native Title Rights and Interests' under section 223(1)). Accordingly, native title can operate as an alternative mechanism to protect cultural heritage, although some have argued it is ineffective in doing so.

Cultural heritage at the state and territory level

At the state and territory level, cultural heritage is again conceived of slightly differently. For example, Queensland's *Aboriginal Cultural Heritage Act 2003* protects 'Aboriginal cultural heritage' which is defined in section 8 as:

> anything that is a significant Aboriginal area or object [in Queensland]; or if there is evidence, of archaeological or historic significance, of Aboriginal occupation of an area …

There is similar legislation in Queensland that protects Torres Strait Islander cultural heritage.

Western Australia, which has recently introduced the *Aboriginal Cultural Heritage Act 2021*, also uses the term 'Aboriginal cultural heritage' which is defined in section 12(a) as:

Heritage under the EPBC Act

The EPBC Act recognises 3 categories of heritage:

- World Heritage Sites are protected for their Outstanding Universal Value under the World Heritage Convention. Inscribed values may be cultural or natural, or both.
- National Heritage Places are places of natural, historic or Indigenous significance to Australia, as a nation.
- Commonwealth Heritage Places are places of historic, natural or Indigenous significance, where the Australian Government has ownership or control. They typically include places connected to defence, maritime security or communications.

Indigenous cultural heritage may be included in one or more of these lists and may also be included in state or territory registers. Other protected areas under the EPBC Act (such as Ramsar Wetlands of International Importance) can also include cultural heritage, for example, where cultural values are described in the ecological character of a Ramsar wetland.

> tangible and intangible elements that are important to the Aboriginal people of [Western Australia], and are recognised through social, spiritual, historical, scientific or aesthetic values, as part of Aboriginal tradition.

Similarly, Victoria's *Aboriginal Heritage Act 2006* – often considered best practice in Australia – uses the phrase 'Aboriginal cultural heritage', defined in section 4 to include 'Aboriginal places, Aboriginal objects and Aboriginal ancestral remains' which are, in turn, further defined.

In summary, there are a variety of ways (p. 190) in which international, federal, state and territory laws define or recognise Indigenous cultural heritage in Australia. However, the legal protection of that heritage typically depends upon the interpretation of its 'value' or 'significance', which will often need to be proven before any protection can occur.

How is cultural heritage protected in Australia?

The majority of cultural heritage is protected by state and territory legislation. However, as noted above, the Australian Government protects certain listed sites under the EPBC Act, and 'last minute' declarations can also be made under the ATSIHP Act. In this regard, the Australian Government's role has often been seen as 'stepping in' when state or territory laws fail to protect cultural heritage.

Some state and territory laws make it an offence to damage cultural heritage (for example, Victoria's *Aboriginal Heritage Act 2006*). In other cases, state law imposes a 'duty' to avoid damaging cultural heritage, for example, in the case of Queensland's *Aboriginal Cultural Heritage Act 2003*. In Queensland, the development of a cultural heritage management plan may assist in meeting this duty.

Federal cultural heritage law operates *in addition* to state and territory law. The EPBC Act provides for a development assessment regime focusing on significant impacts to Matters of National Environmental Significance, such as World Heritage sites and Commonwealth and national heritage places. Assessment (and approval) of significant impacts on heritage at any of these places is thus required in addition to the state and territory level. For major

Significant impacts on heritage under the EPBC Act

'Significant impact' is not defined under the EPBC Act, but departmental guidelines do provide some non-binding guidance. The guidelines suggest that an action is likely to have a significant impact on the cultural heritage values of a World Heritage site 'if there is a real chance or possibility' that it will, for example:

- restrict or inhibit the existing use as a cultural or ceremonial site, causing its values to notably diminish over time
- remove, damage, or substantially disturb cultural artefacts, or ceremonial objects
- permanently damage or obscure rock art or other cultural or ceremonial features.

Similarly, an action is likely to have a 'significant impact' on the cultural heritage values of a National Heritage place 'if there is a real chance or possibility' that it will, for example:

- restrict or inhibit the continuing use of the place as a cultural or ceremonial site, causing its values to notably diminish over time
- permanently diminish the cultural value of the place for a community or group to which its National Heritage values relate
- destroy or damage cultural or ceremonial, artefacts, features, or objects.

For significant impacts on Commonwealth Heritage places, other departmental guidance applies.

Table 1 – Examples of declarations made under the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth).

Protected Area	Commencement	Threatening action(s)	Duration of protection
Wahluu/Mount Panorama, Bathurst, NSW	5 May 2021	Proposed go-kart development by the Bathurst Regional Council.	10 years
Bellwood Sacred Site, Nambucca Heads, NSW	3 September 2019	Proposed residential development, forestry activities and public access.	25 years
Butterfly Cave, West Wallsend, NSW	11 February 2019	Residential development, land clearing and other measures increasing public access.	10 years
Atnyere Arrkelthe, Atniltye and Urewe Aterle, Junction Waterhole, Todd River, north of Alice Springs, Northern Territory	16 May 1992	Construction of a flood mitigation dam.	20 years

Source: Commonwealth Government Gazettes. Note, longer-term declarations are in some cases preceded by shorter emergency declarations.

projects, it is possible for a single impact assessment procedure to occur through a federal–state bilaterally agreed assessment process.

In addition to the EPBC Act, the ATSIHP Act establishes a system whereby Aboriginal and Torres Strait Islander people can apply to the Environment Minister for protection of areas, objects or classes of objects that are of particular significance to them from threats of injury or desecration. Section 22 of the ATSIHP Act makes it an offence to breach a ministerial declaration. There are different types of declarations under the ATSIHP Act, ranging from emergency declarations (for example, 30 days) to longer-term protections (for example, 10 years). It may be the case that an emergency declaration is first made, followed by a longer-term declaration.

In certain instances, Australia's Federal Court has the power to overturn ministerial declarations on the basis of judicial review. It can, for instance, hear appeals from Aboriginal and Torres Strait Islander people reviewing a ministerial decision to refuse protection. One example is the 2003 case of *Williams v Minister for the Environment and Heritage*. More recent examples of caselaw under the ATSIHP Act can be found in the Joint Standing Committee on Northern Australia's report into Juukan Gorge.

Under sections 9 and 10 of the ATSIHP Act, applications for protection of cultural heritage can be made verbally or in writing. Generally speaking, a case needs to explain the place's cultural heritage significance and why it needs protection in the face of the threats. At a minimum, a 30-day emergency declaration may take the minister 1–2 months to process, while a longer-term declaration may take 6–9 months. Under the Act, the minister cannot make a declaration without first consulting with state and territory governments about whether their laws provide effective protection for the area.

Weaknesses in the current approach

Over the last 3 decades, several major reports have concluded that Australia's Indigenous cultural heritage protection systems are ineffective. The Juukan Gorge disaster in WA and the recent controversy over the reburial of remains in NSW are recent high-profile examples that have drawn attention to this issue, and will likely further the debate about how Aboriginal cultural heritage is identified, recognised and protected through law.

The challenges for Indigenous cultural heritage protection are complex and wide-ranging. Some of the weaknesses identified in the Juukan Gorge inquiry include:

- the lack of a nationally coordinated approach for protection and the failure of state and territory laws to protect Indigenous cultural heritage
- the prioritisation of development over cultural heritage protection and the interests of Aboriginal and Torres Strait Islander people
- a lack of adequate compliance and enforcement

concerning heritage protection

- insufficient emphasis on intangible cultural heritage (including in legislation) 'despite the fact that it is an internationally recognised legal standard'
- the requirement that Aboriginal and Torres Strait Islander people 'take the initiative' to protect their cultural heritage (as opposed to the law establishing protection at the outset)
- clauses in agreements with Aboriginal and Torres Strait Islander people that limit or prohibit seeking protection for heritage through other means.

The review of Australia's EPBC Act found similar shortcomings when it comes to protecting Indigenous cultural heritage, including that Indigenous knowledge and views have been diluted in the formal provision of advice to decision-makers (p. 6). The 1996 review of the ATSIHP Act found a lack of Aboriginal involvement and respect for custom (p. xiv).

Suggestions for reform have included, among other things:

- making the Minister for Indigenous Australians responsible for all Aboriginal and Torres Strait Islander cultural heritage matters
- the meaningful inclusion, in legislation, of the requirement for Free, Prior and Informed Consent
- the establishment of a national standard for Indigenous Engagement and Participation in Decision-Making under the EPBC Act (p. 225)
- the need for a new independent statutory body in relation to cultural heritage decision-making (see also the recommendations from a previous review of the ATSIHP Act, p. xvii)
- appropriate mechanisms for reviewing decisions relating to Aboriginal cultural heritage
- ratifying the Convention for the Safeguarding of the Intangible Cultural Heritage 2003
- addressing inequalities in the negotiating position of Aboriginal and Torres Strait Islander peoples in the context of the native title regime.

The challenges in this area will likely take some time to address. However, there appears to be current momentum from both major and minor parties, and Aboriginal and Torres Strait Islander stakeholders for meaningful reform.

Any reforms are likely to occur in a broader context relating to the rights of Aboriginal and Torres Strait Islander people in Australia, including, for example, the 46th Parliament's Senate Inquiry into the Rights of Indigenous Peoples in Australia, as well as the Australian Labor Party's commitment to implementing the Uluru Statement from the Heart.

Further reading

Graeme Samuel, *Independent Review of the EPBC Act: Final Report*, (Canberra: Department of Agriculture, Water and the Environment, 2020).

Heritage Chairs of Australia and New Zealand, *Dhawura Ngilan: a Vision for Aboriginal and Torres Strait Islander Heritage in Australia*, (Canberra: Department of Agriculture, Water and the Environment, 2021).

Joint Standing Committee on Northern Australia, *Never Again: Inquiry into the Destruction of 46,000 Year Old Caves at the Juukan Gorge in the Pilbara Region of Western Australia: Interim Report*, (Canberra: The Committee, 2020).

Joint Standing Committee on Northern Australia, *A Way Forward: Final Report into the Destruction of Indigenous Heritage Sites at Juukan Gorge*, (Canberra: The Committee, 2021).

PEOPLE WITH DISABILITY AND WORK

Dr Matthew Thomas, Social Policy and Penny Vandenbroek, Statistics and Mapping

Key issues

Australia is lagging behind most other OECD (Organisation for Economic Co-operation and Development) countries in terms of employment of people with disability.

The Disability Employment Services program, which assists people with disability to find and retain employment, is due to end in 2023, and the Department of Social Services is currently working on a replacement model.

People with disability

The United Nations Convention on the Rights of Persons with Disabilities defines people with disability as including those having 'long-term physical, mental, intellectual or sensory impairments' which may act as a barrier to a person's full, effective and equal participation in society. The convention outlines the ways in which the principles of full involvement can be achieved, including through inclusive communication, universal design, reasonable accommodation and by alleviating discrimination. Australia formally ratified this convention on 17 July 2008. Addressing this commitment from the domain of labour force participation, this article explores the employment outcomes for working age (15 to 64 years) people with disability.

How are rates of disability measured?

The Australian Bureau of Statistics (ABS) measures disability based on a suite of extensive survey questions. Participants are asked whether they have any conditions that have lasted, or are expected to last, 6 months or longer. Whether these conditions limit, restrict or impair the person's involvement in a range of everyday activities (for example, using public transport, communicating or walking 200 metres) is used to assess core activity disability – from mild to severe. People with disability are also assessed as to whether they have a schooling or employment restriction, or some other non-specified impairment.

The term 'disability' is used here to capture a range of impairments, activity limitations and participation restrictions. Reported disabilities from key ABS surveys, such as *Disability, ageing and carers*, can be broadly categorised as: sensory (hearing, vision, speech); intellectual; physical; psychosocial (mental illness, memory problems, social or behavioural difficulties); head injury, stroke or acquired brain injury; or other (a long-term condition that requires medication or treatment and restricts daily activities).

In 2018, Australians with disability constituted 13% of the working age population. This estimate was about 18% when extended to the total population. From 65 years onwards, the prevalence of disability increases; however, this is also a time when the level of employment decreases considerably and people may become eligible for the Age Pension.

Labour force status

The labour force consists of the employed (paid work of one hour or more per week) and the unemployed (not in paid work, actively seeking work and available to work). The participation rate expresses the labour force as a proportion of the relevant population, in this case working age. In 2018, the participation rates for people with disability ranged from 31% for people with profound or severe disability to 62% for people with mild disability. In contrast, people with no disability had a participation rate of 89%. Figure 1 helps to illustrate that people with any level of disability are less likely to be in the labour force than those without.

Figure 1 – People (15 to 64 years) by level of disability and labour force status, 2018

Source: ABS, *Disability, Ageing and Carers, Australia, 2018* (Canberra: ABS, 2019), Table 8.1; Parliamentary Library calculations.

Employment

The rates of employment among people with disability vary based on their level of disability. In 2018, just over 2 in 10 people with profound or severe disability were employed. While the employment rate was higher for people with moderate disability (4 in 10 people), or mild disability (5 in 10 people), all of these rates were lower than for people with no disability (8 in 10 people). In most circumstances, people with disability are more likely to be employed part-time than full-time.

Just under half (48%) of people with any disability were employed in 2018, with variation in employment rates by type of disability. The ABS organises types of disabilities into 5 broad groups:

- sensory and speech
- intellectual
- physical restriction
- psychosocial
- head injury, stroke or acquired brain injury

Within each of these groups there may be a range of disabilities and employment outcomes. For example, 35% of people with sensory and speech disability work full-time and 16% work part-time (about 50% are employed). Employment rates within this group are lowest for people with loss of speech (26%) and highest for people with loss of hearing (59%), while rates for those with loss of sight are in between (43%).

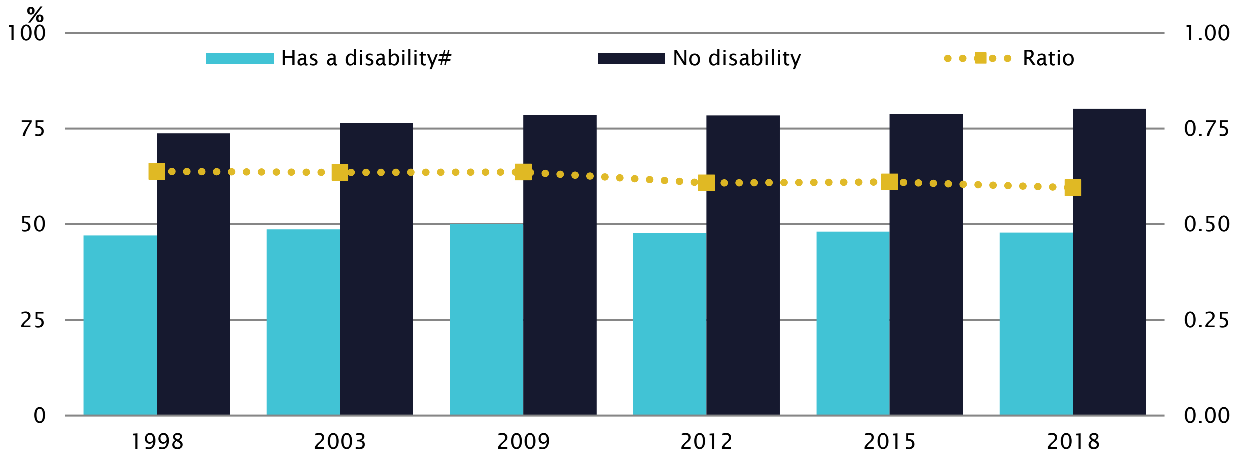
People with physical disabilities had the second highest employment rates (at 44%) of the broad disability groups. However, within this group there was variation in the rates by disability type, from 23% of people with breathing difficulties to 45% of people with disfigurement or deformity. People with intellectual disability and those with a head injury, stroke or acquired brain injury had comparable employment outcomes, with less than a third of each group being employed (32% and 29% respectively).

Of the 5 broad groups, people with psychosocial disability were least likely to be employed, with only a quarter (26%) in employment. People with mental illness had the lowest employment rate (13%), followed by people with social or behavioural difficulties (16%) and those with memory problems (17%). Of this disability group, people with a nervous or emotional condition were most likely to be employed (26%).

International employment rate comparisons

In 2017, Australia's employment rate gap between people with and without disability ranked 20th in the OECD (exhibit 2, p. 21). This was a slight improvement from 2010 when Australia ranked 21st in the OECD (p. 40). Figure 2 provides the ratio of Australian employment rates by disability status. The ratio is calculated by dividing the rate for people with any disability by the rate for people with no disability.

Figure 2 – Employment rates of people by disability status (left axis) and ratio of employment rates (right axis), 1998 to 2018



(a) People who reported any type of disability, includes those with a non-specified restriction or limitation.

Source: ABS, *Disability, Ageing and Carers, Australia, various years* (Canberra: ABS, various); Parliamentary Library calculations.

Disability employment services

In Australia, the federal government is responsible for providing employment services and income support for people with disability. The employment services may be broadly divided into 2 main categories:

- open employment services that provide assistance to people with disability in gaining and/or retaining paid employment in the open labour market
- supported employment services that provide support to, and employment for, people with disability within the same organisation.

Open employment services are provided to people with disability through Australia's mainstream employment services program – *jobactive* – and the specialist Disability Employment Services (DES) program.

When a job seeker registers for employment assistance, they complete a questionnaire – the Job Seeker Classification Instrument (JSCI). The JSCI is used to establish a job seeker's barriers to employment. If the job seeker is found to have a disability, they may be referred for further assessment (either an Employment Services Assessment or Job Capacity Assessment). These assessments are used to determine a job seeker's work capacity in hour bandwidths and whether *jobactive* services or DES are more appropriate to support them into employment.

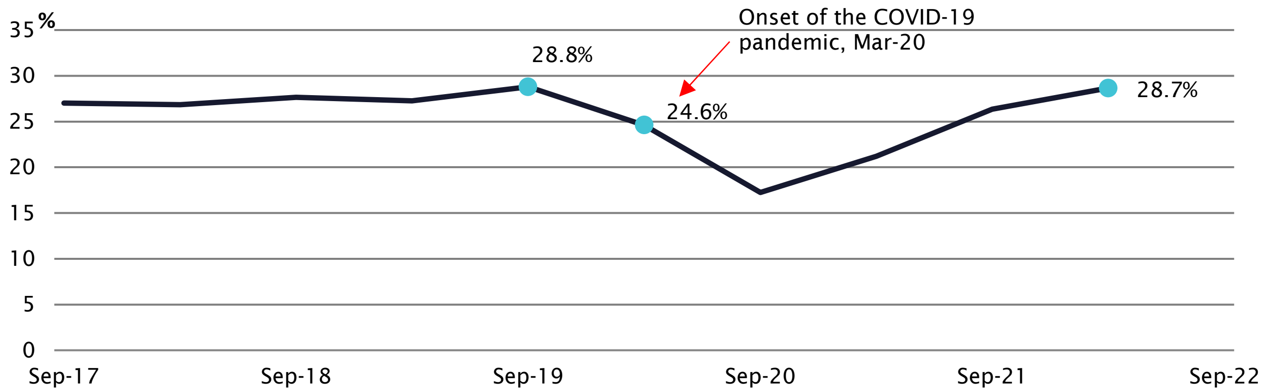
The *jobactive* program is administered by the Department of Education, Skills and Employment and the DES program is managed by the Department of Social Services. Both *jobactive* and DES have been privatised and contracted out to non-government for-profit and not-for-profit providers.

The DES program

Two types of employment support are provided to people with disability under the DES program – the Disability Management Service (DMS) and the Employment Support Service (ESS). The DMS is for people with disability who do not require long-term workplace support. As at February 2022 the DMS covered 44% of the DES caseload. The ESS is for people who have a more severe or profound disability and who are assessed as requiring continued workplace support. The ESS covered 56% of the DES caseload in February 2022. DES programs can also involve rehabilitation, capacity building, training, work experience and other interventions.

In February 2022, just over half (55%) of the people in the DMS had a physical disability as their primary disability. The largest primary disability type in the ESS

Figure 3 – People with disability as a proportion of total *jobactive* caseload, 2017 to 2022 (a)



(a) Selected quarters, at March and September of each year.

Source: National Skills Commission (NSC), 'Jobactive caseload by selected cohorts time series March 2022', *Employment Regions (jobactive) downloads* (Canberra: NSC, 2022); Parliamentary Library calculations.

was people with psychiatric conditions (42%).

Open employment service providers

In February 2022 there were 106 DES providers delivering services to job seekers across almost 3,800 sites. In March 2022 more than a quarter (29% or 242,484 job seekers) of the total *jobactive* caseload had a disability. Figure 3 depicts people with disability as a proportion of the *jobactive* caseload for the past 5 years. The size of the *jobactive* caseload with disability was fairly consistent until the onset of the COVID-19 pandemic in early 2020, when the total *jobactive* caseload grew dramatically. This overall growth saw the relative proportion of people with disability decline. However, this dip was only temporary and the proportion of *jobactive* participants with disability has since returned to pre-pandemic levels.

Supported employment service providers

Supported employment services are provided through Australian Disability Enterprises (ADE). ADEs are generally not-for-profit organisations that employ people with severe or profound disability who cannot sustain employment in the open labour market but are able to work at least 8 hours a week. Employers are paid to provide supports in employment from National Disability Insurance Scheme (NDIS) participants' plan budgets and employees are paid a reduced (pro rata) wage that is meant to reflect their productivity and competence in performing their work. Pay rates are largely determined under the Supported Employment Services Award 2020 and using a range of wage assessment tools.

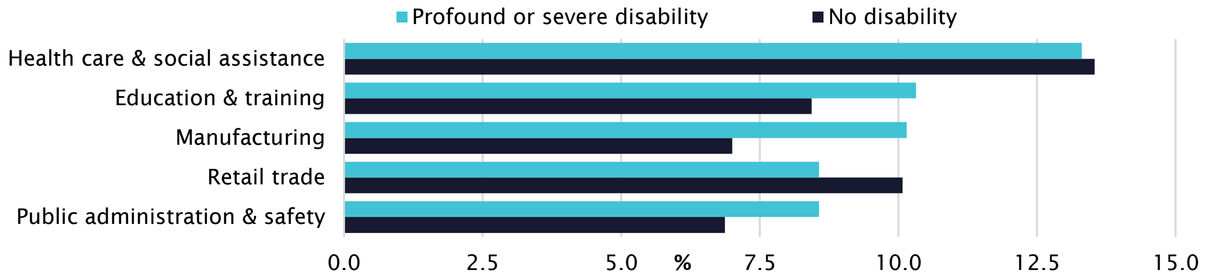
Around 20,000 people with disability are employed in ADEs, doing work like packaging, assembly, production, recycling, plant husbandry, garden maintenance and landscaping, cleaning, laundry and preparing food. Figure 4 provides the top 5 industries of employment for people with a profound or severe disability compared with people who had no disability. People with severe disability had higher levels of employment in manufacturing, covering several of the activities undertaken in ADEs. Industries related to food and administrative tasks were ranked sixth and seventh.

ADEs have recently been the subject of controversy, with some supported employees complaining in royal commission public hearings about the low rates at which they are paid. Rates of pay for ADE employees are a longstanding issue.

Recent developments in open disability employment services

The Department of Social Services is currently designing a replacement disability employment support

Figure 4 – Top 5 industries of employment for people (15 to 64 years) by selected disability, 2018



Source: ABS, *Disability, Ageing and Carers, Australia, 2018* (Canberra: ABS, 2019), Table 9.1; Parliamentary Library calculations.

model as the DES program is due to expire on 30 June 2023. The Department's consultation process included people with disability, employment services providers, academics, and the wider community. Submissions closed on 1 February 2022.

The DES replacement program is taking place in the context of broader reforms to Australia's publicly-funded employment services system. *jobactive* is to be replaced by Workforce Australia from 1 July 2022. This program will see the most job-ready and digitally literate of job seekers use self-service arrangements, while more disadvantaged job seekers will receive intensive face-to-face services. Digital employment services have already been rolled out nationally in response to the COVID-19 pandemic, and from 1 January 2022, DES-program job seekers have had the option of accessing employment services and fulfilling their mutual obligation requirements online.

The Community Development Program, which delivers employment services to job seekers in remote Australia (primarily Aboriginal and Torres Strait Islander people), is also to be replaced by a new Remote Engagement Program, to commence in 2023.

Other relevant developments include the:

- Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (final report due to the Government by 29 September 2023)
- Government's *Employ my ability: disability employment strategy* which seeks to 'provide a guiding framework for governments, employers and the broader community to increase employment outcomes for people with disability'
- NDIS's *Participant employment strategy* (released in 2019) and related *Action plan 2021–22*
- 2021 Senate Inquiry into the Purpose, Intent and Adequacy of the Disability Support Pension
- review of the Disability Support Pension impairment tables (due to expire on 1 April 2023).

Disability Employment Services program review

A mid-term review of the DES program was conducted by the Boston Consulting Group from May to August 2020. The review involved analysis of both the efficacy and efficiency of the program, and the 2018 program reforms. The reforms sought primarily to improve participant choice and control, expand DES program coverage, and reduce the incidence of 'creaming and parking' – practices through which providers boost their employment outcome payments by selecting job seekers who are more likely to find and keep work (creaming) and collect administration fees for harder-to-place job seekers, but offer them little or no assistance in finding work (parking). The review was originally scheduled for December 2020 but was brought forward due to significantly increased program costs that the review argued were not matched by a commensurate rise in employment outcomes.

In the 2 or so years following the 2018 reforms, the DES caseload was found to have risen by 46%. This contributed to program expenditure increasing from around $800 million in 2017–18 to $1.2 billion in 2019–20. The review found that during the same timeframe there had been a decline in overall employment outcomes (jobs secured and employment duration), and that the average cost of achieving these outcomes had increased by around 38%. The review argued the reduction in employment outcomes could not be attributed to broader labour market conditions.

The review findings have been contested by some DES providers. For example, the CEO of Disability Employment Australia suggested the review was 'deeply flawed' as a result of having investigated employment services in the middle of the COVID-19 pandemic, when unemployment was at record high levels. Subsequent DES outcome reports indicate that employment outcomes of program participants have increased following the easing of COVID-19 restrictions.

The review identified challenges for the DES program, including limitations in service quality due to providers' lack of disability expertise, and the complexity of the system rules that inhibit providers' ability to be flexible and innovative or tailor their support to the needs of individual job seekers. The review was also critical of the lack of integration and clear pathways between the NDIS and the DES program, 'despite their common program goals' (p. 85).

The review proposed several recommendations and options to improve DES program performance and 'restore the sustainability of DES program caseload and expenditure' (p. 6). These include:

- better targeting program support to job seekers who need it the most and who are most likely to benefit from work
- realigning provider incentives to prioritise employment (rather than education) outcomes
- improving program management 'with informed decision making and oversight'
- enabling providers to more easily enter and exit the market
- enabling and encouraging providers to exercise flexibility and innovation in the delivery of services
- increasing the amount of time providers are able to spend assisting job seekers by optimising compliance and administrative requirements
- allaying employer concerns about employing people with disability and better assisting them to do so (pp. 7–9).

Consultation on a new disability employment services model

Over a hundred submissions were made in response to the department's consultation paper on a new disability employment support model. While there was substantial diversity in the responses, there were also some areas of general agreement.

Some DES service providers took issue with the findings of the DES review, arguing that the program is largely effective and should be improved through incremental, evidence-based reform. However, most submissions maintained that the program is not fit for purpose and needs to be redesigned. Many submissions expressed concern that the reform process was being rushed and suggested the current DES contract should be extended by at least 12 months.

Broadly speaking, submissions agreed that access to specialist disability employment services should be made available to all people with disability, irrespective of whether they are in receipt of government-provided income support. Many expressed reservations that job seekers assessed as having a greater capacity to work will be diverted towards Workforce Australia and self-service. There was also a consensus that a new DES model should be a person-centred model with a strengths-based approach.

Many submissions argued that the new model should move away from a 'work first' approach towards one that concentrates on realising long-term sustainable outcomes for job seekers with disability. Such an approach could reward innovative models of assistance that are more effective for people with disability. Suggestions included customised employment, through which jobs are tailored to fit the skills, interests, strengths, and support needs of a person with disability, while also meeting business needs.

Several submissions argued more emphasis on demand-side employment of people with disability is required. It was suggested that governments could serve as role models – employing more people with disability themselves, as well as funding research, projects and innovative initiatives to improve attitudes towards people with disability. Increased government engagement with employers to develop their confidence and capacity to employ people with disability was also advocated.

While the NDIS and JobAccess can provide a wide range of supports to move people with disability into employment, access to these programs is limited. Submissions argued that greater knowledge of, and access to, such employment supports could help both job seekers and employers. Similarly, closer alignment between the new model and the NDIS could help job seekers to gain and maintain employment.

Many submissions argued mutual obligation requirements are counterproductive, serving as a barrier for job seekers to gain employment; and punitive, given the lack of available jobs, especially for people with disability. If mutual obligations are to be retained in the new model, these submissions recommended that the compliance function (monitoring adherence to these requirements) be shifted from employment service providers to Services Australia or some other third party. Submissions argued that this shift could improve relationships between job seekers and providers and potentially lead to better outcomes.

Concluding comments

While well-designed and well-funded employment programs can and do help job seekers to gain employment, economic conditions are arguably a more significant determinant of employment outcomes.

Disadvantaged job seekers, including people with disability, are disproportionately affected by economic downturns, such as the recent recession triggered by the COVID-19 pandemic.

If job seekers with disability are to benefit from the current economic recovery, submissions to the consultation on a new disability employment services model suggest that this will require a strong focus on demand-side strategies and working with employers to identify and create employment opportunities.

Further reading

Australian Human Rights Commission, *Willing to Work*, report of the National inquiry into employment discrimination against older Australians and Australians with disability, (Sydney: Australian Human Rights Commission, 2016).

Alexandra Devine et al., 'Australia's Disability Employment Services Program: Participant Perspectives on Factors Influencing Access to Work', *International Journal of Environmental Research and Public Health* 18, no. 21 (31 October 2021).

Katharina Vornholt et al., 'Disability and Employment – Overview and Highlights', *European Journal of Work and Organizational Psychology* 27, no. 1 (2018): 40–55.

Karen Soldatic, Dina Bowman, Maria Mupanemunda and Patrick McGee, *Dead Ends: How Our Social Security System is Failing People with Partial Capacity to Work*, (Fitzroy, Victoria: Brotherhood of St Laurence, 2021).

SCHOOL EDUCATION

Dr Shannon Clark, Social Policy

Key issue

COVID-19 has greatly disrupted school education, placing immense pressure on students, parents and carers, as well as highlighting disparities in education.

Reform initiatives and how to address the challenges of declining student performance in Australian schools will continue to be a source of debate in the coming years. Improving equity in schooling will be a critical area of focus.

Current issues facing schooling in Australia include recovery from COVID-19 and teacher workforce shortages.

Schooling in Australia

Although school education in Australia is primarily the responsibility of the states and territories, the Australian Government plays a role in funding schools and in national policy initiatives and reforms. State and territory and Australian Government education ministers make decisions and work collaboratively on education matters through the Education Ministers Meeting (previously the Education Council). In December 2019, education ministers agreed to the Alice Springs (Mparntwe) Education Declaration (Mparntwe Declaration), which sets out shared goals for education.

In 2021, there were more than 4 million students enrolled in Australia's 9,581 schools. Of the total, 65.1% were enrolled in government schools and 34.9% in non-government schools – comprising 19.5% in Catholic schools and 15.4% in independent schools. The proportion of students enrolled in government schools in 2021 fell by 0.5 percentage points from 2020, while the proportion of students in Catholic and independent schools increased by 0.1 and 0.4 percentage points respectively.

Government funding for schools

The Australian Government provides the majority of public funding for non-government schools and the minority of public funding for government schools. These responsibilities are reversed for state and territory governments.

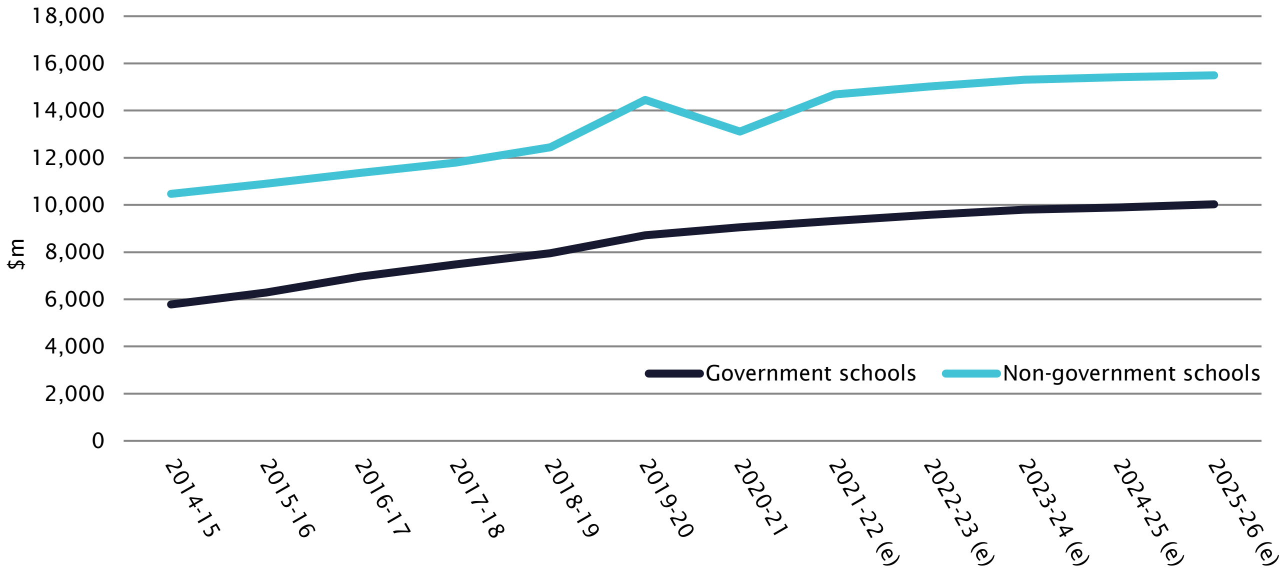
In 2019–20, total government recurrent expenditure on schools was $70.6 billion or $17,779 per full-time equivalent (FTE) student. Table 1 shows recurrent expenditure by state and territory and Australian governments (totals and per FTE student) for government and non-government schools. Recurrent expenditure refers to government funding granted to schools to meet their general recurrent costs of providing school education. It does not include capital expenditure or special circumstances funding.

Table 1 – Government recurrent expenditure on school education, 2019–20

	Government schools		Non-government schools		Total	
	($b)	($ per FTE)	($b)	($ per FTE)	($b)	($ per FTE)
State and territory governments	44.2	16,936	4.1	2,978	48.2	12,139
Australian Government	8.5	3,246	13.9	10,211	22.4	5,640
Total government	52.6	20,182	18.0	13,189	70.6	17,779

Source: Australian Curriculum, Assessment and Reporting Authority, 'Government Recurrent Expenditure on Government and Non-Government Schools', *National Report on Schooling in Australia – Data Portal*.

Figure 1 – Australian Government expenditure on schools sub-function – government and non-government schools ($m), real 2021 dollars



Notes: Real funding has been calculated by the Parliamentary Library by deflating the nominal expenditure figure by the June quarter CPI. Figures are in 2020–21 dollars, the last available year of actual figures.

Sources: Australian Government, *Final Budget Outcome*, multiple years, Table A.1; Australian Government, *Budget Strategy and Outlook: Budget Paper No. 1: 2022–23*, 150.

Over time, Australian Government expenditure on schools has continued to increase (Figure 1). The rise then dip in expenditure between 2019–20 and 2020–21 for non-government schools was due to a COVID-19 response measure which brought forward $1.0 billion of payments from July 2020 to May or June 2020 to encourage non-government schools to return to classroom teaching (p. 118).

Educational goals and student performance in Australia

Improving the quality of education and the performance of students is a key driver of educational funding and reforms in Australia. A chief concern for successive governments has been reversing declines in student performance as measured by international assessments such as the OECD's (Organisation for Economic Co-operation and Development) Programme for International Student Assessment (PISA).

Programme for International Student Assessment

As shown in Figure 2, from PISA's first cycle in 2000 to the most recent in 2018, Australia's mean scores (y-axis) have declined across all domains. Each PISA cycle has a major domain, with reading first in 2000, maths in 2003, and science in 2006.

In terms of years of schooling, Australia's performance in 2018 was the equivalent of about 1½ years lower than the highest performers (the provinces of Beijing, Shanghai, Jiangsu and Zhejiang, China) in reading; 3½ years lower in mathematics; and more than 3 years lower in science (pp. 3–5).

From when testing began to 2018, Australian students' performance declined by the equivalent of more than a year in maths and nearly a full school year in reading and science.

However, some experts have questioned using a single standardised assessment as evidence of academic

Figure 2 – Australian achievement trends in PISA – mean scores in assessment domains

Source: Australian Council for Educational Research (ACER), 'Key Findings 2018', ACER website.

decline. Results for Year 9 students from Australia's National Assessment Program – Literacy and Numeracy (NAPLAN) show student achievement remaining relatively steady since testing began in 2008. Another international test, Trends in International Mathematics and Science Study, which tests students in Years 4 and 8 in maths and science, shows that from 1995 to 2019 Australia's mean student performance improved in Year 4 maths and Years 4 and 8 science.

Recent reforms and developments

Reminiscent of Prime Minister Julia Gillard's 2012 goal to return Australia to the top 5 countries in reading, mathematics and science by 2025, Minister for Education and Youth Alan Tudge announced in March 2021 that he would take to the next Education Ministers Meeting 'a 2030 target to be again amongst the top group of nations across the three major domains of reading, maths and science' (p. 5). Minister Tudge highlighted 3 areas of focus: quality teaching, curriculum and assessment. Of these, he identified quality teaching as the most important in-school factor determining student performance and announced a review of initial teacher education (ITE).

Quality ITE Review

The Quality ITE Review was undertaken by an expert panel chaired by former Department of Education and Training Secretary, Lisa Paul. The final report of the review, released in February 2022, made 17 recommendations across 3 key areas:

- attracting high-quality, diverse candidates into initial teacher education
- ensuring their preparation is evidence-based and practical
- supporting early years teachers.

In response, the Government announced a new Initial Teacher Education Quality Assessment Expert Panel which would develop new standards for ITE courses and advise the Government on linking standards to ITE funding. The 2022–23 Budget also included funding for the review response (pp. 77–8). The Coalition outlined further initiatives in its election policy 'Our plan for raising school standards'.

Review of the Australian Curriculum

The Australian Curriculum sets out expectations for what Australian students should be taught. State and territory and non-government school education authorities are responsible for delivering the curriculum.

In 2015, education ministers agreed that the Australian Curriculum and Assessment Reporting Authority (ACARA) should review the Australian Curriculum every 6 years, commencing in 2020–21. In December 2019, the Education Council asked ACARA to develop terms of reference for a review of the Foundation to Year 10 Australian Curriculum. The Education Council endorsed the terms of reference and review timelines in June 2020.

As with the previous review of the Australian Curriculum in 2014, the 2020–21 review reignited the 'history wars' – debates about which aspects of Australian history should be taught to Australian students. In August 2021 the *Australian* reported on a letter sent by Minister Tudge to ACARA in which he criticised the draft curriculum for 'supporting "ideology over evidence" and presenting "an overly negative view" of the nation in the study of history and civics', and warned that he would not endorse the proposed curriculum if ACARA did not substantially rewrite the draft.

Education ministers considered the final draft of the revised curriculum at their meeting in February 2022. Afterwards, Acting Minister for Education and Youth Stuart Robert stated that the Australian and Western Australian governments had concerns regarding mathematics and humanities and social science, and had asked ACARA to revise the curriculum and return to education ministers in April. Following ACARA's revisions to the 2 learning areas, education ministers endorsed the updated curriculum on 1 April 2022.

Whether there will be an abatement in the 'curriculum wars' is unclear. On 31 May 2022 Opposition Leader Peter Dutton stated that the national curriculum and the values argument would be one of the big debates of the next Parliament. However, in response, Minister for Education Jason Clare said he was 'not interested in picking fights' over the curriculum.

National School Reform Agreement

When announcing the Quality ITE Review in 2021, Minister Tudge stated: 'I have watched or been involved in the funding debate for many years and I am pleased that the school funding wars are now over'.

However, debates over school funding are likely to have renewed relevance during the 47th Parliament as the Australian Government and state and territory governments negotiate the next national reform agreement.

Under the *Australian Education Act 2013* (the Act), a condition of receiving Australian Government funding for schools is that states and territories sign on to a national agreement relating to school education reform and have an agreement with the Australian Government relating to the implementation of reform.

The current agreement, the National School Reform Agreement (NSRA), commenced on 1 January 2019 and expires on 31 December 2023. It is supported by bilateral agreements between the states and territories and the Australian Government. As well as outlining state-specific actions to improve student outcomes, bilateral agreements also set out minimum state and territory funding contributions required to receive Australian Government school funding.

To inform the development of a new national reform agreement, the NSRA requires an independent review to be completed by 31 December 2022 (section 29). In April 2022, Treasurer Josh Frydenberg requested the Productivity Commission review the NSRA. The Productivity Commission will assess the effectiveness and appropriateness of the national policy initiatives set out in the NSRA, and the appropriateness of the Measurement Framework for Schooling in Australia in measuring progress towards the NSRA's outcomes. The Productivity Commission will make recommendations to inform the next school reform agreement and improve the Measurement Framework. In May 2022, the Productivity Commission released a paper and called for submissions by 17 June 2022.

Equity in funding for government and non-government schools will likely feature prominently in debates about a new school reform agreement.

In 2017, the Turnbull Government announced reforms to the needs-based funding arrangement. The *Australian Education Act 2013* was amended to stipulate that the Australian Government would move towards consistent funding for schools of 20% of the Schooling Resource Standard (SRS) for government

Table 2 – State and territory government minimum contribution shares in bilateral agreements (%)

State	Sector	2018	2019	2020	2021	2022	2023
ACT	Gov	80.00	80.00	80.00	80.00	80.00	80.00
	Non-gov	20.00	20.00	20.00	20.00	20.00	20.00
NSW	Gov	70.73	70.84	71.05	71.37	71.80	72.22[a]
	Non-gov	25.29	24.70	24.23	23.76	23.29	22.82
NT	Gov	55.20	56.00	57.00	58.00	58.50	59.00
	Non-gov	15.09	15.09	15.09	15.09	15.09	15.09
Qld	Gov	69.26	69.26	69.26	69.26	69.26	69.26[a]
	Non-gov	23.18	22.70	22.45	21.84	21.23	20.61
SA	Gov	75.00	75.00	75.00	75.00	75.00	75.00
	Non-gov	19.72	19.72	19.72	19.72	19.72	19.72
Tas	Gov	72.93	73.16	73.39	73.62	73.85	74.08[a]
	Non-gov	21.50	21.20	20.90	20.60	20.30	20.00
Vic	Gov	67.80	68.02	68.42	68.99	69.68	70.43
	Non-gov	19.70	19.76	19.82	19.88	19.94	20.00
WA	Gov	84.43	80.56	77.56	75.46	75.00	75.00
	Non-gov	26.30	25.72	20.00	20.00	20.00	20.00

Note: (a) NSW, Queensland and Tasmanian state governments have committed to reach 75% of the SRS for the government school sector beyond 2023.

Sources: Compiled from bilateral agreements under the National School Reform Agreement, available from Department of Education, Skills and Employment website.

schools, and 80% for non-government schools. Schools funded below the consistent Australian Government share of their SRS will transition up to the target share by 2023, while schools funded above will transition down to the target share by 2029.

The Act requires state and territory governments to make minimum funding contributions. The aim is for state and territory governments to transition to consistent shares of at least 75% of SRS for government schools and 15% for non-government schools. The target is for all schools to be funded to at least 95% of their SRS by 2023 (Australian and state and territory government shares combined).

However, the Act allows for the prescribed percentages to be negotiated – bilateral agreements between the Commonwealth and individual states and territories identify the agreed minimum state contribution shares as a percentage of the SRS. Table 2 summarises these agreed minimum funding shares and shows that not all jurisdictions will meet the target share rate of 75% for government schools and 15% for non-government schools by 2023.

The Australian Labor Party (ALP) and the Australian Greens have been critical of these funding arrangements that will see non-government schools funded at or above their SRS, while government schools will not get to more than 95% of the SRS funding. During the election, the ALP committed to, with the states and territories, getting all schools to 100% of the SRS.

The Greens' election platform included policies to increase funding for government schools, promising to 'fully fund' government schools by increasing the Australian Government's share of the SRS from 20% to 25% to ensure government schools would receive 100% of the SRS by 2023. The Greens also pledged to 'remove the 4% capital depreciation tax in school funding bilateral agreements and work with states and territories to ensure they maintain their commitment to funding at least 75% of the Schooling Resource Standard' (pp. 2–3).

Looking forward – challenges for Australian schooling

COVID-19 recovery

The COVID-19 pandemic has caused major disruptions to school education in Australia. Across 2020 and 2021, several jurisdictions instituted periods of remote learning to minimise COVID-19 transmission. In January 2022, National Cabinet agreed to the National Framework for Managing COVID-19 in Schools and Early Childhood Education and Care (pp. 4; 13–14) which aimed to ensure schools and early childhood education and care services would remain open, with face-to-face learning prioritised. While widespread school closures are not currently in place, schooling continues to be affected by the pandemic. High COVID-19 case numbers are placing pressure on staffing, with teacher absences leading to localised returns to remote learning.

A major area of concern at the start of the pandemic with schools moving to remote learning was the potential impact on students' learning, particularly for vulnerable and disadvantaged children. However, results from NAPLAN in 2021 showed that, in comparison to 2019, 'achievement in numeracy, reading and writing remained largely stable at a national level for all students'. ACARA noted that there were indications of widening gaps between high and low socio-educational groups between 2019 and 2021, and was undertaking further analysis to understand whether this could be attributed to the impact of the pandemic or was part of a longer-term national trend.

There are also concerns about the impacts of COVID-19 on student wellbeing. A study from the Australian National University reported parents' and carers' perspectives on the mental health of children and young people aged 18 years and under. Parents and carers believed that COVID-19 had had a large impact on children and young people aged 5–18 years, with the mental health of those aged 15–18 of particular concern. Comparing results with a 2020 survey, negative mental health impacts appeared to have worsened, particularly for children in states with long lockdowns.

States and territories have implemented various measures to support students' learning and wellbeing in relation to the COVID-19 pandemic, including tutoring programs and funding for wellbeing and mental health services.

Ensuring schools and students are adequately supported in the recovery from COVID-19 will be a priority for all governments in the coming years. In particular, addressing disparities in education to ensure that disadvantaged students are supported will be vital.

Election commitments from the Greens and the ALP included measures to assist schools recover from the pandemic. The ALP promised $440 million to improve air quality, upgrade buildings and support mental health. As part of its capital funding commitment, the Greens committed $224.1 million to install ventilation and air purifiers in schools (p. 1).

Teacher shortages

Attracting and retaining teachers will be a central challenge for schools. A recently published study of 2,444 primary and secondary school teachers in Australia found that only 41% of respondents intended to remain in the profession. Reporting on data collected in 2019, the study indicated teachers' reasons for intending to leave the profession included heavy workloads, health and wellbeing concerns, and the low status of the profession. The COVID-19 pandemic has exacerbated burdens on teachers and is likely to increase teacher shortages.

There are additional challenges with attracting teachers to rural and remote locations. In 2019, the Australian Government introduced incentives for teachers to teach in very remote locations through reduced Higher Education Loan Program (HELP) debts.

The significant challenges of attracting people to teaching were noted in the Quality ITE Review's final report. The expert panel considered that its recommendations would significantly alleviate teacher workforce challenges if implemented (p. iii).

The ALP's election commitments included plans for addressing teacher shortages and improving teaching quality through initiatives to attract high-achieving students to teaching and to attract talented teachers to rural, regional and remote areas. It also promised funding to retain teachers through better career paths, and to respond to the Quality ITE Review.

The Coalition criticised Labor's education platform for being silent on school standards. It committed to strengthening teacher training and lifting student performance through ITE initiatives, facilitating mid-career professionals to become teachers, and supporting 'positive learning environments' in classrooms.

Considerations for the incoming Parliament

The Mpartnwe Agreement includes the twin goals for the Australian education system to promote excellence and equity. As discussed above, a major policy focus has been on excellence in terms of returning Australia to the top of world rankings. However, the OECD states 'the highest performing education systems are those that combine equity with quality' (p. 3). In terms of inequality, Australia's education system is in the bottom third of OECD countries (pp. 8; 10). Making progress towards improving equity and reducing inequality in Australian schooling will be an important and complex issue for the incoming Parliament to consider.

Further reading

Shannon Clark, *COVID-19: Chronology of State and Territory Announcements on Schools and Early Childhood Education in 2020*, Research paper series, 2021–22 (Canberra: Parliamentary Library, 2022).

Shannon Clark and Hazel Ferguson, 'Report of the Quality Initial Teacher Education Review – Implications for Higher Education', *FlagPost* (blog), *Parliamentary Library*, 23 March 2022.

TERTIARY EDUCATION AND COVID-19 RECOVERY

Dr Hazel Ferguson, Social Policy

Key issue

COVID-19 created severe problems for education and training providers and students alike. Considerations for the new Parliament may include the recovery of international education, the structure of higher education funding, and priorities for vocational education and training reform.

What is tertiary education?

Tertiary education comprises 2 sectors:

- Vocational education and training (VET), which is provided by over 4,000 registered training organisations (RTO). In 2020, a total of 3.9 million students were enrolled in nationally recognised training, and approximately 1.3 million of these students were government-funded.
- Higher education, which is provided by 189 registered higher education providers, including 42 Australian universities. In 2020, 1.6 million students were enrolled in higher education courses, predominantly at universities. Of these, 880,379 were Commonwealth supported students.

Tertiary enrolments include students studying for certificates, diplomas, and degrees as set out in the Australian Qualifications Framework, as well as VET programs and subjects not delivered as part of a qualification – most commonly cardiopulmonary resuscitation and first aid courses.

In 2021–22 (pp. 150; 168), the Australian Government invested an estimated $7.1 billion in VET, and $10.7 billion in higher education, not including student loans or competitive research grants, such as those provided by the Australian Research Council (ARC).

The majority of Australian Government recurrent funding for VET is distributed via intergovernmental agreements with the states and territories. States and territories are responsible for VET delivery in their own jurisdictions, and contributed an additional $3.9 billion to the system in 2020. In contrast, the Australian Government is the primary funder of grants to approved higher education providers, apprentice incentive payments to employers and apprentices, and student loans for VET and higher education (which are generally paid directly to the provider, on behalf of the student).

Tertiary education during the pandemic

Border closures and the international education downturn

Prior to the COVID-19 pandemic, Australian education, particularly higher education, was increasingly internationally engaged. Total overseas students studying in Australia had nearly doubled between 2012 and 2019, from 513,083 to 952,163 (Figure 1), and by the end of this period international students made up 32.4% of higher education students (and a smaller proportion of other sectors, including 5.4% of VET students). International education constituted a major services sector with strong year-on-year growth, worth $40.3 billion to the Australian economy in the 2019 calendar year. In 2018, Australian universities reported participating in over 10,000 international agreements involving student and staff exchange, academic and research collaboration, and other forms of mobility.

COVID-19 travel restrictions, beginning on 1 February 2020, and increasing on 20 March, had an immediate impact on student visa holders, many of whom were outside the country when restrictions were introduced. Despite a regulatory response allowing students to continue studying from outside Australia, many faced barriers to taking up this option, and instead deferred or cancelled their studies (just over 25,000 more in the first quarter of 2020 compared with the same period in 2019).

By the end of 2021, compared with the peak in 2019, total international student numbers had declined by 24.7% to 716,921, primarily driven by falls in higher education and English Language Intensive Courses for Overseas Students (ELICOS). Enrolments from China, Australia's largest source of overseas students, fell by 63,092 students (24.3%) between 2019 and 2021, while falling enrolments from India (12,964 or 9.1%), Nepal (9,095 or 13.2%) and Brazil (18,940 or 46.5%) were also substantial. In 2020, the economic contribution of international education was $31.7 billion, around three-quarters of its 2019 peak.

In November 2021, the Morrison Government released a 'roadmap to recovery' as part of the *Australian Strategy for International Education 2021–2030*, citing 2022 as the year international education is expected to regain ground. Under the strategy, a review of the *Education Services for Overseas Students* (ESOS) Act and National Code of Practice for Providers of Education and Training to Overseas Students 2018, which set out the standards for Australian international education, was initiated. Measures were also developed to diversify international student cohorts and support online delivery for a sustainable recovery.

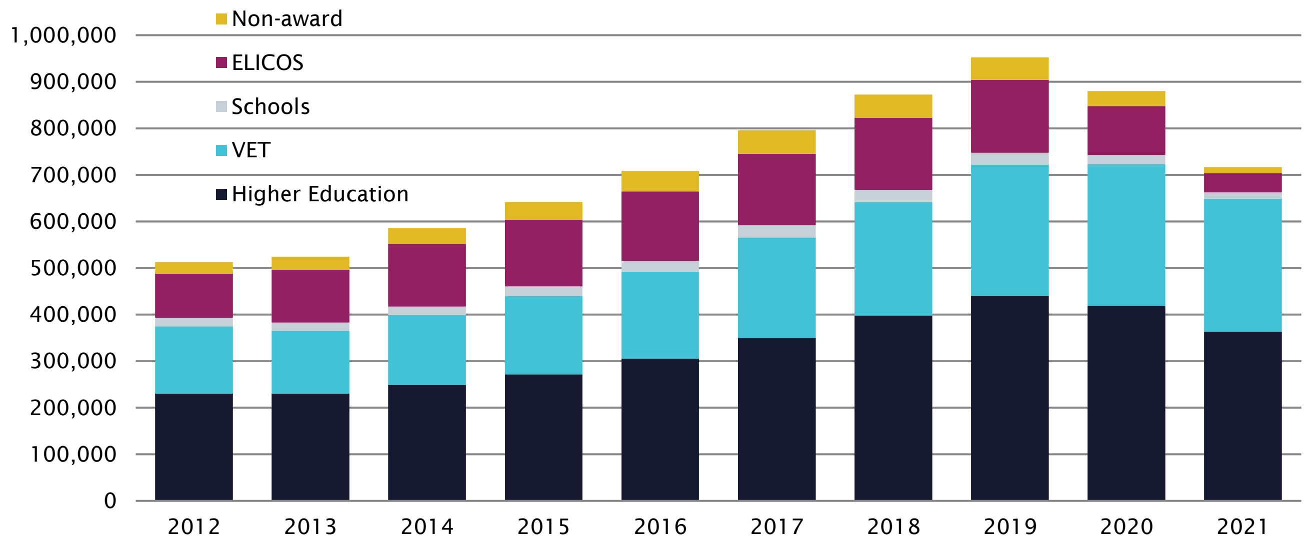
In the first quarter of 2022, there were some indications of recovery in the higher education sector. Commencement data shows 67,080 international students started a higher education course in March 2022, compared with 61,171 in March 2021 – a 9.7% increase. However, this equates to only a 1.7% increase in total commencements, due to falls in ELICOS, VET, and schools.

Enrolment data for the same period shows reductions in total international student numbers across all sectors, and from all major source countries. In part, this is due to the cumulative effect of lower commencements in 2020 and 2021. The reduced number of students starting a course during these 2 years now means lower than usual enrolments in the later years of courses.

Higher education

For higher education providers, the pandemic has accelerated many trends that were already in progress, including online and blended delivery, and the diversification of international student delivery to include hybrid, online, offshore, and third-party arrangements.

Figure 1 – International education enrolments by sector, 2012–2021



Source: Department of Education, Skills and Employment (DESE), International Student Monthly Summary and Data Tables (Canberra: extracted 17 May 2022).

Although students experienced a range of challenges (p. 9) associated with learning during the pandemic, graduates from this period have so far been, on the whole, well received by employers (p. 4).

The policy conversation has been largely dominated by concerns about funding:

- In 2020, revenue from overseas student fees and investment income declined due to the pandemic. Total sector revenue from overseas student fees decreased by $755.8 million (7.6%), and investment income decreased by almost $1.2 billion (57.7%) in 2020, compared with 2019 (Table 1).
- Commencing in 2021, Australian Government funding and fees for Commonwealth supported domestic students changed as part of the Job-Ready Graduates Package (JRG). JRG included complex changes to student and government contribution amounts, with the intent of increasing enrolments in priority fields, while also reducing average Australian Government per-student funding.

Many universities responded to financial pressures by pursuing savings measures, especially staffing cuts. While there are a number of challenges in accurately estimating job losses, the Australian Government's university staff data collection indicates a reduction of 9,050 permanent and fixed-term contracts in the 12 months to 31 March 2021, the majority in non-academic roles. Casual staff losses began earlier. In 2020, in full-time equivalent (FTE) terms, 4,258 fewer casual staff were employed than in 2019, a decline of 17.5%. Estimated casual FTE figures for 2021 (which are the latest available, but provide only a preliminary count) indicate a further decline of 3,641 (15.2%) in 2021 compared with 2020.

The latest higher education research expenditure data from the Australian Bureau of Statistics reveals universities also reduced discretionary spending on research from 'general university funds' as income from international student fees fell. Although overall expenditure increased slightly from $12.2 billion in 2018 to $12.7 billion in 2020, contributions from general university funds fell slightly from $6.8 billion (56.1% of total expenditure) to $6.7 billion (53.2% of total expenditure), while funding from all other sources grew.

However, analysis of university financial reports by the Melbourne Centre for the Study of Higher Education suggests the financial impact of COVID-19 on universities was not as significant as predicted early in the pandemic. The study acknowledges 'severe challenges to on-going financial sustainability' but finds that universities were 'resourceful and resilient' in 2020, with 8 institutions improving their financial position, even while others experienced significant deterioration in operating results.

Based on 2021 financial reports released to date, universities have continued to report better-than-

Table 1 – University revenue from continuing operations by source, 2019 and 2020

Revenue	2019 ($m)	2020 ($m)	Change ($m)	Change (%)
Australian Government	17,782.6	18,186.3	403.7	2.3
Grants	11,976.4	12,122.3	145.9	1.2
Student loans	5,806.2	6,064.0	257.8	4.4
State and local government	725.4	763.7	38.4	5.3
Upfront student contributions	459.1	455.5	-3.5	-0.8
Overseas student fees	9,978.8	9,223.0	-755.8	-7.6
Other fees and charges	1,814.3	1,454.2	-360.1	-19.8
Investment income	2,191.3	927.4	-1,263.9	-57.7
Royalties, trademarks and licenses	136.1	139.6	3.5	2.5
Consultancy and contracts	1,567.8	1,628.8	61.0	3.9
Other income	1,863.9	1,872.6	8.6	0.5
Total revenues	**36,519.2**	**34,651.1**	**-1,868.2**	**-5.1**

Source: Parliamentary Library calculations based on DESE, University finance data, (Canberra: extracted 17 May 2022).
Notes: Student loans include HECS-HELP, FEE-HELP, VET FEE-HELP, VET Student Loans, and SA-HELP. Other fees and charges include: fee-paying domestic students, Student Services and Amenities Fee payments, and other fees and charges. Other income includes donations and bequests, non-government grants, and share of the net result (overall profit) of associates and joint ventures.

expected financial results, including significant surpluses at the University of Sydney ($1.0 billion, p. 44), Monash University ($410.6 million, p. 89) and the University of Queensland ($341.9 million, p. 44). These results are largely driven by lower expenditure, increased investment income, and the sharing of an additional one-off $1 billion in funding for university research in 2021 distributed among universities by the Australian Government.

Skills training

VET policymaking in 2020 and 2021 was characterised by attempts to balance long-term reform priorities with rapid responses to safeguard the domestic skills pipeline during COVID-19.

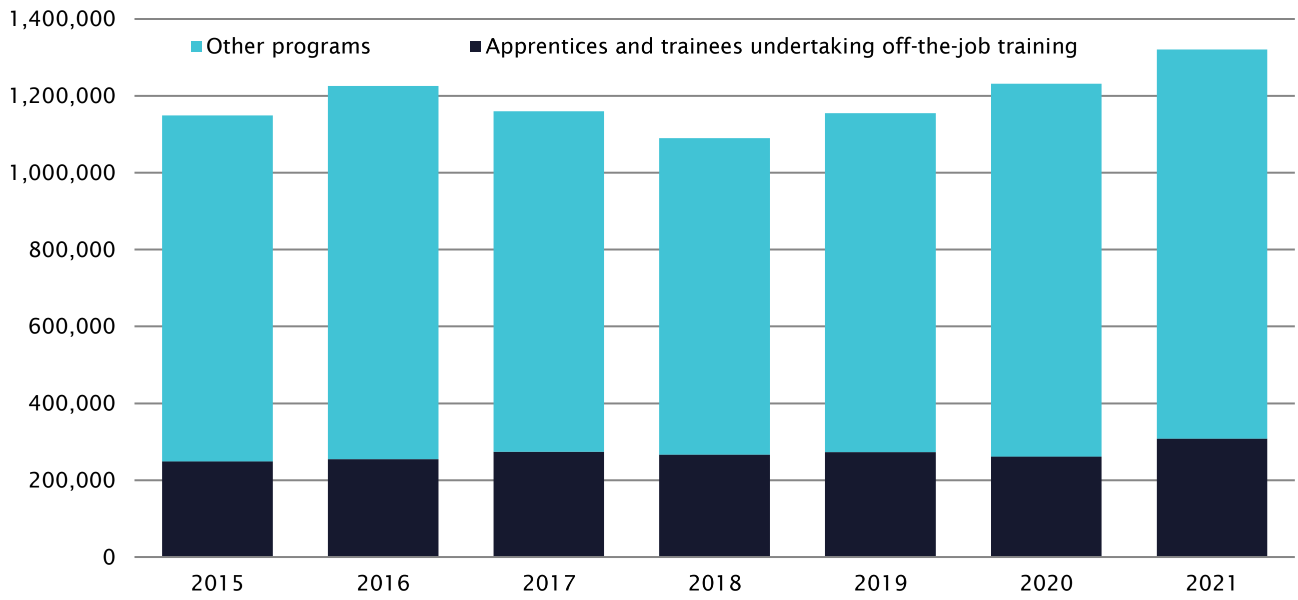
Like in higher education, the pandemic caused a rapid shift to online learning in VET. However, in early 2020, the apprenticeship system seemed the most at-risk part of VET, as businesses closed or reduced staff. In the June 2020 quarter, compared with the same period in 2019, total apprentices in-training decreased 3.9% to 266,565. Larger falls were seen in commencements, which dropped 35.8% to 21,115, and completions, which dropped 24.4% to 14,820.

New training was also rapidly developed and approved in response to pandemic-specific skill needs. This included new skill sets in infection control, digital skills, and pharmaceutical manufacturing, to assist workers needing to upskill in response to the health crisis, as well as those displaced by the economic effects of the pandemic, and those whose work had moved online.

In response, 2 major Australian Government funding sources were introduced to temporarily support the VET sector:

- Subsidies covering up to 50% of apprentice wages. The Supporting Apprentices and Trainees subsidy supported existing apprentices employed in small and medium businesses between 1 July 2020 and 31 March 2021. The Boosting Apprenticeship Commencements subsidy supports new apprentices, but is due to be phased out from July 2022 in favour of a new Australian Apprenticeships Incentive System announced in the 2022–23 Budget.
- Fee-free and low-cost diplomas, certificates, and short courses co-funded with states and territories under the JobTrainer Fund. These courses targeted areas of national skill need, including health, aged care, disability support, and digital skills, as well as other priority areas as determined by each jurisdiction.

Figure 2 – Government-funded program enrolments, January–September 2015–2021



Source: National Centre for Vocational Education Research, VOCSTATS, (Adelaide: extracted 30 May 2022).

According to the latest program enrolment data to September 2021, uptake of government-funded training, including courses taken by apprentices, increased by 7.2% in 2021, compared with the same period in 2020, to 1.3 million (Figure 2).

However, the Morrison Government's broader skills reform agenda was not realised during the 46th Parliament. After a Heads of Agreement for Skills Reform was finalised with the states and territories in 2020 as a condition of access to JobTrainer funding, jurisdictions did not reach agreement over the expected replacement for the National Agreement for Skills and Workforce Development (NASWD).

The NASWD, which, according to a review by the Productivity Commission in 2020, is 'overdue for replacement', sets out jurisdictions' shared responsibilities for VET, and is the basis for approximately $1.6 billion of ongoing National Specific Purpose Payments (SPP) from the Australian Government, to support skills and workforce development each year (p. 45). The 2022–23 Budget allocated an additional $3.7 billion over 5 years from 2022–23 to work with states and territories on a replacement for the NASWD.

In addition to funding provided through the skills and workforce development SPP, the Australian Government also exercises significant influence over the VET system as the funder of VET Student Loans, Trade Support Loans, and apprenticeship incentives. Key bodies also operate under Commonwealth legislation: the National Skills Commission (NSC) under the *National Skills Commissioner Act 2020*, and the national VET regulator, the Australian Skills Quality Authority (ASQA), under the *National Vocational Education and Training Regulator Act 2011*.

Three questions for COVID-19 recovery

As tertiary education rebuilds following the shocks of 2020 and 2021, three considerations that the new Parliament may face are sustainable international education recovery, the structure of higher education funding, and priorities for VET reform. These are briefly discussed below.

What does sustainable international education recovery look like?

Although there are early signs of recovery in demand for Australian higher education from overseas students, the long-term impact of declining enrolments signals a need for careful management of international education policy over the medium term.

This encompasses not only education policy, but also visa policy (discussed in the 'Immigration' article elsewhere in this *Briefing book*). For example, recent diversification efforts among providers, combined with the temporary removal of student visa conditions related to work hours, are thought to have led to rapid increases in visa applications from prospective VET students from Nepal.

The pandemic has increased attention on university reliance on revenue from international students, as well as the responsibility of governments and providers to support students through challenges during their time in Australia, which were particularly marked during the early stages of the pandemic. Australia is not alone in negotiating how to rebuild international education to better meet the needs of students and education providers. For example, New Zealand's draft new *International education strategy* has been described as 'value over volume'.

Is the structure of higher education funding fit for purpose?

Despite better-than-expected financial performance from some universities in 2020 and 2021, several key questions related to the structure of higher education funding remain.

Although Labor's commitment to provide 'up to 20,000 new university places' can be achieved under the current funding arrangements, many policy analysts continue to express concerns about JRG that, if addressed, would require larger-scale changes via the *Higher Education Support Act 2003*. Concerns include that incentives for students and universities to increase enrolments in priority courses will be ineffective, and that the increased gap between the highest and lowest student contribution amounts is not justified.

There is also considerable uncertainty about the future of research funding for universities. In addition to declining investment capacity from general university funds and the end of the temporary additional $1 billion provided in 2021, concerns have been raised about the independence of the ARC. As well, the University Research Commercialisation package announced in February 2022 by the Morrison Government was not legislated despite the introduction of 2 Bills to give effect to different parts of the package.

Labor has signalled a broad reconsideration of higher education policymaking through an Australian universities accord: 'a partnership between universities and staff, unions and business, students and parents, and, ideally, Labor and Liberal – that lays out what we expect from our universities'. This approach has attracted early support from the sector, and may provide a 'turning point for higher education in Australia'.

What are the priorities for VET reform?

Despite widespread acknowledgement of the need for VET reform to meet specific skill needs as well as the demands of increasingly higher skill, non-routine and cognitive jobs that are not easily replicated by machines (p. 146), recent efforts to renew the NASWD failed to balance the priorities of governments, employers, unions, and the training and education sector. Skills ministers from 6 states and territories reportedly wrote to the Government in early 2022 expressing concern about the proposed new agreement, including potential reductions in funding to TAFEs, and the proposed role of the NSC in setting prices and subsidies.

Labor has signalled a possible shift towards public providers, with a commitment to direct at least 70% of Australian Government VET funding to TAFE and provide fee-free TAFE places in priority fields. It has also flagged the creation of a new body, Jobs and Skills Australia: 'an independent body to bring together the business community, states and territories, unions, education providers and regional organisations to match skills training with the evolving demands of industry and strengthen workforce planning'. This body could incorporate much of the current work of the NSC.

Further reading

Hazel Ferguson, *Tertiary Education: a Quick Guide to Key Internet Links*, Research paper series, 2020–21, (Canberra: Parliamentary Library, 2021).

Hazel Ferguson, *A Guide to Australian Government Funding for Higher Education Learning and Teaching*, Research paper series, 2020–21, (Canberra: Parliamentary Library, 2021).

Carol Ey, *The Vocational Education and Training Sector: a Quick Guide*, Research paper series, 2020–21, (Canberra: Parliamentary Library, 2021).

Hazel Ferguson and Harriet Spinks, *Overseas Students in Australian Higher Education: a Quick Guide*, Research paper series, 2020–21, (Canberra: Parliamentary Library, 2021).

Hazel Ferguson, *University Research Funding: a Quick Guide*, Research paper series, 2021–22, (Canberra: Parliamentary Library, 2022).

SOCIAL SECURITY AND FAMILY ASSISTANCE

Michael Klapdor, Social Policy

Key issue

The government response to COVID-19 saw unprecedented levels of income support provided to Australians including increased rates, new payments, and expanded eligibility. The use of ad hoc, temporary changes suggests the design of the social security safety net may need to be reconsidered to ensure it can withstand future economic shocks. Long-standing concerns with the adequacy of some payment rates and eligibility criteria have also re-emerged as COVID-19 supports were withdrawn. Addressing these issues at a time when the Government is looking to restrain expenditure will be difficult.

The level and accessibility of Australia's social security and family assistance support systems will persist as key issues for the 47th Parliament. Around 9.4 million Australians accessed payments or concession cards from Centrelink in 2020–21 (p. xiii). Social security, veterans and family assistance payments make up around 25% of government expenditure – estimated at around $155 billion in 2021–22 (based on *Budget strategy and outlook: budget paper no. 1: 2022–23*, pp. 144; 154–158).

This article examines trends, issues and election commitments in 3 key areas: income support for working-age people, the Age Pension and family assistance.

Working-age income support

In 2019, the proportion of the population aged 15–64 receiving means-tested income support payments had reached 13.2% – its lowest level in 40 years (Figure 1). By June 2020, following the arrival of COVID-19 in Australia and the implementation of policies aimed at containing the virus and supporting those affected by the resulting economic downturn, the proportion of the working-age population receiving payments had reached 18.6%.

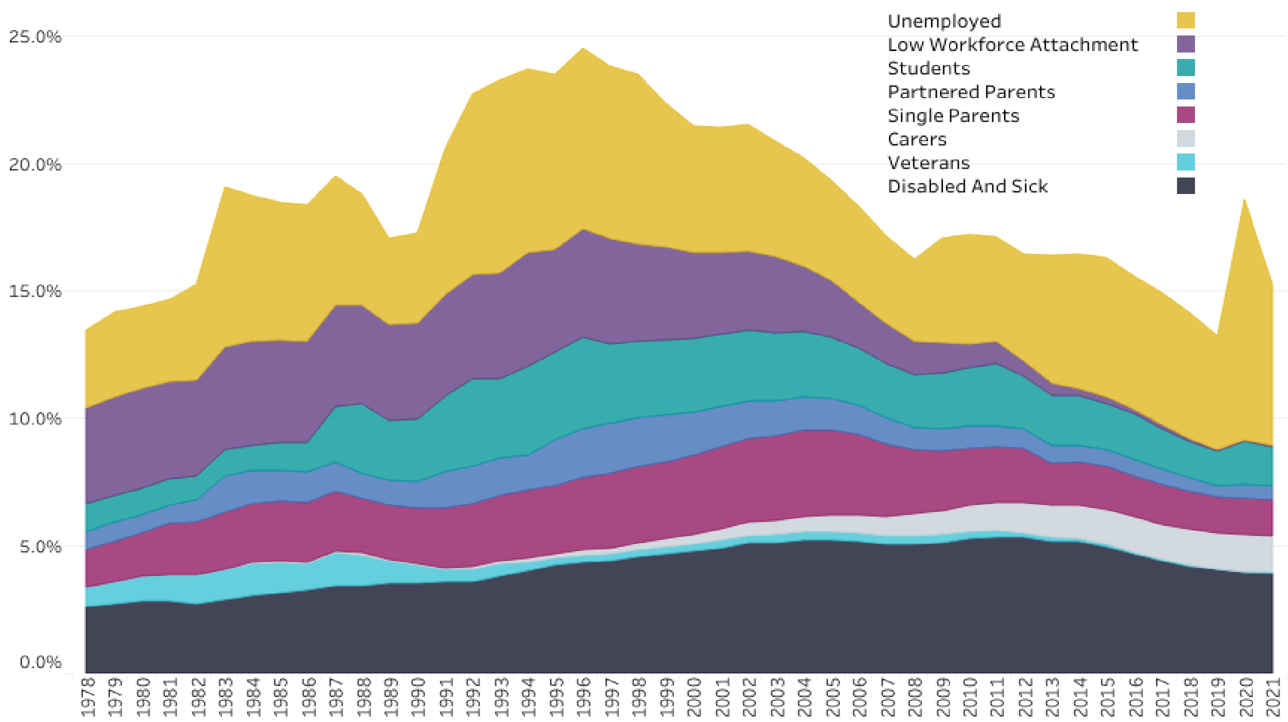
Figure 1 shows that while high, the 2020 level did not reach the high point achieved following the early-1990s recession when almost a quarter of this age group received government income support. However, the 2020 numbers would have been much higher were it not for enacted policy measures, particularly the JobKeeper wage subsidy paid to employers. Around 3.6 million individuals were subsidised through JobKeeper in June 2020. If those aged 65 and over (around 230,000 people) and those receiving another income support payment (around 130,000 people) are excluded, JobKeeper recipients represented around 20.1% of the working-age population. In total, an estimated 38.7% of the population aged 15–64 was receiving government income support in mid-2020.

The pre-COVID low point in income support receipt arose from improvements in the labour market and policy decisions under consecutive governments (pp. 56–57), including:

- an increase in the Age Pension qualifying age for women
- the phasing-out of payments primarily aimed at dependent partners such as widow and wife pensions
- restricting eligibility for the Parenting Payment to those with younger children and introducing activity requirements for recipients of this payment
- new qualification requirements for the Disability Support Pension and a changed method for assessing impairment levels.

In June 2021, while social security payment recipient numbers declined, the Government introduced a new

Figure 1 – Income support recipients as a % of estimated resident population aged 15–64



Notes: Data is at June unless point-in-time data unavailable in source. Excludes JobKeeper and disaster payments. 'Low workforce attachment' includes female Age Pension recipients aged under 65 years, payments for widows, Bereavement Allowance (merged into JobSeeker Payment from March 2020), Mature Age Allowance, Partner Allowance from 1996 and a percentage of estimated dependent partners of allowance payment recipients 1978–94. 'Veterans' includes Service Pension and Income Support Supplement. Estimates for some populations follow methodology used in sources.
Sources: Parliamentary Library calculations based on Department of Social Services (DSS), 'DSS Demographics', and predecessor departments' statistical papers, Department of Veterans' Affairs, 'Pensioner summary statistics', from 2000 onwards; and Department of Education annual reports. Latest source available assumed to be most accurate where published data varies. Population data from Australian Bureau of Statistics (ABS), *National, State and Territory Population*, (ABS: Canberra, September 2021), Table 59. Interactive version.

COVID-19 Disaster Payment to support those affected by state and territory government COVID-19 lockdowns. By December 2021, around 2.4 million individuals had received the COVID-19 Disaster Payment. Factoring in this payment (but excluding the 180,000 recipients receiving the COVID-19 Disaster Payment and another income support payment from Centrelink, p. 18) indicates close to 28.7% of the working-age population were receiving income support in the second half of 2021.

Does the safety net need a rethink?

The use of ad hoc, temporary income support changes in response to COVID-19 suggests the design of the social security safety net may need to be reconsidered to ensure it can withstand future economic shocks. These temporary changes included (pp. 5–13):

- the effective doubling of unemployment benefit payment rates
- newly created payments
- expanded eligibility conditions
- eased claim requirements to minimise wait-times and administrative burdens
- multiple lump-sum payments to boost other income support recipients' rates.

Underlying this response to COVID-19 was a lack of any permanent job retention scheme in Australia and long-standing issues with the adequacy of existing payments and their eligibility conditions.

Some researchers have suggested the government response to COVID-19 has 'opened up the policy space for a more detailed consideration of innovative reform' such as universal basic income and unemployment insurance. The Australian Greens' 2022 election platform included a significant lift in social security payment rates with reduced conditionality as part of its 'liveable income guarantee' policy. In 2021, the New Zealand Government announced it would develop a 'social unemployment insurance scheme'. New Zealand and Australia currently stand apart internationally by relying entirely on flat-rate means-tested systems of unemployment payments rather than contribution-based insurance systems. Neither the Coalition nor the ALP proposed major changes to working-age income support policy at the 2022 election.

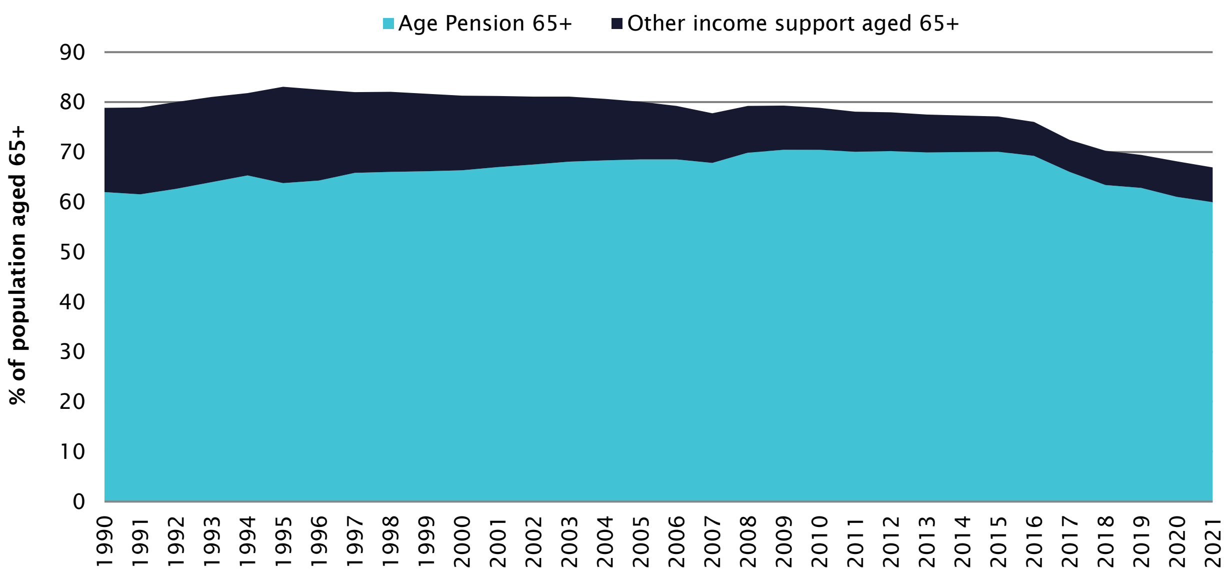
Many of the COVID-19 response measures were delivered outside of legislated frameworks. The COVID-19 Disaster Payment and Pandemic Leave Disaster Payment were authorised as grant payments through legislative instruments rather than via legislation (pp. 8–10). Around $14.5 billion was delivered through these programs but eligibility criteria and payment rate details were left to outdated grant guidelines that did not reflect policy changes. Similarly, additional payments to people affected by the early 2022 NSW floods were delivered as grant programs rather than disaster payments provided for in the *Social Security Act 1991*. Not addressing issues with the existing safety net through Parliament risks the Executive turning to similar ad hoc, unscrutinised measures during future crises or disasters.

Age Pension

Income support for the aged is the largest component of social security spending, representing over a third of payments in 2022–23 at $54.2 billion. In December 2021, a total of 2,556,063 people received the Age Pension and around 110,000 people aged over 65 received the Service Pension or other means-tested pensions paid by the Department of Veterans' Affairs (DVA).

COVID-19 response measures for pension recipients included 4 lump-sum payments (p. 131) followed by a $250 'Cost of Living Payment' in the 2022–23 Budget. There were few significant changes to the Age Pension

Figure 2 – Income support recipients aged 65+ as a % of estimated resident population aged 65+



Notes: Other income support includes Disability Support Pension, Carer Payment, Service Pension and Income Support Supplement and closed payments such as Wife Pension, but excludes Widow Allowance due to lack of data for 1990–99. Data is for June of each year. March 2000 data used for veterans' payments.
Sources: Parliamentary Library calculations based on DSS and DVA statistical publications, and ABS, *National, State and Territory Population*, (ABS: Canberra, September 2021), Table 59.

in the 46th Parliament, although the Morrison Government attempted to change the residency requirements for pensions and stop supplement payments for pensioners temporarily travelling overseas for 6 weeks.

Since 2011 the proportion of Australians aged 65 years and over receiving the Age Pension has dropped significantly, from around 70% to around 60% in 2021 (Figure 2). This is a result of policy changes including the gradual increase in the Age Pension age (increasing from 65 in 2017 to 67 by 2023); asset test changes which commenced in 2017; and increased superannuation balances and other investments reducing the number of people eligible under the pension means tests.

Retirement income review

Age Pension policy was considered as part of the Treasury's *Retirement income review*. The review's final report, released on 20 November 2020, observed:

> The Age Pension, combined with other support provided to retirees, is effective in ensuring most Australians achieve a minimum standard of living in retirement in line with community standards. (p. 18)

However, a significant number of retirees struggle financially – particularly those renting in the private market, and early retirees who live on lower-rate payments before qualifying for the Age Pension. The Treasury report found that around 60% of single retirees who are renting are living in poverty (p. 32) but determined that increased Rent Assistance would not have a meaningful impact on income poverty rates. It did not offer an alternative proposal.

The report found that homeowners could significantly boost their retirement incomes by drawing on home equity through reverse mortgages such as the Home Equity Access Scheme. However, the review found the current pension asset test exemption for the family home acted as a disincentive for retirees to draw on this equity (p. 19).

Election commitments

The Coalition made 2 election commitments affecting Age Pension recipients:

- providing incentives for homeowners to downsize by extending the assets test exemption for proceeds from a pensioner's principal home from 12 to 24 months and assessing a lower rate of 'deemed income' from the proceeds under the income test
- freezing the deeming rates used to assess income from financial investments for 2 years. This will mean pensioners are likely to have less income assessed than what they are earning on their investments.

The ALP committed to implementing the same policies (p. 12).

The Coalition also committed to increasing the income limits to access the Commonwealth Seniors Health Card. The concession card is for those ineligible for the Age Pension, usually due to the assets test. Labor also committed to the same policy (p. 12).

The Greens' 'liveable income guarantee' election policy proposed lifting pension and other income support rates. The Greens also announced a policy to return the pension qualifying age to 65.

Family assistance

Broadly, family assistance includes the Family Tax Benefit (FTB) program, Paid Parental Leave and the Child Care Subsidy. The largest component is FTB with an estimated $17.9 billion in payments budgeted for 2022–23 (p. 31). The Government expected to spend $10.7 billion on the Child Care Subsidy in 2022–23 (p. 28) and around $2.7 billion on Paid Parental Leave (p. 31).

Election commitments

A major ALP election policy was increased Child Care Subsidy rates and changes to the income test – estimated to cost $5.1 billion over the forward estimates. Modelling by Australian National University researcher Ben Phillips estimated that families using child care would, on average, gain around $1,600 per year under Labor's proposed changes (p. 6). The Greens proposed spending $19.0 billion, making child care free for all families.

The Coalition's last Budget included a $346.1 million proposal to merge the current Paid Parental Leave payments available to principal carers and to fathers and partners so that new parents and carers could choose how they shared a 20-week payment entitlement. Labor did not indicate its position on this proposal prior to the election. The Greens proposed a 26-week Paid Parental Leave scheme paid at pro rata the parent's existing wage, up to $100,000 per annum. The policy would also provide for superannuation contributions to be paid for the leave period and was estimated to cost $24.5 billion over 10 years.

None of the parties included FTB changes in their election policies.

Family Tax Benefit no longer for the middle class

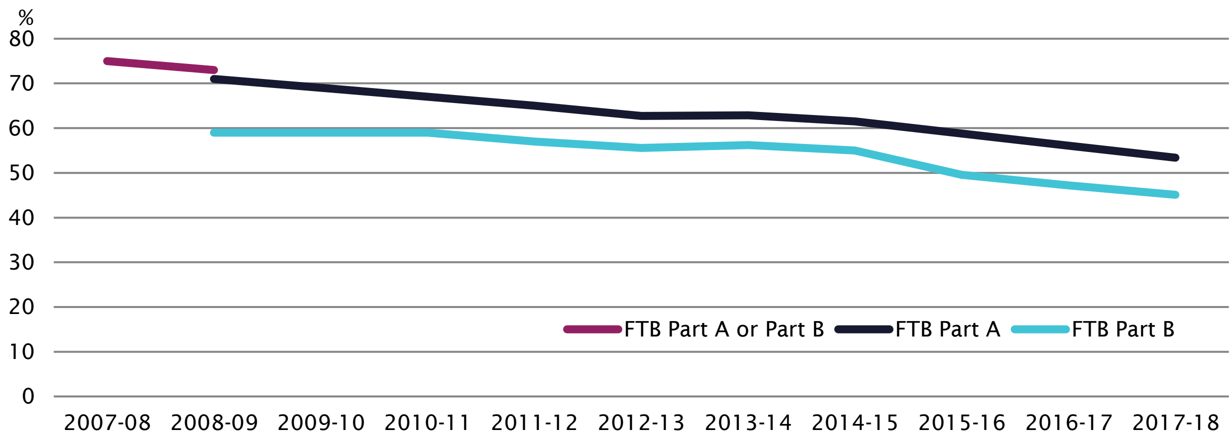
The Howard Government established FTB in 2000, merging a range of different family payments into FTB Part A and Part B. Part A is paid per eligible child – it is income-tested and rates vary by the child's age. Part B is paid primarily to single parents and to couples with young children where one partner has low or no income. It is paid per eligible family and is income-tested with rates based on the age of the youngest eligible child. In December 2021, around 1.4 million families received FTB for around 2.7 million children. Around 43% of families receiving FTB were also receiving an income support payment such as Parenting Payment or JobSeeker Payment. These figures do not include around 4–5% of recipients who are paid FTB as an end-of-financial-year lump-sum.

Initially, most families with dependent children received FTB (p. 17); however, this almost-universality has eroded via income limits and indexation freezes. In 2007–08 around 75% of families with children under 16 received FTB. By 2017–18, only around 53% of families received FTB Part A and 45% received FTB Part B (Figure 3). The Department of Social Services (DSS) ceased publishing this measure in its annual report in 2020–21, but based on the trend it is likely that fewer than half of families with dependent children now receive FTB.

DSS has recently changed the FTB program's performance measure to explicitly state it is targeted at low-income families (p. 48). The program now aims to have at least 67% of FTB paid to families whose income is under the 'FTB Part A lower income free area'. For 2021–22, this means 67% of FTB being paid to families with a combined income of under $56,137.

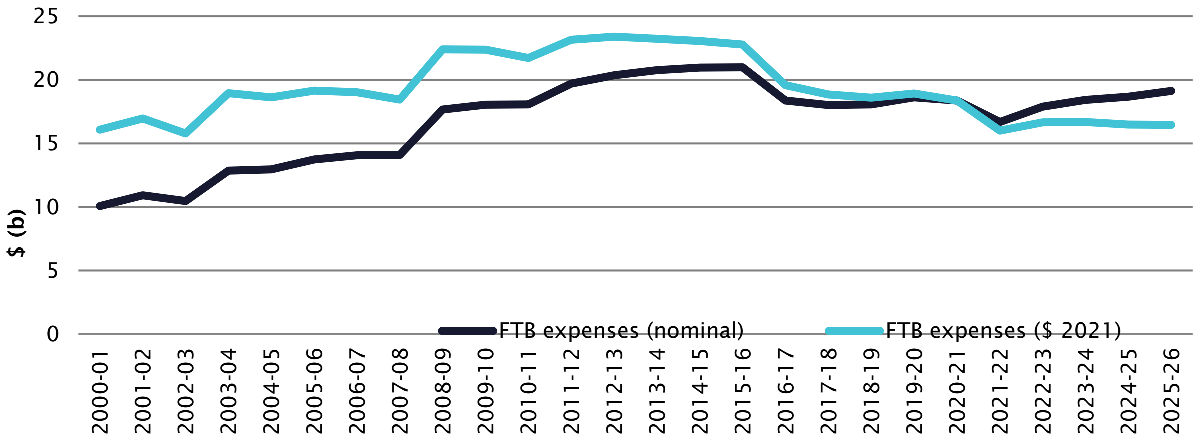
The ALP and Coalition government's policies have limited FTB growth despite population and rate increases. The ALP's savings measures included freezing the annual adjustment of some income test thresholds and the rate of end-of-year supplements; changing the way adjustments are made to FTB Part A rates; and introducing an income limit for FTB Part B.

Figure 3 – Proportion of families with children under 16 years of age receiving Family Tax Benefit



Notes: DSS calculations based on estimates of families with children under 16 years using ABS Survey of Income and Housing data (excludes families with shared care arrangements). FTB data is based on reconciled entitlements so 2017–18 data was published in June 2020.
Sources: DSS and predecessor agencies' annual reports.

Figure 4 – Family Tax Benefit expenses, nominal and real ($ June 2021)



Notes: 2000–01 to 2020–21 are actual expenses. 2021–22 is estimated actual. 2022–23 onwards are estimates. 2021 dollars calculated using CPI for June quarter at the end of the relevant financial year. Expenditure over the forward estimates converted to 2021 dollars using the estimated changes to the CPI published in Australian Government, *Budget Strategy and Outlook: Budget Paper No. 1: 2022–23*, 6.
Sources: Parliamentary Library calculations based on DSS and predecessor agencies' Portfolio Additional Estimates Statements and Portfolio Budget Statements.

These measures were partly offset by increasing rates of FTB Part A for older children and an additional 'Schoolkids Bonus' payment.

Under the Coalition Government, real FTB expenditure (adjusted for inflation) has fallen to an estimated equivalent of 2000–01 levels (Figure 4). Measures contributing to this include:

- tightening the income limit for FTB Part B eligibility (Schedule 9)
- introducing a new income limit for FTB Part A end-of-year supplement eligibility (Schedule 21A)
- removing FTB Part B eligibility for couples with older children
- freezing the payment rate and income test threshold indexation
- abolishing the Schoolkids Bonus (Schedule 9) and Large Family Supplement
- introducing a waiting period for new migrants to claim FTB Part A (Schedule 3)
- ceasing Energy Supplement indexation (Schedule 1) and stopping new claimants from receiving this supplement (Schedule 21).

Through making the FTB program more targeted, consecutive governments have achieved significant budget savings. However, previous savings measures primarily affected high and middle-income families, and any further savings measures are more likely to affect low-income families.

Further reading

Michael Klapdor, 'Social security', *Budget Review 2022–23*, Research paper, 2021–22, (Canberra: Parliamentary Library, 2022).

Senate Community Affairs References Committee, *Adequacy of Newstart and Related Payments and Alternative Mechanisms to Determine the Level of Income Support Payments in Australia* (Canberra: The Senate, 2020).

Retirement Income Review, *Retirement Income Review: Final Report*, (Canberra: The Treasury, 2020).

WHERE TO FOR INCOME MANAGEMENT AND THE CASHLESS DEBIT CARD?

Anthony Lotric, Social Policy

Key issue

Both Income Management and the Cashless Debit Card (CDC) set aside a proportion of a welfare recipients' income support payments and attempt to stop recipients from spending it on restricted goods such as alcohol. This is intended to make more money available for spending on essential goods.

The incoming Labor Government has committed to deliver on its election promise to abolish the Cashless Debit Card. However, the 'voluntary measure' which the Government has stated will replace the controversial program has not yet been specified, and the question of the future of Income Management arrangements is yet to be addressed.

Just one day after the publication of an Australian National Audit Office (ANAO) report on 2 June 2022 that reaffirmed the Auditor General's view that evaluations of the Cashless Debit Card (CDC) program failed to provide evidence that it was effective, incoming Social Services Minister, Amanda Rishworth, announced that she was in the process of being briefed by her department on how the program could be terminated. The ANAO report, which followed up on a July 2018 report on the same topic, did not recommend that the Government abolish the CDC, but instead that it improve its evaluation measures (p. 10). However, the Australian Labor Party (ALP) committed to scrapping the CDC as part of its election platform.

In her media release announcing discussions on terminating the CDC, Minister Rishworth stated that she would be 'working with local communities on better local solutions', presumably to the problems the CDC was originally intended to address – namely, harms associated with alcohol and drug abuse, and the insufficient allocation of funds to essentials such as food, clothing and housing. Proponents of the CDC claimed that these problems are associated with 'welfare dependence', necessitating controls on how individuals receiving welfare spend their payments. Minister Rishworth subsequently stated that a 'voluntary measure' will be maintained where the CDC was in place 'if communities want it'. She spoke further of a 'transition' and the need to put supports in place for the communities affected by the abolition of the CDC.

While the CDC has dominated media coverage as well as public and political discussion in recent years, it is not the only program that restricts how welfare recipients can spend their welfare payments. The future of Income Management, which operates in a similar way to the CDC, is more uncertain, as the ALP has not voiced any specific plans to change or abolish the scheme.

Income Management: a brief overview

The term Income Management refers to a scheme where a portion of a welfare payment is restricted so that it can only be spent on essential goods such as food, clothing and housing, rather than restricted goods such as alcohol. The CDC, described in more detail below, is a program administered via a card which sets aside funds for that purpose. While the CDC and Income Management are separate schemes that seek to achieve similar ends, comments from the previous government indicated that they considered them both to be forms of 'income management', broadly defined.

Income Management is a more complex scheme than the CDC program. It is structured around a series of 'measures'. Each measure applies to a particular group of income support recipients, for example, long-term and disengaged youth, vulnerable welfare payment recipients or those subject to child protection orders. Each measure also operates in particular income management locations and applies to a particular percentage of a person's income support payments. Income Management in the Northern Territory was initially administered through a mishmash of existing card platforms and other payment methods (pp. 3–4), and from July 2008 via the BasicsCard. The BasicsCard, which prevented the purchase of alcohol, tobacco, illegal drugs, pornography, or gambling products or services, then became the fundamental platform for Income Management, although participants can also choose to have a portion of their payments directly debited to pay for essentials such as rent.

The scheme has developed since its introduction in 2007 as part of the Northern Territory Emergency Response, with successive governments adding new locations and measures. The 2 earliest locations were the Northern Territory (2007) and Cape York (2008). In the Northern Territory, Income Management was applied to entire categories of people receiving income support, while in Cape York, conditional Income Management was applied to individuals on a case-by-case basis. Most Income Management arrangements were put in place before the CDC trial commenced.

Additional Income Management sites fall into 3 categories:

- Place-based Income Management in Bankstown (NSW), Logan, Rockhampton and Livingstone (Qld), Playford (SA) and Greater Shepparton (Vic)
- child protection income management in metropolitan Perth, Peel and the Kimberley region (WA) and in Greater Adelaide (SA)
- Indigenous sites in the APY Lands (SA), Laverton and Ngaanyatjarra Lands (WA) and Kiwirrkurra Community (WA)

Income Management has been replaced with the CDC in Cape York, and the Government has encouraged Income Management participants in the Northern Territory to voluntarily transfer to the CDC. Income Management operated in Ceduna (SA) before it was replaced by the CDC.

From the BasicsCard to the Cashless Debit Card: an incomplete transition

The CDC is a program administered via a card that blocks the purchase of alcohol and gambling products (but not pornography or tobacco like the BasicsCard) and allows only 20% of payments to be withdrawn as cash (which also inhibits the user's ability to purchase illegal drugs). It operates under its own legislative framework and was rolled out in various 'trial sites' in line with the evaluative nature of the program's objects.

The CDC is easier to administer than the BasicsCard, as the latter requires the Department of Social Services to approve merchants with which cardholders can then make purchases (specifically, merchants who do not sell restricted items such as alcohol and gambling products), while the former enables the blocking of categories of merchants who sell restricted goods. The CDC also looks more like a normal debit card than the BasicsCard, which clearly identifies the user as someone subject to Income Management, potentially making them feel stigmatised (p. 102).

The CDC program was first rolled out in Ceduna, South Australia in March 2016. It was subsequently expanded to trial sites in the East Kimberley and Goldfields regions of Western Australia, and the Bundaberg-Hervey Bay region in Queensland (the boundaries of the federal electorate of Hinkler), none of which previously had Income Management arrangements in place. The Morrison Government also planned to replace the BasicsCard in the Northern Territory and Cape York with the CDC.

As with Income Management sites, not all CDC trials applied to the same groups of people in the same way. For example, the trial in Bundaberg-Hervey Bay is only compulsory for those 35 years of age or younger, whereas the other trials apply to those receiving restrictable payments regardless of age (p. 18).

As the CDC trials progressed, the Coalition expressed its intention to make the CDC the 'universal platform' for restricting welfare payments. While these comments suggested that the BasicsCard would be compulsorily phased out, it was subsequently announced that the transition to the CDC in the Northern Territory and Cape York would be voluntary, meaning that both platforms would, at least for some time, function concurrently in these locations. However, Income Management in Cape York expired on 1 January 2022, triggering a transition to the CDC on 17 March 2021. Both the CDC and Income Management are operating concurrently in the Northern Territory.

What options does the Government have regarding income management?

As outlined above, the CDC and Income Management are both currently in place in various locations across Australia, in some cases alongside each other. As at May 2022, a total of 24,888 people had an active BasicsCard, representing most individuals on Income Management, and 17,432 were on the CDC. CDC and Income Management operate under different parts of the *Social Security (Administration) Act 1999*, and therefore changes to one set of arrangements will not have an automatic effect on the other.

The CDC program is legislated to expire on 31 December 2022. To act on its commitment to abolish the CDC, the Albanese Government could simply wait to let it expire, or abolish it in the intervening period via amendment to the *Social Security (Administration) Act 1999*. It cannot be immediately terminated by the minister. As the Government has indicated that a program with similar objectives to the CDC will remain for those communities that want it, an orderly timeline for the transition to another program will likely be necessary. Relevantly, subsection 124PF(2) of the *Social Security (Administration Act) 1999* allows the minister to 'make rules prescribing matters of a transitional nature' in relation to the sunsetting of the CDC.

The Government has not provided any detail on what replacement 'voluntary measure[s]' will look like, but has indicated that it will consult with the communities that are subject to the CDC.

Questions remain concerning how Income Management arrangements will be dealt with moving forward. The Government's statements have been explicitly limited to the CDC, which it has committed to replace with measures that are 'voluntary'. However, Income Management arrangements are mostly compulsory.

Income Management in Cape York is administered by the Family Responsibilities Commission, which was established by and operates under Queensland Government legislation. As Income Management participants in the Cape have fully transitioned to the CDC, the Australian Government would have to work with the state-based commission to put a 'voluntary' replacement program in place there.

As noted above, in the Northern Territory both the CDC and Income Management are in place. If the CDC is abolished, the original Income Management arrangements administered via the BasicsCard would remain for those who did not transition to the CDC. Income Management in Western Australia and Place Based Income Management would also remain in place (including in the Kimberley, where both the CDC and Income Management are in place). The Government will have to decide whether to end some or all of these Income Management arrangements by revoking the relevant legislative instruments, maintaining them as they are, or transitioning to something different. It must also decide whether those who voluntarily signed up to Income Management will be treated the same way as compulsory participants.

Whatever action the minister takes regarding Income Management, the power to reinstate or modify these arrangements, or to establish new ones, will remain in the *Social Security (Administration) Act 1999*, posing a separate question for the Parliament as to whether this power should be modified, replaced, or repealed entirely.

Further reading

Don Arthur, *Income Management: a Quick Guide*, Research paper series, 2015–16, (Canberra: Parliamentary Library, July 2015).

Don Arthur, 'Cashless Debit Card and Income Management', *Budget Review 2021–2022*, Research paper, 2020–21, (Canberra: Parliamentary Library, May 2021).

Australian National Audit Office (ANAO), *Implementation and Performance of the Cashless Debit Card Trial – Follow-On*, Auditor-General Report, 29, 2021–2022, (Canberra: ANAO, 2022).

5

AUSTRALIA IN THE WORLD

NATIONAL SECURITY OVERVIEW

Bernie Lai, Foreign Affairs, Defence and Security

Key issue

Australia's security environment is anticipated to remain complex, challenging and changing. Espionage, foreign interference, sabotage of infrastructure and terrorism continue to pose threats to the Australian community. There will continue to be statutory reviews and law reforms necessary to protect Australia's national security from those threats.

Key threats and outlook

Espionage and foreign interference

According to the head of the Australian Security Intelligence Organisation's (ASIO) 2022 Annual Threat Assessment, espionage and foreign interference has supplanted terrorism as ASIO's principal security concern. ASIO has warned that foreign intelligence services and their proxies have been seeking to penetrate government, defence, academia and business to steal classified information, military capabilities, policy plans and sensitive research. Social media and messaging platforms have been denounced as breeding grounds for these covert activities.

Although the impact of the COVID-19 pandemic has made the operating environment more difficult for Australia's adversaries, it has also increased the risk of cyber espionage by these adversaries, which is highly deniable and can be remotely executed. According to ASIO, cyber espionage remains the most pervasive approach adopted by Australia's adversaries and represents the most significant threat (p. 2) to the Australian higher education and research sector.

Beyond espionage, ASIO has also warned of foreign interference potentially targeting almost all sectors in Australia 'to build and leverage community and business relationships to covertly shape decision-making to Australia's detriment' (p. 20). In recent years, ASIO has publicly cited examples of foreign powers or foreign intelligence services' attempts to cultivate candidates for an election in Australia, co-opt Australian politicians and recruit Australian Government security clearance holders. Diaspora communities and the higher education and research sector have been identified as particularly vulnerable to threats from foreign interference.

Sabotage of critical infrastructure

ASIO has anticipated that an act of sabotage in Australia by a foreign power becomes more likely when geopolitical tensions increase (p. 20). Foreign involvement or investment in Australia's critical infrastructure, or concentrations of foreign ownership in key sectors, may increase a foreign power's ability (p. 10,095) to access and control Australia's critical infrastructure. This could adversely impact Australia's economy, security and sovereignty. ASIO has also flagged the potential for Australia's adversaries to pre-position malicious code in critical infrastructure, particularly in areas such as telecommunications and energy, to damage critical networks in the future (p. 20).

Terrorism

Australia's national terrorism threat level has remained at 'probable'. This means credible intelligence, assessed by our security agencies, indicates that individuals or groups have the intent and capability to conduct a terrorist attack. Any future attacks will likely be committed by lone-actors and involve readily available weapons and simple tactics (p. 2).

Since September 2014 when the 'probable' threat level was raised, there have been at least 9 terrorist attacks and 21 major counter-terrorism disruption operations in response to potential or imminent attack-planning in Australia. All of these attacks and most of these disruption operations have related to Sunni Islamic terrorism (p. 2), the threat of which in Australia continues to be shaped by the Islamic State of Iraq and the Levant (ISIL) and, to a lesser extent, al-Qa'ida. Meanwhile, ASIO has observed that the threat from right-wing extremism has grown, with the 2019 Christchurch attack remaining a source of inspiration for right-wing extremists in Australia and internationally (p. 3). See the article, 'Right-wing extremism in Australia', elsewhere in this *Briefing book* for further detail.

Despite the threat level, ASIO's overall terrorism caseload has decreased amid the COVID-19 pandemic. This trend is common among Western countries and may be attributed to restrictions on movement and cross-border travel according to the Institute for Economics and Peace (p. 8), which has categorised Australia as a country with a 'very low' terrorism impact in 2022 (p. 14). Nevertheless, ASIO has stressed that the pandemic 'has not substantially diminished the threat from terrorism' (p. 2).

For the Australian Federal Police (AFP), its operational tempo for terrorism has remained high, even during the COVID-19 pandemic (p. 49). With individuals spending more time online (p. 49), the pandemic has provided extremists with opportunities to exploit individuals' isolation, financial stress and resentment over government vaccination mandates and lockdown restrictions. This has led to an increase in radicalisation and specific-issue grievances, turning to violent extremism in some cases.

Further, ASIO is concerned about an increase in the radicalisation of young Australians. Australians as young as 13 who are vulnerable to terrorist propaganda designed to radicalise have been involved in onshore terrorism (p. 2) – in both extremist Islamic and right-wing circles. In 2021, minors represented nearly 15% of ASIO's new counter-terrorism investigations and over 50% of ASIO's priority counter-terrorism investigations each week.

In *Australia's counter-terrorism strategy 2022*, the Department of Home Affairs notes the growing threat posed by convicted terrorist offenders after their release from custody, citing recent examples of attacks in New Zealand and the UK. According to both ASIO (p. 2) and the AFP (p. 9), the enduring power of extremist ideologies means that convicted terrorists are less likely to be rehabilitated. As at March 2022, fourteen convicted terrorists in Australia have finished serving their sentence since 2019 and a further 54 convicted terrorists are due for release in the next 2 decades, with 19 of them to be released between 2022 and 2027 (p. 12).

Key measures in the 46th Parliament

Combating espionage, foreign interference and sabotage of critical infrastructure

Major legislative amendments passed during the 46th Parliament included the:

- *Australian Security Intelligence Organisation Amendment Act 2020*, which expanded the availability of compulsory questioning powers beyond terrorism offences to espionage, acts of foreign interference (and politically motivated violence)
- *Foreign Investment Reform (Protecting Australia's National Security) Act 2020*, which created new powers for the Treasurer to address new and emerging national security risks arising from investment proposals
- *Security Legislation Amendment (Critical Infrastructure Protection) Act 2021*, which, among other things, expanded the scope of the *Security of Critical Infrastructure Act 2018* from applying to 4 sectors to applying to 11 sectors, created a regime for entities responsible for critical infrastructure assets to report cybersecurity incidents to the Australian Cyber Security Centre and created a regime for the Australian Government to respond to serious cybersecurity incidents
- *Security Legislation Amendment (Critical Infrastructure Protection) Act 2022*, which introduced a risk management program for entities responsible for critical infrastructure assets, and enhanced cybersecurity obligations for systems of national significance.

The Morrison Government also established a University Foreign Interference Taskforce (UFIT), a partnership between government and the university sector, to provide better protection for universities against foreign interference. In November 2021, the UFIT updated its '[Guidelines to counter foreign interference in the Australian university sector](#)', which aim to support universities in strengthening their resilience to foreign interference risks.

Counter-terrorism

Major legislative amendments passed during the 46th Parliament included the:

- *Counter-Terrorism (Temporary Exclusion Orders) Act 2019*, which introduced a temporary exclusion order that may prevent an Australian citizen aged 14 years or older who is overseas from returning to Australia for up to 2 years at a time, and return permits under which conditions may be imposed on the individual's entry into Australia
- *Counter-Terrorism Legislation Amendment (2019 Measures No. 1) Act 2019*, which expanded the presumption against bail and introduced a presumption against parole for terrorist offenders in certain circumstances
- *Australian Citizenship Amendment (Citizenship Cessation) Act 2020*, which introduced a new citizenship cessation system where the Minister for Home Affairs may cease the citizenship of an individual who engaged in specified terrorism-related conduct or was convicted of certain offences
- *Counter-Terrorism Legislation Amendment (High Risk Terrorist Offenders) Act 2021*, which introduced an extended supervision order scheme to impose conditions on terrorist offenders proportionate to the risk they pose to community safety at the end of their custodial sentences
- *National Security Legislation Amendment (Comprehensive Review and Other Measures No. 1) Act 2022*, which provided for ministerial authorisation for agencies to produce foreign intelligence on Australians who are, or are likely to be, involved with listed terrorist organisations.

The Morrison Government listed for the first time 10 organisations as terrorist organisations under the *Criminal Code Act 1995* (Criminal Code), bringing the total number of listed terrorist organisations to 29 as at April 2022. The new organisations included:

- Islamic State Somalia
- Islamic State West Africa Province
- Hizballah (in its entirety)
- Neo-Jama'at Mujahideen Bangladesh
- Sonnenkrieg Division
- The Base
- Hamas (in its entirety)
- Hay'at Tahrir al-Sham
- Hurras al-Din
- National Socialist Order

Recent developments and lapsed/ongoing reviews

As part of its inquiry into extremist movements and radicalism in Australia, the Parliamentary Joint Committee on Intelligence and Security (PJCIS) tabled a 3-page interim report in March 2022. It did not complete the inquiry during the 46th Parliament, with its former chair, Senator James Paterson, citing 'other pressing demands' of the PJCIS and recommending that the 47th Parliament complete the inquiry. Given the change of government following the 2022 federal election, it is relevant to note that in December 2020 Labor originally called for an inquiry specifically focused on 'right-wing extremism' before the Morrison Government opted to recommend a more expansive inquiry into various forms of extremism 'including, but not limited to … far right-wing extremist groups'. The PJCIS then adopted in full the terms of reference as recommended by the Morrison Government, with Labor MP Anne Aly reportedly stating that Labor reached a compromise with the Morrison Government to help launch the inquiry.

Whilst in opposition, Labor regularly singled out 'the terrorist threat of right-wing extremism' as an issue that the Australian Government must take seriously and respond to appropriately. The Shadow Home Affairs Minister, Kristina Keneally, called on the Morrison Government to refer to the PJCIS a review into whether Australia's terrorist organisation listing criteria were fit-for-purpose in relation to right-wing extremism. Having indicated that 'Labor would support measures to proscribe extreme right-wing organisations', in August

2021 Senator Keneally criticised the Morrison Government for not having proscribed groups such as the National Socialist Network, The Proud Boys, Combat 18, and Blood and Honour (none of which have been proscribed under the Criminal Code to date).

Other PJCIS reviews that have lapsed until its new membership is appointed include its reviews of the *Counter-Terrorism (Temporary Exclusion Orders) Act 2019*, the *Foreign Influence Transparency Scheme Act 2018*, and the listing and re-listing of 8 organisations as terrorist organisations under the Criminal Code. The incoming PJCIS membership is also expected to resume the 2020–21 review of the administration, expenditure and financial statements of the 6 intelligence agencies that comprise the National Intelligence Community.

In March 2022, the Senate Legal and Constitutional Affairs References Committee tabled a report on its inquiry into the adequacy and efficacy of Australia's anti-money laundering and counter-terrorism financing (AML/CTF) regime. The report recommends, among other things, that the Australian Government accelerates its consultation with stakeholders on extending AML/CTF reporting obligations to designated non-financial businesses and professions, such as lawyers, accountants and real estate agents, in line with the Financial Action Task Force recommendations.

In December 2021, the Senate Select Committee on Foreign Interference through Social Media tabled its first interim report on its inquiry into the risk posed to Australia's democracy by foreign interference through social media. The interim report recommended to the Australian Government various initiatives to combat the threats of cyber-enabled foreign interference, disinformation and misinformation – both generally and during elections. In its April 2022 progress report, the committee recommended that the Senate consider whether to re-establish the committee in the 47th Parliament, with provision to access the documents and evidence of the now-dissolved committee, to enable the inquiry to be completed.

In the 2022–23 Budget, the Morrison Government allocated $19.8 million to establish a new national convicted terrorist offender register, to be designed in consultation with states and territories and to be administered by the AFP, to manage the risk posed by post-sentence terrorist offenders. In justifying the need for such a register, the AFP cited an example where it had to deploy about 300 police officers for 2 weeks with the state police 'at a serious cost to the Australian taxpayer of about $3.8 million over one year' to monitor a recently released terrorist offender (p. 9).

The Independent National Security Legislation Monitor (INSLM) is undertaking a review into Division 105A of the *Criminal Code 1995* (Cth), which establishes a scheme for the continuing detention of terrorist offenders whom a court is satisfied pose an unacceptable risk of committing a serious terrorism offence if released into the community post-sentence.

The 2020 *Comprehensive review of the legal framework of the National Intelligence Community* found that Australia's existing electronic surveillance framework was no longer fit-for-purpose. In response, the Morrison Government committed to reforming the current patchwork of laws into a single, streamlined and technology-neutral Act (p. 3). This proposed reform aimed to better protect individuals' information and data, ensure law enforcement and security agencies have the powers they need to investigate serious crimes and threats to security, and clearly identify which agencies can seek access to specific information. The Department of Home Affairs released a discussion paper in December 2021 and is scheduled to release exposure draft legislation for public comment in 2022, with a view to finalising the Bill in 2023.

On 8 June 2022, in the case of *Alexander v Minister for Home Affairs* [2022] HCA 19, the High Court of Australia, by majority, invalidated the Home Affairs Minister's power under section 36B of the *Australian Citizenship Act 2007* to determine that a dual national ceases to be an Australian citizen, if the minister is satisfied, among other matters, that the person engaged in certain proscribed conduct demonstrating that the person had repudiated their allegiance to Australia. The High Court made the ruling on the basis that section 36B, which was introduced by the *Australian Citizenship Amendment (Citizenship Cessation) Act 2020*, reposed in the minister the exclusively judicial function of adjudging and punishing criminal guilt. The Albanese Government has stated that it 'will examine the judgment and its implications in detail'.

Following the 2022 federal election, on 1 June 2022, Prime Minister Albanese announced Machinery of Government changes that would take effect on 1 July 2022. The Attorney-General's portfolio would gain responsibility for criminal law enforcement and policy, including the AFP, which was part of the Home Affairs portfolio in the Morrison Government. The Australian Federal Police Association welcomed this move and commented in a media release on 2 June 2022:

> … we believe that [the AFP as] the Commonwealth's law enforcement agency should be closely aligned with the portfolio that makes the laws in Australia. This will also provide independence for the AFP. The AFP was buried within the Home Affairs portfolio. The Attorney-General sits a little to the side of government, and we welcome such an environment for the AFP …

It was also announced that the Home Affairs portfolio would gain responsibility for natural disaster response and mitigation, including the National Recovery and Resilience Agency, which was previously part of the Prime Minister and Cabinet portfolio.

AUSTRALIA'S SECURITY RELATIONSHIPS

Stephen Fallon, Foreign Affairs, Defence and Security

Key issue

As a middle power in an era of increasing great-power competition, Australia lacks the strategic weight to single-handedly ensure its own security. Throughout its history, it has chosen to ally with great powers: initially Great Britain, before realigning towards the US during the Second World War. Australia has fought alongside them as a junior partner in conflicts in Europe, Asia and the Middle East to forge enduring relationships and maximise the probability that they would defend Australia were it threatened.

Australian concerns about the trajectory of a more aggressive China have driven the ANZUS alliance, typically referred to as *the* Alliance, to greater levels of intimacy. However, Australia's efforts to build stronger relationships with both old and new partners, such as Japan and India, suggests that it has long-term concerns about the reliability of its alliance with the US and is seeking to mitigate future risks by diversifying its range of security partners.

The ANZUS alliance

Australia's alliance with the US is the cornerstone of its strategic policy. Its close ties to the US provide it with a variety of benefits, including access to US intelligence, cutting-edge military technology, military exercise opportunities and access to US defence and foreign affairs decision-makers that is arguably disproportionate for a country with Australia's limited strategic weight. The alliance enhances the lethality of the Australian Defence Force (ADF) via access to intelligence and military technology, while defence analysts broadly agree that achieving strategic independence would cost more, but fail to deliver a similar level of defence capability.

History

The ANZUS alliance was formed in 1951 by a trilateral security treaty between Australia, New Zealand and the US. Designed to ensure the security of the Pacific region throughout the Cold War, the treaty has only been formally invoked once – by former Australian prime minister, John Howard, in response to the September 11 attacks on the US.

The treaty was energetically pursued by Australia (and New Zealand), with the US demonstrating some reluctance. Australia's desire for a security treaty with the US was driven by concerns about US plans to rebuild Japan as a bulwark against communism. Notably, it was the first example of Australia forming a political alliance without British involvement. Though Britain believed it should be included as the head of the Commonwealth, and campaigned to be a signatory, Australia, New Zealand and the US rebuffed its efforts.

Though Australia and New Zealand participated in Cold War conflicts such as the Korean and Vietnam wars, they did not do so under the framework of ANZUS. The alliance was challenged after the 1984 New Zealand general election, which brought the New Zealand Labour Party to power with a commitment to make New Zealand 'nuclear free'. As a result, the New Zealand Government refused to permit US naval vessels it considered could possibly carry nuclear weapons to visit New Zealand. This clashed with US policy to neither confirm nor deny the presence of nuclear weapons aboard visiting vessels. Consequently, in 1986, the US suspended its security obligation to New Zealand. However, Australia and the US quickly re-affirmed their bilateral relationship.

Today, Australia enjoys bilateral security relationships with both New Zealand and the US under ANZUS. The treaty, while not formally revoked after the US–New

Zealand nuclear dispute, no longer fully exists in practice. Nevertheless, a security relationship between the US and New Zealand exists as members of the Five Eyes intelligence community, discussed later in this article.

What does the ANZUS Treaty require of its signatories?

The ANZUS Treaty is somewhat less watertight than some Australians likely believe. Unlike the North Atlantic Treaty that established NATO, which commits its members to collective defence under Article 5, ANZUS provides a significant degree of flexibility.

For example, Article III of the ANZUS Treaty states that the allies will 'consult together whenever in the opinion of any of them the territorial integrity, political independence or security of any of the Parties is threatened in the Pacific'. The use of the word 'consult' suggests that neither side is obliged to commit to military action. It is feasible that in the event of a crisis, Australia (or the US), may choose not to commit military forces.

Further reducing any sense of obligation, Article IV of the treaty also notes that each ally will meet 'common danger in accordance with its constitutional processes'. This suggests, for example, that the US Congress may vote not to declare war in a crisis. Similarly, Australian leaders could decide against a military response, even if the US called for one.

Key Australian decision-makers have highlighted the ambiguity at the heart of ANZUS. In 2004, Foreign Minister Alexander Downer observed that ANZUS would be invoked in the event of an attack on the US or Australian mainland, but not necessarily by military activity elsewhere, and indicated that Australia would not consider itself obligated to assist a US defence of Taiwan. More recently, former Defence Minister Peter Dutton argued it was 'inconceivable' that Australia would not fight alongside the US to defend Taiwan, before softening his language by claiming that Australia would decide what is in its best interests if such a scenario occurred.

Future prospects

The reliability of the US alliance has been questioned by some analysts due to 2 unfavourable trends. First, the Trump administration brought into sharp relief the hyper-partisanship of domestic American politics and the wavering commitment of one major party to international alliances. Though President Biden has gone some way to rebuilding trust among US allies, doubts are emerging about US staying power now that the populist, protectionist sentiments that Trump brought into the mainstream seem set to endure.

Secondly, the shifting balance of power in East Asia means that US primacy is no longer guaranteed as China emerges as a peer competitor. Hugh White, a prominent Australian strategic analyst, has argued that this shifting balance of power means that Australia cannot rely on America and needs to prepare to fight alone to defend itself. Another doyen of Australian strategic analysis, Paul Dibb, takes an opposing view, contending that, regardless of who occupies the White House, the alliance will remain the wellspring of Australia security, without which the ADF would not be a credible military force. The Morrison Government appeared to lean towards this view, as demonstrated by the signing of the AUKUS partnership, discussed below.

Bilateral security relationships

Before considering AUKUS, it is worth noting that Australia is also cultivating bilateral security relationships with countries such as Japan, India and South Korea, consequential powers located in the Indo-Pacific that share concerns about China's strategic trajectory. These growing bilateral ties complement cooperation between the partners in minilateral organisations, such as the Quad, discussed later in this article. However, it is possible that Australia is cultivating these relationships as a hedge, in case US security commitments lose credibility in the future.

As the Department of Foreign Affairs and Trade highlights, Australia has built a broad security relationship with Japan, which it elevated to a Special Strategic Partnership in 2014. The 2 countries hold regular 2+2 meetings between their ministers for defence and foreign affairs. Furthermore, the 2 countries have signed a Reciprocal Access Agreement. As the Australian Institute of International Affairs observes, this is designed to facilitate:

> … closer and smoother practical military-to-military cooperation between the Australian Defence Force (ADF) and the Japan Self-Defense Force (JSDF) by legislating sensitive areas, such as access to one another's military bases and ports, logistical streamlining, and harmonising relevant security protocols. This is designed to facilitate joint military training and exercises on Australian and Japanese territory by cutting some of the existing red tape.

Australian strategic ties with India are also growing, with an Indian analyst, Dhruva Jaishankar, identifying rapid developments since 2014 in the form of military exercises, civil nuclear cooperation, and the establishment of dialogues at the ministerial level. This relationship is widely understood to have been catalysed by the challenge posed by China and it reached new heights in 2020 with the establishment of a Comprehensive Strategic Partnership and Mutual Logistics Support Arrangement designed to promote interoperability between the 2 countries' armed forces.

Australia also signed a Comprehensive Strategic Partnership with South Korea in 2021, strengthening security cooperation between the 2 countries. They also hold 2+2 meetings between their foreign and defence ministers to facilitate discussion on areas of shared concern. Jada Fraser, a Johns Hopkins analyst, has observed that, as 2 middle-powers, Australia and South Korea have shared interests in maintaining stability in the Indo-Pacific and protecting the rules-based international order. In this context, it is interesting to note that Australia has recently purchased howitzers from a Korean defence firm and may yet buy infantry fighting vehicles from the same company.

Minilateral security relationships

AUKUS

Announced in September 2021, AUKUS is a trilateral security partnership between Australia, the UK and the US. The centrepiece of the partnership is the collaboration between the 3 parties to help Australia acquire a nuclear submarine capability. Achieving this ambition will be an expensive, complex endeavour with the first boat scheduled to be commissioned by the late 2030s, though this timeline is subject to the delays that often bedevil complex military procurement projects.

The AUKUS announcement also articulated other more readily achievable outcomes, including enhanced interoperability between the 3 partners, with efforts focused on cyber capabilities, artificial intelligence (AI), quantum technologies, and additional undersea capabilities. Australia has perhaps seen the first fruits of these endeavours in the announcement of the REDSPICE project, which will expand the Australian Signals Directorate's cyber capabilities (p. 85) and the announcement that Defence will partner with a firm called Anduril to build an autonomous undersea warfare capability (an uncrewed submarine).

AUKUS has emerged from a confluence of interests between the 3 parties. The Morrison Government, as highlighted above, appeared to determine that it needs to draw even closer to the US, the only country with the strategic weight required to balance the growing power of China. The new Albanese Government appears to be following this line. The US, for its part, is using AUKUS to cement the alliance with Australia, which some American foreign policy officials had viewed as susceptible to 'flipping' and leaning towards China. An Australian nuclear force will also, from the allies' perspective, improve the correlation of forces in the Indo-Pacific in the context of China's rapidly growing navy. From Britain's perspective, AUKUS offers opportunities for its defence industry and an opportunity to implement its blueprint for 'Global Britain' as a more globally-engaged post-Brexit actor.

All parties will seek to benefit from economies of scale, particularly Australia and the UK, which lack the resources to compete at the cutting edge of emerging technologies such as AI and quantum computing. To put the challenge in context, China spent $378 billion on research and development in 2020, according to CNBC, and in 2021 announced that spending will increase by more than 7% per year between 2021 and 2025.

As for the future of AUKUS, some analysts have suggested that the scope of AUKUS could be widened to include collaboration with other countries concerned about China's direction. An AUKUS Plus arrangement could include collaboration with states such as Japan, India and South Korea, though this does not seem to be likely in the immediate future. While the former Japanese prime minister, Shinzo Abe, has called upon Japan to work with AUKUS on cybersecurity and artificial intelligence, and Japan's ambassador to Australia, Shingo Yamagami, has stated his country is willing to contribute to AUKUS projects, both the US and Japan have denied reports that Japan was invited to join the partnership. However, it is possible that the issue of expanding AUKUS will be raised during the span of the 47th Parliament, particularly if tensions with China grow as a consequence of, for example, escalating border conflict with India or increasing tensions with Japan in the East China Sea.

The Five Eyes intelligence community

In addition to AUKUS, Australia, the US and UK are also members of the Five Eyes intelligence community, along with Canada and New Zealand. The community has its origins in the 1946 UKUSA Agreement, which the RAND Corporation describes as 'an unprecedented intelligence alliance that quickly incorporated Australia, Canada, and New Zealand'. The UKUSA Agreement underpinning the community – referred to interchangeably as a relationship, alliance or partnership by members – is a formal arrangement to share intelligence, including communications, translations, analysis and code breaking information.

The community is based on intimate collaboration and the understanding that intelligence-sharing is a valuable force multiplier that provides significant advantages to each member. The community operated on a global basis during the Cold War to meet the political and military threat posed by the Soviet Union before pivoting to tackle the challenges posed by transnational terrorism and to facilitate the military operations that followed the September 11 attacks.

RAND highlights the complex security environment the community faces today, noting:

> … it no longer faces a single predominant threat. The intelligence communities of all five nations must now contend with self-radicalized terrorists at home, master an entire new domain of cyber threats, and remain ahead of Russia and China. And the Five Eyes must do all this while recruiting and retaining the best staff, allaying concerns over civil liberties, and managing the wavering political will for international cooperation.

In recognition of the growing challenges facing the community and the benefits endowed by international cooperation – contestability, a wider pool of expertise and the advantages of scale – some analysts have discussed the possibility of expanding the community to 'six eyes' by inviting Japan to join. The British Prime Minister, Boris Johnson, has made supportive remarks, and Japan's ambassador to Australia has stated that he would 'like to see this idea become reality in the near future'.

An additional issue that may emerge is the position of New Zealand within the community, with a Canadian Security Intelligence Service report noting that an academic workshop had considered New Zealand particularly vulnerable to Chinese influence, which could risk exposing the Five Eyes network to unauthorised access.

New Zealand appears to be becoming something of an outlier among Five Eyes countries due to its reticence to criticise China, with one academic claiming this lack of unity 'gives China confidence that its policies of divide and rule, its policies of effectively buying peoples' and countries' loyalties through major investment though special trade deals, through guaranteeing access to China's tourists, China's dollars, China's market is working'.

The Quad

As its name suggests, the Quadrilateral Security Dialogue, commonly termed the Quad, consists of 4 members – Australia, the US, Japan and India. As the Council on Foreign Relations highlights, maritime cooperation between these powers began in response to the 2004 Indian Ocean tsunami, but cooperation has widened to embrace a broader agenda, including security, economic and health issues.

The Quad is not a formal alliance and its efforts have waxed and waned in the past. However, from 2016, shared concerns about the challenge that China poses to the US-led order in the Indo-Pacific have encouraged greater cooperation between Quad members. They have conducted military exercises, assisted COVID-19 response efforts, identified a role in addressing vaccine production, climate change and emerging technologies, and seek to help the region develop high-quality infrastructure, offering an alternative to China's Belt and Road Initiative.

Some commentators have argued that the Quad should be expanded to include other regional powers wary of China's growing influence. France, which controls significant territory in the Indo-Pacific, is often suggested as a potential member. Some analysts have also recommended British membership, citing the UK's growing strategic relationship with Japan, interest in maintaining the existing order and existing status as a maritime power in the region.

Five Power Defence Arrangements

Like ANZUS, the 1971 Five Power Defence Arrangements (FPDA) is a legacy of the Cold War. Consisting of Australia, Malaysia, New Zealand, Singapore and the UK, the FPDA commits its members to consult in the case of an attack on Malaysia or Singapore.

As the International Institute for Strategic Studies (IISS) highlights, the FPDA was formed during an era of conflict in Southeast Asia and when Indonesia's 'confrontation' – a small, undeclared war between Indonesia and Malaysia involving troops from Australia, New Zealand and Britain – was a recent memory. The arrangements therefore tied Australia, NZ and the UK to the defence of Singapore and Malaysia.

While it may appear somewhat dated, the IISS argues that the FPDA holds particular significance for Australia, 'as a sub-treaty recognition that Peninsular Malaysia is tied tangibly to its security and falls within Canberra's outer defence perimeter'. Australia today maintains a military presence at the Royal Malaysian Air Force's Base Butterworth.

A number of challenges face the FPDA. A key one is the issue of interoperability, with countries such as New Zealand and Malaysia falling far behind the other partners in terms of military capability, creating what the IISS terms a 2-tier grouping. The FPDA also suffers from a lack of attention, which is typically focused on more high-profile security partnerships. The IISS observes that the inclusion of Malaysia is crucial – if it loses interest in participating, 'Australia, the UK and New Zealand would lose significant access for their armed forces in Southeast Asia'.

Finally, cooperation with other countries is complicated by conservatism – Malaysia and Singapore fear expansion would dilute the focus on defending them, while Australia, New Zealand and Britain fear it would dilute their importance as security providers.

As the East Asia Forum observes, Southeast Asia's strategic circumstances have changed significantly since the FPDA was established, with US–China competition intensifying across the region. As China's increasing assertiveness brings it into conflict with Malaysia's South China Sea claims and the risk of war rises in the context of great-power competition, the little-known FPDA may gain increasing prominence.

Global security relationships – Australia's relationship with NATO

Though Australia is not a NATO member, its ties to the organisation have grown as a result of ADF deployments to Afghanistan under the NATO-led International Security Assistance Force. The 2 parties have signed a number of agreements to institutionalise their relationship across a variety of themes, including defence capacity-building, crisis management and Women, Peace and Security. Australia is one of NATO's Enhanced Opportunity Partners, a program that aims to maintain and deepen cooperation between partners that have made significant contributions to NATO-led operations and missions. This status includes enhanced access to interoperability programs and exercises, and more sharing of information, including lessons learned, which will help to improve the effectiveness of the ADF.

Most recently, in April 2022, Foreign Minister Marise Payne attended a meeting of NATO foreign affairs ministers in Brussels to discuss the coordinated response to Russia's invasion of Ukraine. Furthermore, Minister Payne also announced that Australia will partner with the NATO Strategic Communications Centre of Excellence to help strengthen NATO's capacity to address hybrid threats and to counter disinformation. As part of this endeavour, Australia will initially contribute to research conducted at the centre through a seconded Australian official. Australia has also begun the process of becoming a longer-term contributing partner of the centre.

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AUSTRALIA AND INDIA

Bernie Lai, Foreign Affairs, Defence and Security

Key issue

Australia and India have developed closer strategic and economic ties in recent years. This closer partnership is anticipated to continue to flourish due to both countries' shared strategic interests in the Indo-Pacific region. However, India's ongoing human rights issues may present obstacles to Australia's continued pursuit of mutual strategic and economic interests.

Australia has recently elevated its bilateral relationship with India to a Comprehensive Strategic Partnership (CSP), which has laid the foundations for the Australia–India Economic Cooperation and Trade Agreement (AI ECTA), deeper engagement through the Quadrilateral Security Dialogue (Quad) and increased defence cooperation, among other things. The strengthening of ties between both countries will likely continue to gain momentum, given their converging strategic interests in the Indo-Pacific region characterised by China's growing assertiveness.

Comprehensive Strategic Partnership

In June 2020, Australia's Prime Minister Scott Morrison and India's Prime Minister Narendra Modi affirmed their commitment to strengthening Australia–India ties for the long term and committed to elevating the bilateral Strategic Partnership concluded in 2009 to a CSP. Under the CSP, both countries decided to work together in 11 areas of cooperation:

- enhancing science, technology and research collaboration
- maritime cooperation for an open and inclusive Indo-Pacific
- defence cooperation
- regional and multilateral cooperation
- countering terrorism
- economic cooperation
- innovation and entrepreneurship
- agriculture cooperation and water resources management
- education, culture, tourism and people-to-people ties
- support in UN and international bodies
- public administration and governance

With these initiatives and the high-level dialogues facilitating them, the CSP has been seen as a vehicle that allows Australia to develop a bilateral relationship with India 'in a formal and regularised setting that falls short of an alliance'. Equally, India has used comprehensive strategic partnerships 'as part of a concerted strategy to broaden and enmesh networks of political and defence cooperation, often aimed at keeping external nations involved in the [Indo-Pacific] region', according to Henry Storey (*The Interpreter*).

Australia-India Economic Cooperation and Trade Agreement

A 2018 independent report to the Australian Government as a roadmap to deepen economic integration with India, *An India economic strategy to 2035*, argues that 'no country would offer more growth opportunities for Australian businesses than India over the coming decades' (p. 6). In April 2022, Australia and India signed the interim AI ECTA but fell short of concluding a Comprehensive Economic Cooperation Agreement (CECA) after 9 rounds of negotiations since 2011. Nevertheless, the AI ECTA is the first step towards a full CECA, with both countries having committed to concluding negotiations on a CECA by the end of 2022.

The AI ECTA is reportedly expected to almost double annual bilateral trade from US$27.5 billion in 2021 to US$45 billion in the next 5 years. The trade deal will eliminate tariffs on over 85% of Australian exports to India, rising to almost 91% over a decade, while 96% of Indian imports entering Australia will become duty-free. However, India's continued trade protectionism amid domestic political pressures has meant that various agricultural and dairy products, such as wheat, rice, chickpeas and beef, are excluded from tariff reduction or elimination in the AI ECTA. It is likely that Australia will face challenges in persuading India to ease trade barriers in these areas in future CECA negotiations, as agriculture coupled with its allied sectors is the largest source of livelihoods in India.

According to the Department of Foreign Affairs and Trade (DFAT) (pp. 4–5), the AI ECTA is intended to address Australia's need for trade diversification due to the risks of market concentration highlighted by the COVID-19 pandemic, US–China trade tensions and Australia's recent bilateral trade challenges. In April 2022 while still in opposition, the now Prime Minister Albanese identified 'the difficult situation with our exports to China' as a reason for Australia's 'need to get more serious about trade diversification'. There also appear to be similar concerns on India's part, with one commentator suggesting that the AI ECTA was partly enabled by India's 'China-exclusive' approach to securing trade agreements. Also of relevance is that the Supply Chain Resilience Initiative launched by Australia, India and Japan in April 2021 reportedly aims to reduce supply chain dependencies on China and has been seen as conducive for the AI ECTA.

Further, DFAT has stated (p. 13) that the AI ECTA will contribute to strengthening the CSP and will support Australia in its implementation of the March 2022 *India economic strategy update*, which the Morrison Government agreed to in its August 2021 response to the recommendations of the Joint Standing Committee on Trade and Investment Growth's report, *Pivot: diversifying Australia's trade and investment profile*.

On 16 June 2022, the Minister for Trade and Tourism, Don Farrell, confirmed to his Indian counterpart, Piyush Goyal, 'the Australian Government's intention to work efficiently though Australia's parliamentary processes to ratify the [AI-ECTA] quickly, so we can deliver immediate trade benefits for our countries'. They also 'committed to [moving] rapidly to commence negotiations on the full CECA and capitalise on the enormous potential for closer economic ties between Australia and India'.

Quadrilateral Security Dialogue

The Quad, comprising Australia, India, Japan and the US, is one of the most notable multilateral forums through which Australia and India have strengthened their bilateral relationship. It is increasingly seen as a counterweight to China's regional ambitions in the Indo-Pacific, although India's External Affairs Minister Subrahmanyam Jaishankar has reportedly said 'The Quad is about the world, and I would not like to see it reduced to China'. See the article on 'Australia's security relationships' elsewhere in this *Briefing book* for further detail.

In May 2022, Prime Minister Anthony Albanese and Foreign Minister Penny Wong attended the fourth Quad Leaders' Summit in Tokyo. Ahead of his visit to Japan, India's Prime Minister Modi indicated that he looked forward to discussing bilaterally with Prime Minister Albanese 'the multifaceted cooperation between India and Australia under the Comprehensive Strategic Partnership, and regional and global issues of mutual interest'.

While in Tokyo, the Quad members also discussed their respective response to the Russia–Ukraine conflict and its associated humanitarian crisis. As Russia has long been an arms supplier to India, India has not publicly condemned Russia and has abstained from several key United Nations votes over its invasion. While some commentary has suggested that India's nonalignment stance may complicate the Australia–India relationship, Indian officials have noted that Australia and other Quad members have expressed understanding or appreciation of India's position on the Ukraine issue. In March 2022, a US official reportedly claimed that India had cancelled military purchases from Russia in response to the Ukraine situation, although there are also reports that no formal decision has been made on such cancellation.

There have also been mixed views about the impact of AUKUS, the Australia–UK–US security pact, on the Quad's value for India. Some have suggested that AUKUS might weaken the Quad's strategic cooperation in the Indo-Pacific and its capability to act as a counterweight to China's ambitions in the region, with the Quad being reduced to dealing with issues such as climate change and the COVID-19 pandemic. However, it has been pointed out that the Quad 'is not an Asian North Atlantic Treaty Organization (NATO)' or a miliary arrangement. Instead, it is a network of 4 democracies with a shared vision for a free and open Indo-Pacific.

Others have posited that the creation of AUKUS serves India's interests in a stable balance of power in the Indo-Pacific by allowing the Quad to maintain its broad non-military agenda and thus allowing India to maintain its strategic autonomy – without directly involving India in an alliance that has been seen as explicitly anti-China. As Manjari Chatterjee Miller (Council on Foreign Relations) puts it, 'the Quad keeps the door open for India for close defense cooperation without resorting to a security alliance'. In any case, India's Foreign Secretary, Harsh Vardhan Shringla, has reportedly said that AUKUS 'has neither relevance to Quad, nor will it have any impact on its functioning'.

Defence relations

In recent years, Australia and India have increased their defence cooperation, which is now a key pillar of the India–Australia partnership that encompasses almost every major function of the military. However, an Indian Navy veteran has suggested that the disparity between the technological capabilities of India and Australia, as well as the platforms each operate, needs to be gradually bridged for bilateral cooperation to become more effective.

During the March 2022 India–Australia Virtual Summit, prime ministers Modi and Morrison reaffirmed their commitment to their CSP, and on defence cooperation they:

- agreed to deepen cooperation to address security and defence threats and challenges
- welcomed the establishment of the General Rawat India–Australia Young Defence Officer Exchange Program
- welcomed enhanced maritime information-sharing and maritime domain awareness
- affirmed their commitment to build upon defence information-sharing arrangements to coordinate more closely across the Indo-Pacific
- looked forward to India's participation in Australia's Indo-Pacific Endeavour exercise in 2022
- underscored the importance of reciprocal access arrangements in facilitating deeper operational defence cooperation and its contribution towards free and open critical regional maritime corridors
- reaffirmed following up on opportunities for further defence cooperation in areas of mutual interest.

As part of the CSP, in June 2020 the Secretaries 2+2 dialogue for defence and foreign affairs was upgraded to the 2+2 Ministerial Dialogue, which was first held in September 2021 and is scheduled to resume in 2023. Both countries also established the Mutual Logistics Support Arrangement (MLSA) and the Defence Science and Technology Implementing Arrangement (DSTIA). The MLSA aims to enhance military interoperability, enable increasingly complex military engagement and increase combined responsiveness to regional humanitarian disasters. The DSTIA aims to facilitate improved collaboration between both countries' defence research organisations.

Troy Lee-Brown (*The Strategist*) points out that 'the vulnerabilities of some Russian military equipment that are now being exposed by Ukrainian and Western countermeasures' will be a reality check for India's longstanding overreliance on Russian arm supplies. He then posits that the Russia–Ukraine conflict provides opportunities for Australia and India to enhance their defence relationship by advancing their level of cooperation in both the MLSA and the DSTIA. Australia and India could also pursue a security communications agreement similar to what the US and India have had in place since the US designated India as a 'Major Defense Partner' in 2016.

Meanwhile, predicting a Labor Government in Australia will 'likely be keen to broaden AUKUS to dampen perceptions that it's an Anglo-Saxon club', David Brewster (*The Interpreter*) has suggested that there is considerable potential for involving India in the high-end defence technology aspect of AUKUS in areas such as artificial intelligence, and quantum and undersea technologies. Nevertheless, Dr Brewster cautioned in 2017 that differences in Australia's and India's history, strategic perspectives, size, wealth and culture could create many challenges for their relationship, and that Australia needed to 'decisively move beyond the box and think more innovatively about its engagement with India'. He also noted that despite both countries' growing strategic convergences, practical defence and security cooperation is very thin in comparison with Australia's other partners.

India's human rights issues

In May 2022 in Tokyo, the 4 Quad member leaders, including Prime Minister Modi, stated 'We strongly support the principles of freedom, rule of law, democratic values … peaceful settlement of disputes without resorting to threat or use of force … We will continue to act decisively together to advance these principles in the region and beyond'. However, some have suggested that any expectations on India to be a robust advocate for democracy and democratic ideals through the Quad may not sit well with India, which is considered by some to have become an 'illiberal majoritarian democracy' under the Modi Government.

In recent years, various human rights concerns in India have been raised by international governments, human rights organisations and the media. These have included the revocation of the constitutional status of the Muslim-majority region of Jammu and Kashmir in 2019; persecution of religious minorities, including Muslims, by Hindu nationalists (and the Modi Government's failure to crackdown on such persecution); the passage of the Citizenship (Amendment) Act 2019 that enshrines a pathway to citizenship for immigrants specifically excluding Muslims, and violence against the Dalit community. The US Commission on International Religious Freedom has recommended that the US Government designate India as a 'country of particular concern' for 'engaging in and tolerating systematic, ongoing, and egregious violations of religious freedom' and has said that the Modi Government 'used its strengthened parliamentary majority to institute national level policies violating religious freedom across India, especially for Muslims'. There have also been concerns about the Modi Government's crackdown on a range of civil and political rights, as reported by Human Rights Watch, Amnesty International and the US Department of State.

Ahead of Prime Minister Modi's visit to Germany in early May 2022, Human Rights Watch suggested that European governments should reconsider Europe's 'quiet diplomacy' approach to the human rights situation in India, which had 'led to growing sentiment that Europe is willing to overlook the plight of affected communities in India because it needs India as an ally against China and Russia'. Similarly, as a country with a track record of condemning and responding to other countries' human rights abuses, Australia may be urged by human rights groups to consider the implications of India's ongoing human rights issues in its continued pursuit of strategic and economic ties with India.

Hugh Piper (*The Diplomat*) argues that any silence by Australia on India's human rights issues:

> … undermines Australia's prosecution of human rights issues with China and its broader strategy of handling a difficult relationship with Beijing. While Canberra is right to call out repression in Xinjiang and Hong Kong, among other issues, its failure to comment about India plays into Beijing's hands, suggesting that Australia's advocacy is strategic rather than genuine concern.
>
> In terms of Australia and India ties, however, silence on human rights in this growth phase of the relationship could undermine its long-term success. By avoiding the topic now, Australia sets a difficult precedent, making it harder to speak and act in the future without causing major, even irreparable, damage to the bilateral relationship. The longer human rights issues persist in India, the harder it will be for Australia not to voice its concerns – and Canberra may well find itself isolated for not doing so. Moreover, an India beset by internal divisions and growing marginalization of democracy makes for a less reliable partner …

However, the implications of India's human rights issues could amount to more than just those concerning its reliability as a rising strategic and trade partner of Australia. Any ethno-religious conflicts arising from the disintegration of religious minorities in India, which include about 200 million Muslims, could lead to political instability and significant disruption of India's social fabric. Should there be any consequential outbreaks of communal violence and religiously motivated attacks resulting in the collapse of India as a key member of the Quad, it could then 'degrade Australia's strategic environment across the vast Indo-Pacific', according to Ramesh Thakur, a former UN

Assistant Secretary-General.

There are also domestic national security reasons, mostly in social cohesion terms, for Australia to respond meaningfully to India's human rights issues. Noting the recent controversy over statements made by a Hindu-nationalist politician from the Bharatiya Janata Party (which has been India's ruling political party since 2014) during his visit to Australia, there is the potential for the ethno-religious conflicts in India to metamorphose into inter-diasporic conflicts in Australia. Further, Deepak Joshi (*NRI Affairs*) has suggested that Australia's social cohesion is threatened by Hindu extremism and claimed that there is 'infiltration of Hindu extremist groups in Australian education, multicultural media and politics'.

As the Australian Greens' former foreign affairs spokesperson, Janet Rice, has proposed, the Australian Government could consider the inclusion of binding human rights protection clauses or binding clauses that commit to upholding democracy in any free trade agreements with India (for example, the to-be-negotiated CECA). However, any proposed clauses of that nature would likely serve as safeguards against future human rights violations, rather than as responses to pre-existing problems. Most recently in 2019, the Morrison Government rejected the Greens' recommendation that human rights protection clauses be included in Australia's free trade agreements with Indonesia and Hong Kong (p. 6).

Following the enactment of the *Autonomous Sanctions Amendment (Magnitsky-style and Other Thematic Sanctions) Act 2021*, the Australian Government now has the power to impose sanctions to address particular issues or conduct (known as thematic sanctions), which include serious violations or abuses of human rights and activities that undermine good governance or the rule of law. While previously sanctions imposed by Australia have been country-focused, these reforms now allow the Government to impose sanctions to address a wider range of conduct (for example, human rights abuses), irrespective of where the conduct occurs.

AUSTRALIA–CHINA RELATIONS

Geoff Wade, Foreign Affairs, Defence and Security

Key issue

Australia–China political relations have seen a marked decline over the last 8 years, while trade relations have continued and expanded. Australia's concerns about Chinese obstacles to Australian exports, influence operations within Australia and strategic aspirations regionally have seen a range of Australian responses: stepped up strategic and defence collaboration with partners, legislation to deal with foreign interference in diverse realms and efforts to expand Australia's markets. Relations with China remain tense and this will be a key issue to be addressed by the new Parliament.

In November 2014, China's paramount leader Xi Jinping made a visit to Australia to attend the G20 Summit, to jointly announce the China–Australia Free Trade Agreement, and to speak to the joint Houses of Parliament. In his 17 November speech to Australia's legislators, Xi noted:

> Our relationship has reached a new and higher starting point, and we should be more visionary, broad minded and set more ambitious goals. Our two countries should increase dialogue and exchanges and deepen political trust, expand result-oriented cooperation, and work together to sustain peace, stability and prosperity in the Asia-Pacific.

That evening, at a parliamentary dinner, Prime Minister Tony Abbott also spoke of bilateral relations, stressing:

> I have to say that the respect and affection that we Australians have for the people of China was reinforced by the remarkable speech that President Xi has delivered in our Parliament today.
>
> I have never heard a Chinese leader declare that his country will be fully democratic by 2050. I have never heard a Chinese leader commit so explicitly to a rule-based international order founded on the principle that we should all treat others as we would be treated ourselves.

Those speeches marked an apex in Australia–China relations, described in that year as a 'comprehensive strategic partnership.' In the 8 years since that peak, however, there has been a gradual decline in virtually every aspect of the positive bilateral relationship promised in those speeches. Today, Australia's relations with China have arguably reached their worst state since Australia's recognition of the People's Republic of China (PRC) in 1972.

A brief review of the key developments since 2014 provides a useful context for understanding the factors affecting the Australia–China relationship today. This is provided below with the backdrop of a major extension of China's power beyond its borders over that period.

The PRC political landscape has, since 2012, been marked by the political domination of Xi Jinping. During Xi's decade in supreme power, he has pursued an agenda described variously as the 'China Dream' or the 'Chinese renaissance' domestically, and 'building a community with a shared future for mankind' internationally. This has involved declaring himself 'core leader' in 2016, extending his control over the domestic politics of the PRC, while also expanding China's economic and political influence across the globe. This extension of China's global aspirations has seen it increasingly contending with the US, particularly in the Western Pacific. Australia, as an ally of the US, has inevitably been involved in this contention.

Since 2014, China has been increasingly assertive in its efforts to claim leadership in the region and this has included efforts to influence Australia's domestic and foreign policies. These have been seen in a variety of spheres, as have Australia's actions in responding to these efforts.

On the broadest level, Australia has been concerned about China's regional strategic policies. The expansion of China's maritime claims and presence in the South China Sea under Xi, the growth of PRC economic links and influence operations in Southeast Asia, the extension of economic and military links with Pacific Island states and the overall build-up of China's military capacity have given rise to ongoing concerns among Australia's strategists and policymakers. China's implementation of a National Security Law in Hong Kong in June 2020 also prompted a reaction from Australia and its partners.

In the sphere of strategic and economic statecraft, Australian officials were greatly concerned in 2018 when Victoria signed on to Xi Jinping's signature Belt and Road Initiative, an agenda the federal government had been assiduously avoiding. Victoria's Premier, Daniel Andrews, signed a further BRI deal in October 2019, and urged other states to participate in the PRC initiative.

It has been in the economic realm that the PRC's pressure and influence has been most pronounced. In 2019, the China market absorbed more than 32% of Australia's total exports, with up to 100% of some commodity exports going to the PRC. In 2020, this figure exceeded 40% in some months. The remarkable growth in China's economic influence over Australia (and regionally) during the last decade has proved to be a ready lever of influence over the economy, the application of which has induced deep concern among many sectors of Australian society.

The PRC has used this leverage to impose a wide range of obstacles to and economic sanctions on Australian trade with China over the last several years. These actions have been seen by commentators to be aimed at inducing Australian primary producers to exert influence on the Australian Government to accede to Chinese preferences. Researchers at the Australian Strategic Policy Institute (ASPI) refer to these practices collectively as 'coercive diplomacy' and their study shows how these practices have increased during the rule of Xi Jinping.

These PRC practices have included imposing tariffs on barley and obstacles to coal and cotton shipments, deterring PRC students from travelling to Australia for education, and placing restrictions on timber, rock lobsters and beef exports from a range of meat processors, and high tariffs on Australian wines. Much of this economic pressure was exerted following the call by the Australian foreign minister in April 2020 for an independent inquiry into the origins of COVID-19. That China's economic sanctions on Australia are being instituted to indicate dissatisfaction with Australia's political alliances and actions has been acknowledged by a PRC Foreign Ministry spokesperson.

To further underline the unhappiness of the PRC with Australia's orientation, in May 2021, the PRC's National Development and Reform Commission announced that it was suspending its participation in the China–Australia Strategic Economic Dialogue indefinitely.

In November 2020, while the various sanctions and obstacles were being implemented, a list of '14 grievances' was delivered to an Australian journalist by the Chinese embassy in Canberra. These highlighted the various actions and policy decisions that China said needed revision for Australia's relations with China to be improved. The list of objections to Australia's actions included:

- obstruction of Chinese investment
- banning of Huawei from Australia's 5G program
- foreign interference legislation
- expulsion of PRC scholars and journalists
- engagement in international fora on Xinjiang, Hong Kong and Taiwan issues
- the call for an independent enquiry into COVID-19 origins
- siding with the US in anti-China activities
- funding anti-China think tanks.

The list was criticised by the Australian Government, with Prime Minister Scott Morrison discussing it with global partners at the G7 meeting in the UK in June 2021.

Yet, despite the wide range of economic punishments China imposed on Australia over this 2-year period, in September 2021, the PRC lobbied Canberra to support China's application to join the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). Australia insisted that China drops its sanctions and reopen ministerial-level trade talks as a prerequisite to considering such support.

Within Australian society, the PRC's political influence operations have also been a cause of burgeoning concern for the government and security agencies. Such 'united front' influence operations, well-attested globally, have been seen within business, universities, Chinese-language media, and social organisations across Australia. The challenges such activities pose to Australian society have been outlined by Australian Security Intelligence Organisation (ASIO) officials and academic scholars.

These influence and interference phenomena have not only been observed at a federal level. China's subnational engagement with states and localities – most clearly reflected in the Victorian BRI deal – has presented new challenges for Australia. Some of these issues are addressed in a February 2022 ASPI publication, *Taking the low road: China's influence in Australian states and territories*.

Australia has responded to the various China challenges outlined above through 3 major spheres.

Expanded strategic alliances and defence collaboration

Australia's concerns about China's regional aspirations and burgeoning military capacities are shared by other regional allies and partners. This has enabled Australia to adopt new strategies to respond at diverse levels to protect Australia's sovereignty and promote its values.

Since 2017, Australia has been involved in a resurgent Quadrilateral Security Dialogue involving Australia, India, Japan, and the US (the Quad), in an effort to counter an expanding China, militarily and diplomatically. In the years since, the Quad engagement has become 'a key pillar in Australia's foreign policy', and encompasses health security, climate change, maritime domain awareness, humanitarian assistance, disaster relief, cyber, space and infrastructure. Quad interactions variously involve officials, foreign ministers and state leaders. The incoming Prime Minister, Anthony Albanese, and the Foreign Minister, Penny Wong, attended the May 2022 Quad Summit in Tokyo as their first official duty following the federal election. Further details of Australia's Quad engagement are available on the Department of Foreign Affairs and Trade (DFAT) website.

In July 2020, Australia was newly assertive regarding China's claims in the South China Sea, urging the PRC to respect the 2016 decision by the Permanent Court of Arbitration, and rejecting China's assertion that its sovereignty claims over the Paracel and Spratly Islands were 'widely recognized by the international community'. Australia's naval patrols in the South China Sea have been subject to repeated Chinese challenges and threats, and Australia will likely be actively engaged in South China Sea issues for decades to come.

In November of the same year, Prime Minister Morrison visited Japan and, with Japan's new Prime Minister, Yoshihide Suga, announced 'in-principle agreement' on a Reciprocal Access Agreement for their respective defence forces, 'in response to an increasingly challenging security environment'. The agreement was signed in January 2022.

In September 2021, a new trilateral security partnership was announced by Australia, the US, and the UK. Dubbed 'AUKUS', the agreement is directed at responding to China's growing assertiveness in the Indo-Pacific. The AUKUS agreement commits the parties to 'significantly deepen cooperation on a range of security and defence capabilities', to be achieved through 'deeper integration of security and defence-related science, technology, industrial bases, and supply chains'. An April 2022 joint update notes the various advances in the AUKUS endeavours, including on Australia's proposed nuclear-powered submarines and a new submarine base. The AUKUS arrangement fits within an overall strategy being pursued with the US whereby, as the US Secretary of State put it in May 2022, 'we cannot rely on Beijing to change its trajectory. So we will shape the strategic environment around Beijing to advance our vision for an open and inclusive international system'.

New legislation and measures to deal with domestic interference

Domestically, the Australian Coalition Government has pursued a wide range of responses to address the challenges presented by the PRC.

In 2017 and 2018, a raft of legislation was passed under the Turnbull Government to deal directly with various aspects of foreign interference. The *National Security Legislation Amendment (Espionage and*

Foreign Interference) Act 2018 introduced new national security offences; the *Foreign Influence Transparency Scheme Act 2018* established a registration scheme for those acting on behalf of foreign entities; and the *Electoral Legislation Amendment (Electoral Funding and Disclosure Reform) Act 2018* restricts political donations by foreign entities. These were the earliest such counter-foreign interference laws in Western countries. The first person charged under the foreign interference legislation was an Australian-Chinese community figure in 2020.

Further key legislation included the *Australia's Foreign Relations (State and Territory Arrangements) Act 2020*, which gives the federal government the power to invalidate any arrangement made by state and territory governments or universities. One of the first actions taken under this law was the abrogating of the BRI agreements that the Victorian Government had reached with China's National Development and Reform Commission. The 99-year lease of Darwin Port by the Northern Territory Government to the Chinese company Landbridge is a commercial arrangement and is not directly covered by the legislation. However, the Albanese Government has stated that it intends to review the lease.

In the telecommunications, data and cyber spheres, there has been a range of policy and legislative adjustments. In August 2018 Australia banned Chinese companies Huawei and ZTE from participating in the rollout of Australia's 5G network. This was the first such ban globally, and was predicated on the need to both prevent spying and preclude the potential shutdown of key national systems.

The report *Australia's cyber security strategy 2020* laid out the major challenges faced in this sphere and the steps being taken to ameliorate threats. The *Australian data strategy* and *Action plan* of December 2021 set down data protection aims and measures, while a range of legislation aimed at protecting Australia's critical infrastructure has been passed since 2018.

In addition, as the possibility of COVID-19 distress leading to businesses becoming vulnerable to overseas takeover became more apparent, in June 2020 the Morrison Government announced reforms to the foreign investment system, including the screening of all foreign investments regardless of value or purchaser. While that was a temporary measure, under the *Foreign Investment Reform (Protecting Australia's National Security) Act 2020* investments in a 'national security business or national security land' continued to be subject to a zero-dollar monetary threshold for mandatory national security screening. The reforms were evaluated after a year of operation.

A number of raids by ASIO and the Australian Federal Police and the revoking of the visas of some PRC businessmen, journalists and scholars in recent years have also been predicated on foreign interference concerns.

Trade and industry policies seeking to diversify Australia's trade markets to reduce economic dependence on China

The distress (some suggest a figure of $4 billion in losses) that the economic tariffs and obstacles imposed by China have inflicted on Australian business over the last several years resulted in a growing determination by the Morrison Government to seek other economic avenues as an alternative to dependence on the Chinese market. At the same time, other actions have been taken to ensure that Chinese companies do not take advantage of depleted industrial sectors in Australia.

In 2019, Prime Minister Morrison queried whether China's developing country status under World Trade Organization (WTO) rules was congruent with the massive economic power of the PRC, and asked whether this provided it an 'unfair advantage'. Treasurer Josh Frydenberg told a press conference in 2021 that he had 'increasingly seen foreign investment applications that are being pursued not necessarily for commercial objectives but strategic objectives' and as such, had rejected applications 'that in the past may have been approved'.

Efforts to protect Australian industry and society were observed in the blocking of Hong Kong-based CK Group's $13 billion bid for Australia's east coast gas pipeline owner APA Group; the refusal to approve China Mengniu's purchase of Lion Dairy; and the blocking of a $300 million takeover of building contractor Probuild by China's largest construction company.

On the global trade management level, in December 2020 it was announced that Australia had lodged an official complaint with the WTO over China's tariffs on Australian barley exports. China responded in 2021 saying that it would use WTO procedures to challenge Australia's measures targeting railway wheels, wind towers, and stainless steel sink products from China. The PRC also blocked Australia's first request for the establishment of a WTO dispute settlement panel to examine China's tariffs on Australian wines.

At the same time, Australia fast-tracked the Australia–India Comprehensive Economic Cooperation Agreement negotiations to diversify Australia's markets. An interim agreement was signed by the 2 countries on 2 April 2022. DFAT is also reported to have been seeking ways to boost investment from the developed Asian markets of Japan, South Korea and Singapore, as well as European states.

Following the election of the Albanese Labor Government in May 2022, the Chinese premier offered congratulations, while the PRC ambassador to Australia has urged the new government to work to get the relationship 'back on track'. PRC Foreign Minister Wang Yi has also suggested that it is time to 'seek common ground while shelving differences', but that 'concrete actions' are required. Australian Government responses have so far been muted. However, Defence Minister Marles did meet with PRC Minister of National Defence General Wei Fenghe at the Shangri-la Dialogue in Singapore in early June.

Conclusion

The prospect of a Chinese military base being established in Solomon Islands, just 2,000 kilometres from Australia was suggested by the signing of a security agreement between the PRC and Solomon Islands in March. This and the South Pacific-wide visit by the Foreign Minister Wang Yi in May–June 2022 have further focused the foreign affairs agenda of the incoming Albanese Government on the challenges posed by China regionally and domestically. The immediate post-election visits by the Prime Minister to the Quad leaders summit in Tokyo and to Pacific neighbours by the Foreign Minister have underlined the concern with which the new government views China's regional activities.

In addition to the many concerns outlined above, with Australia–China ministerial contacts yet to fully emerge from a deep freeze, 2 Australian citizens still in detention in China, disquiet about developments in Hong Kong, Xinjiang and PRC threats to Taiwan ongoing, the US–China rivalry accelerating, and a growing need to address China's Western Pacific aspirations, the Australia-China relationship will be one of the key economic and strategic issues with which the new Parliament will need to engage.

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AUSTRALIA–JAPAN RELATIONS

Geoff Wade, Foreign Affairs, Defence and Security

Key issue

Australia and Japan are key economic and strategic partners. A range of partnership agreements, as well as growing trade and investment, have seen Australia–Japan economic links prosper. Security cooperation in response to an assertive China has also grown, particularly through both countries' participation in the Quad arrangement and increased coordination between the defence forces of the 2 countries. Collaboration in new energy sectors appears likely to bolster relations.

Introduction

Japan is the world's third largest economy, as well as Australia's second largest source of foreign investment and third largest trading partner. The 2 countries are currently actively developing a deeper relationship in diverse spheres.

Australia and Japan's post-Second World War relationship began with the re-establishment of diplomatic relations in 1952. This was followed closely by the promotion of a stronger trading relationship through the 1957 Commerce Agreement. Relations in other aspects were subsequently strengthened through the 2007 Joint Declaration on Security Cooperation, the Special Strategic Partnership announced in 2014 and the 2015 Japan–Australia Economic Partnership Agreement (JAEPA).

Strategic collaboration

In 2022, Australia and Japan signed a defence cooperation agreement against the backdrop of China's growing military and economic might. This Reciprocal Access Agreement, Japan's first with any country, will allow the Australian and Japanese militaries to work jointly on defence and humanitarian operations. Other key documents on the Australia-Japan relationship are available on the Department of Foreign Affairs and Trade website.

While the Japan-US alliance is the cornerstone of Japan's national security, the Indo-Pacific region is a key focus for Japan's foreign policy and, since 2017, Japan has been promoting a 'Free and open Indo-Pacific strategy'. This orientation aligns closely with Australia's own perceptions of and strategies in the region. Both countries view the Southeast Asian bloc of ASEAN as central to the Indo-Pacific region, and both actively partner with the countries of Southeast Asia in areas including trade, investment, aid, defence and technology. Similar to Australia, Japan has a strong diplomatic presence in the Pacific, and engages at a leaders level through the Pacific Islands Leaders Meeting (PALM).

The 2007 Joint Declaration on Security Cooperation provides the basis for extensive cooperation on security issues between Australia and Japan, including in law enforcement, border security, counter-terrorism activities, disarmament, counter-proliferation, peace operations, maritime and aviation security, and humanitarian relief operations. An Information Security Agreement on the sharing of classified information entered into force in March 2013 and Japanese and Australian forces have worked together in defence operations in Iraq, East Timor, South Sudan and Pakistan. Japan and New Zealand are also currently engaged in discussions to enable eventual sharing of classified information.

Both countries belong, together with the US and India, to the Quadrilateral Security Dialogue – a non-binding security grouping that has been strengthening its bonds since 2020. Quad foreign ministers meet regularly, and leaders met in person for the first time in September 2021. Attendance at the Quad Summit in

Tokyo was Prime Minister Anthony Albanese and Foreign Minister Penny Wong's first official engagement following the 2022 federal election. Both Australia and Japan have agreed to join the US's new Indo-Pacific Economic Framework, a direct response to China's regional challenges.

Today, Japan is Australia's closest partner in Asia, and Japan describes Australia as its most important security partner after the US, a common ally of both countries. The Ninth Japan–Australia 2+2 Foreign and Defence Ministerial Consultations were held in June 2021.

The respective defence forces are increasing joint training and strengthening interoperability. Joint exercises include the annual Southern Jackaroo exercise and the Nichi Gou Trident exercise. Further areas of potential military cooperation between Australia and Japan to respond to China's grey-zone activities in both the East China Sea region and the South China Sea are being explored.

Economic relationship

Japan was Australia's third-largest trading partner in 2020, with 2-way goods and services trade valued at A$66.3 billion. In 2020, Australia's major merchandise exports to Japan were natural resources, including gas, coal, iron ore, copper and aluminium. From Japan, Australia imports vehicles, refined petroleum, machinery and tyres. More recently, Japanese investment into Australia has been expanding into renewables; financial services; infrastructure; information and communications technology; property; food; and agribusiness.

Japanese investment continues to play a significant role in the development of the Australian economy. The 2021 investment scenario for Japanese investment in Australia is detailed in *Japan–Australia investment report 2021: the year of partnerships*. In the same year, the stock of Australian investment in Japan was valued at A$112 billion.

Further development in the investment area was discussed in the third Ministerial Economic Dialogue between the 2 countries, held in July 2021. Key in these negotiations were discussions on supply chain resilience, regional infrastructure and efforts to achieve the Paris Agreement climate action goals.

Both Australia and Japan have joined the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and the Regional Comprehensive Economic Partnership (RCEP).

Multilateral connections

Other spheres of cooperation between Australia and Japan include a Strategy for Cooperation in the Pacific (2016), participation (alongside the US) in the Trilateral Partnership for Infrastructure Investment in the Indo-Pacific (2018), and an Australia–Japan Foundation Strategic Plan (2017–22) intended to 'advance Australia's engagement with Japan through people-to-people linkages' and to 'strengthen increasingly sophisticated engagement between Australia and Japan that reflects a mutual awareness of the vital importance of Australia and Japan to each other's foreign, economic, trade, security and cultural policies'. The 2 countries also jointly participate in regional and multilateral forums such as Asia Pacific Economic Cooperation (APEC), the East Asia Summit (EAS) and the G20.

It is in the technology sphere where Australia–Japan relations are today being swiftly developed, and aspects of this involve all members of the Quad. The Quad Critical and Emerging Technology Working Group was established in March 2021 to pursue an 'open, accessible, and secure technology ecosystem', reflecting 'the recognition of Quad leaders that a free, open, inclusive and resilient Indo-Pacific requires critical and emerging technology be governed and operate according to shared interests and values'. The potential for AI collaboration between the Quad countries is also being explored. As time progresses, the Quad relationship looks likely to play a much greater role in the new techno-diplomacy, including in the quantum sphere. The US–Japan Technology Security Alliance may also include Australia in future, and some scholars are advocating a broader Indo-Pacific technology partnership.

Regional infrastructure assistance is another area where Australia and Japan have come together. The Blue Dot Network, launched by the US, Japan, and Australia in 2019 in response to China's Belt and Road Initiative, provides assessment and certification of regional infrastructure projects 'as a multilateral effort to promote principles of sustainable infrastructure development around the world' and to 'serve as a globally recognized symbol of market-driven, transparent, Paris Agreement-aligned, and financially, socially, and environmentally sustainable infrastructure projects'. The OECD (Organisation for Economic Co-operation and Development) has now involved itself in the initiative.

New energy links

Energy – as the driver of all economic activity – is another area where the Australia-Japan relationship is strengthening. The Indo-Pacific Clean Energy Supply Chain Forum was held earlier this year in Sydney. At their May 2022 meeting in Tokyo the Quad leaders also stressed the importance of common energy supply chains and the significance of 'clean energy cooperation' in 'clean hydrogen'.

Prior to the Quad meeting, Japan and Australia had already been cooperating in the field of hydrogen. On 9 April this year, a group of Japanese companies, including Kawasaki Heavy Industries, J-Power, Iwatani Corporation, Marubeni Corporation, and Sumitomo Corporation, together with Australia's AGL Energy, held a ceremony to celebrate their success in a pilot project to transport hydrogen from Australia to Japan by the world's first liquefied hydrogen tanker *Suiso Frontier*. The cargo had been generated from Victorian coal.

This project has some history. The Japanese Government announced its *Basic hydrogen strategy* in 2017 as a part of its energy security policies and emissions goals. Since then, Australia and Japan have been exploring bilateral renewable energy cooperation. Agreements in this area include the 2018 Hydrogen Energy Supply Chain Pilot Project between the Commonwealth and Victoria, the 2019 Memorandum of Cooperation on Energy and Minerals, the Joint Statement on Cooperation on Hydrogen and Fuel Cells in January 2020 and a Partnership on Decarbonisation through Technology in June 2021.

In January 2022, the Australia–Japan Clean Hydrogen Trade Partnership was announced by the Australian Government, stressing that 'clean hydrogen is central to both Australia's and Japan's plans to achieve net zero emissions while growing our economies and jobs' and 'establishing clean hydrogen supply chains will facilitate investment into Australia and will create jobs for Australians, many in our regional areas'.

Japanese scholar Akimoto Daisuke has suggested that a 'quasi-alliance' between Japan and Australia in energy security cooperation, especially clean hydrogen energy, holds great economic potential, as does the possibility of developing a hydrogen supply chain network in the Indo-Pacific.

While there are still many unknowns regarding how 'clean' hydrogen energy is, the potential for the generation and transport of 'green hydrogen', and the overall economics of hydrogen energy, it appears that this area will grow into a key aspect of Australia's ongoing and deepening relations with Japan.

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PACIFIC ISLANDS – KEY ISSUES

Dr Angela Clare, Foreign Affairs, Defence and Security

Key issue

Pacific Island countries face formidable development challenges, including providing employment, infrastructure and services to their young populations, addressing the disruptive effects of climate change, and managing increasing geostrategic competition.

The recent China–Solomon Islands security agreement raised alarm in Australia and the US, but it also highlighted the governance and security challenges faced by Pacific Island countries.

Foreign policy experts argue that a 'business as usual' approach is no longer enough if Australia wishes to forestall future security agreements between China and Pacific Island countries. Australia needs to build trust and offer meaningful solutions to the region's development priorities if it is to achieve greater convergence around the security threats facing the region.

Key challenges for Pacific Island countries

The Pacific is a geographically and culturally diverse region with immense natural resources. But its small and dispersed populations, narrow-based economies and vulnerability to natural disasters present formidable constraints to development. Economic growth to provide social services, infrastructure and employment to young populations, addressing the threat of climate change and building human resource capacity are among the most pressing priorities for Pacific Island countries. At the same time, increasing geopolitical competition is presenting new security risks and adding to the region's governance challenges.

With at least half the population aged under 23, the region's 'youth bulge' is expected to have a major impact on the region's development in the coming decades. The main challenges associated with this trend – strongest in the Melanesian states of Papua New Guinea (PNG), Solomon Islands and Vanuatu – include increased unemployment and poverty, poorer education outcomes, rising pressure on already fragile social services, increased chronic health problems and higher risk of social unrest.

Tensions over land in urban areas is becoming more common as people move from rural to urban areas, while in PNG, the loss of customary land is seen as the most likely issue to provoke disputes.

The Pacific region also has some of the world's highest rates of violence against women and girls – about twice the global average. The region has some of the lowest rates of women in parliament and economic opportunities for women remain limited.

Increasing geostrategic rivalry has been a destabilising force over the last decade. China's growing engagement in the Pacific has seen an influx of new international partners and increased access to much-needed finance for Pacific Island countries. It has also coincided with the rise of a more assertive 'Blue Pacific' diplomacy by Pacific Island states. But Pacific leaders acknowledge that geostrategic competition is exacerbating the region's vulnerabilities: growing transnational crime, including illegal fishing, is increasing competition for resources, corruption has increased the complexity of security challenges facing the region, and urgent development needs increase opportunities for foreign influence.

Most Pacific Island countries were successful in preventing the entry of COVID-19 over the first year of the pandemic, but outbreaks occurred across the region in 2021, the largest in French Polynesia, Fiji, New Caledonia and PNG. Several countries have suffered marked slowdowns in economic activity as a result of COVID-19 related restrictions, particularly those that are heavily dependent on tourism, such as Fiji, Vanuatu and Samoa. The pandemic brought labour mobility to a halt, shrank economic activity, cut jobs and reduced working hours for overseas migrant workers. COVID-19 is likely to leave the Pacific on a development path some 9% lower than pre-pandemic levels, the Lowy Institute estimates.

Climate change compounds these challenges. The International Monetary Fund has estimated that Pacific Island countries need 6–9% of GDP each year for 10 years to climate-proof their infrastructure and increase coastal protection. Their access to international climate finance has fallen well short of this level, however. In 2017 the Asian Development Bank estimated that Pacific countries required infrastructure investments of US$3.1 billion per year to 2030 to meet their needs. With a growing gap in their capacity to address these issues, the Pacific is expected to remain one of the world's most aid-dependent regions.

Australia-Pacific relations

As the largest regional power, Australia has long considered itself to have a leadership role in advancing the prospects of its Pacific Island neighbours. Australia is the region's biggest development partner by a large margin, providing an estimated $5.37 billion in aid to Pacific Island countries over the last 3 financial years. With New Zealand and the US, Australia is also one of the region's primary security partners. It has been the major donor for the region's COVID-19 response, providing $804 million in additional aid and over 2.5 million vaccine doses to 8 countries since the start of the pandemic. Australia has also been at the fore of natural disaster relief efforts, most recently in response to Tonga's devastating January 2022 volcanic eruption.

Maintaining – and where necessary, restoring – its position as the region's 'partner of choice' and preventing an external power from gaining a strategic foothold in the region has been critical to Australia's interests in the Pacific since the Second World War.

Australia has responded to China's growing influence in the region through its Pacific Step-up, which has sought to better support the region's priorities through a number of new security and development initiatives.

Australia's major investments since 2018 include the $3 billion Australian infrastructure financing facility for the Pacific, the labour mobility scheme, the Pacific Security College, new people-to people initiatives and increased diplomatic posts in the region. Australia is promoting trade links with Pacific Island countries through the Pacific Agreement on Closer Economic Relations Plus (PACER Plus).

Australia's defence ties, including its long-standing programs between the Australian Defence Force (ADF) and Pacific militaries, are regarded as its strongest institutional ties in the region. The Pacific Maritime Security program – a key element of this cooperation – helps Pacific countries protect their maritime resources and gives Australia a valuable strategic presence in the region.

Some of Australia's other key strategic initiatives in the region include its commitments to redevelop the PNG–Australia–US Lombrum naval base on PNG's Manus Island; fund an undersea internet cable linking PNG, Solomon Islands and Australia; and co-fund Telstra's purchase of regional telecom company Digicel, whose headquarters are in PNG.

The announcement of a new security agreement between China and Solomon Islands, signed in March 2022, raised alarm in Australian and US security circles, who fear that it may lead to a Chinese military base in the Pacific and 'substantially alter the balance of power in the Indo-Pacific'.

Incoming Foreign Minister Penny Wong visited the Pacific shortly after the new Albanese Labor Government was sworn in, committing to deepen Australia's engagement in areas such as climate change, defence, maritime cooperation and labour mobility.

For many foreign policy experts, the new China-Solomons security pact shows that a rethink of Australia's policy settings in the region is needed. While the Pacific step-up sought to advance the integration of Pacific countries into the Australian and New Zealand economies and security institutions – 'essential to the long-term stability and economic prospects of the Pacific', according to the *2017 Foreign policy white paper* – it has not gone far enough.

Some have argued that Australia will need to go beyond a 'business-as-usual' approach if it is to forestall further security agreements between China and the Pacific Island countries. Given the 'sheer scale' of China's economy and the opportunities it offers to Pacific Island countries, Australia should not try to outspend China but offer 'genuine partnerships' that address the needs and aspirations of Pacific Island countries.

Among the proposals advanced are increased investments in defence and development assistance, meaningful action on climate change and deeper regional economic integration, including increased opportunities for Pacific Islanders to gain employment and permanent residency in Australia.

The need to build greater trust, mutual understanding and respect in Australia's Pacific relationships is a widely shared view. Australia has often been criticised for its tendency to take an overly 'securitised' and at times heavy-handed approach in the region, and Pacific experts have long warned against the corrosive effect of failing to engage with the region's own security priorities. Australia's refusal to endorse stronger action on climate change is seen to have been particularly damaging to its relations in the region, fuelling the perception that its primary interest was competing with China, rather than in promoting the interests of Pacific states themselves.

The region's international partners need to treat Pacific nations as equals in their conversations about security and China's role in the region, according to New Zealand analyst Anne-Marie Brady. Few Pacific Island countries 'would welcome dependency on China, or the Pacific turning into a Sinocentric order', she argues, but if partners fail to treat the region's leaders as equals, they add to the risk that some in the region 'conflate concern about the real dangers of [China's] political interference and grey-zone activities – when expressed by "Western" actors – with neo-colonialism'.

Others have argued that the China–Solomon Islands security deal underlines the need for Australia to develop a more nuanced understanding of the security risks facing the region. Interpreting the security agreement as Australia's failure to maintain primacy in the Pacific 'overlooks the complex ways in which power is exercised in the region'. Providing aid, infrastructure and finance does not necessarily translate into diplomatic influence, and Australia needs to recognise the 'complex webs of authority and influence' that operate at the sub-national and national levels.

A number of commentators have made the point that Australia cannot achieve its security goals alone. Australia needs to develop a shared view of the risks China presents to the region and engage Pacific Island countries more strongly with that threat. It could do this by working with other partners and Pacific Island countries to institutionalise security dialogues and build the understanding and trust needed to address 'potentially sensitive issues' and 'provide a platform for Pacific voices and perspectives'. It could also build partnerships with countries outside its traditional security partners, such as South Korea, to pursue 'a less securitised form of diplomacy' and 'grow the ecosystem of aid, investment, and trade in the region'.

Australia's relations with the Pacific have strong foundations, and Australia may yet be able to work with Solomon Islands to prevent the security pact from destabilising the region, according to former head of the Regional Assistance Mission to Solomon Islands (RAMSI), Nick Warner. This will require 'skilful diplomacy', he argues: more aid, seasonal workers or defence force training in Australia is the 'easy part'; what is needed instead is 'patience, trust, quiet communication and building relationships'.

China in the Pacific

While China has had commercial interests in the Pacific for hundreds of years, its engagement in the region has increased significantly since 2006. China now has considerable economic and business interests in the Pacific, including fisheries, timber, mining, energy and port access. By 2021, China had signed Belt and Road Initiative (BRI) cooperation agreements with all 10 Pacific Island countries with which it has established diplomatic relations.

For Pacific Island countries, access to finance, infrastructure spending and trade have been among the main benefits of China's engagement. While Australia remains the largest trading partner with the Pacific at 18% of total merchandise trade (p. 15), the value of China's 2-way trade with Pacific Island countries increased 3-fold between 2008 and 2018 (p. 103), with its share of total Pacific Island country exports rising from 6% to 20% over this period. China is the largest importer of the region's natural resources, importing resources worth US$3.3 billion in 2019. In

2019, PNG alone exported US$2.3 billion worth of oil, metals and minerals to China.

China's direct investment in Pacific Island countries rose by 400% between 2013 and 2018, from US$900 million to US$4.5 billion. This compares to Australia's total investments in the Pacific of A$18.5 billion in 2018, according to Department of Foreign Affairs and Trade estimates (p.10). Vanuatu, Samoa and Tonga are among China's most significant debtors, while PNG has high levels of 'hidden' Chinese debt, according to the US-based AidData.

China's aid and lending to the Pacific has declined since 2018, however, falling by 31% from US$246 million in 2018 to US$169 million in 2019 – its lowest levels since 2012, according to Lowy Institute analysis. This decline suggests that Pacific countries may have less capacity to take on new loans or are more wary of the 'mixed track record' of Chinese loans, the authors suggest. It may also be that 'Chinese aid has served its purpose':

> Chinese loans have been used as a vehicle to get State-Owned Enterprises into the region. These SOEs have now put down deep roots and are competing in commercial activity across the board. According to China's investment statistics, Chinese construction activity in the region was US$958 million in 2017, almost six times greater than its foreign aid activities. These companies are still building China's presence and influence in the region without needing direct government support in the form of loans.

China's strategic interests in the region include garnering diplomatic support for its foreign policies, particularly its 'One China' policy. Four Pacific Island countries – the Marshall Islands, Nauru, Palau and Tuvalu – continue to maintain diplomatic relations with Taiwan, while Solomon Islands and Kiribati switched their recognition from Taipei to Beijing in 2019. In 2021, when the human rights situation in Xinjiang was raised at the 47th UNHRC session by Canada, Kiribati, PNG, Solomon Islands and Tonga were part of a coalition of 69 countries that supported China's position. Both PNG and Vanuatu have expressed positions on the South China Sea disputes that closely align with those of China, and have moved against journalists critical of the Chinese Government.

At the same time, China has met with some pushback from Pacific Island countries, and the country has particularly struggled to build influence in PNG, the largest country in the region. China's engagement in the region has been criticised for its potential debt entrapment, the quality of the projects it is financing, and for exerting pressure on local media and compromising political processes, including elite capture. China's involvement with illegal fishing has been seen as a threat to the region's revenue sources and food security.

The prospect of China gaining sufficient economic leverage over Pacific nations to allow China's military access to strategic defence infrastructure such as ports and airstrips is a major concern to both the Australian and US governments. China is reported to have tried to gain access to militarily significant airfields and ports in Kiribati, Vanuatu and French Polynesia, and has established military cooperation with Fiji, PNG and Tonga.

Analysts suggest that the recent China-Solomon Islands security pact was likely driven by the Chinese Government's aim to deepen security cooperation with Pacific Island countries and protect its overseas interests, as well as the growing rivalry with the US and its allies in the region. For its part, China has strongly denied it has any intention of building a military base in Solomon Islands, and argues that the agreement 'is based on Solomon Islands' needs and requirements'.

The Chinese Foreign Minister visited 8 Pacific Island countries in May 2022 and held online meetings with several more to seek support for 2 new economic and security deals incorporating trade and investment, public health, policing, cybersecurity, maritime surveillance and disaster response. The proposals – which analysts claim would dramatically increase China's integration with the region – have so far failed to gain agreement.

China-Solomon Islands security agreement – background

The new security agreement came as no surprise to Pacific observers, who note that it reflects China's growing diplomatic and economic ties with Solomon Islands and its strategic ambitions in the region. Two-way trade with China makes up around 46% of Solomon Islands' total trade. China's recent engagement includes a number of high-profile investments, including the construction of 7 stadiums for the South Pacific Games to be held in Honiara in 2023.

Solomon Islands' Prime Minister Manasseh Sogavare has strongly denied that the agreement will lead to a military base, confirming that 'Australia remains our partner of choice, and we will not do anything to undermine Australia's national security'. He described the security agreement as 'necessary for countering the "hard internal threats" facing his country', arguing that his country's existing security agreement with Australia has proven 'inadequate' following last November's anti-government protests in the capital, which targeted Chinese businesses.

The November 2021 unrest in Honiara was triggered when protesters – largely from Malaita province – marched on parliament and demanded Prime Minister Sogavare step down. Malaita's grievances have been linked to the national government's 2019 decision to switch diplomatic allegiance from Taiwan to China, and to long-standing tensions between national and local government. China and Taiwan had waged a contest over diplomatic recognition in Solomon Islands for a number of decades, with both countries accused of engaging in 'chequebook diplomacy'.

Following the outbreak of violence in November 2021, Australia sent Australian Federal Police and ADF personnel to Honiara in response to a request from the Solomon Islands Government, the first time it had sent personnel to the country under the 2017 security agreement between the 2 countries.

But the unrest goes well beyond 'a pro- versus anti-China issue', analysts argue, and highlights the economic divide between regions and allegations of corruption in the central government's dealings with China. Malaita is the most heavily-populated island in Solomon Islands, but its development has lagged behind that of Guadalcanal, where the capital Honiara is located. Economic issues are believed to have driven the internal conflict in Solomon Islands from 1998 to 2003, known as 'The Tensions'.

Malaitan Premier Suidani's decision to maintain ties with Taiwan despite the central government's switch to China in 2019 was 'readily embraced' by Malaita's decades-old secessionist movement, according to Pacific analyst, Mihai Sora. China promised $730 million in financial aid to the Solomon Islands Government following the switch, while Malaita province continued to receive support from Taiwan. In October 2020 the US allocated US$25 million in aid directly to the Malaitan provincial government – 50 times what the province received in the preceding year from donors – in what has been seen as part of US-China strategic competition in the region.

The solutions are complex and long-term. Solomon Islands needs economic development to provide employment, infrastructure and services to its young population and a stronger sense of national identity to foster social cohesion, Pacific observers argue. But in a country characterised by high levels of corruption and a clientelist system of politics, these reforms will not be easy to achieve.

Regional integration

Some of the more ambitious ideas for resetting Australia's relations with the region involve deeper economic regional integration, including through increased labour mobility and migration opportunities, which proponents argue have the potential to provide long-term solutions to the Pacific's development challenges.

Labour mobility programs have long been identified as areas of particular benefit to the region. While concerns have been raised about the exploitation of workers under Australia's labour mobility schemes, they have offered Pacific workers opportunities to gain skills, earn income and support their communities at home through remittances.

The incoming Labor Government has pledged to strengthen cooperation across all areas of Australia's engagement in the Pacific, promising a $525 million increase in development assistance over 4 years and new initiatives in defence and maritime security, media and climate change. Labor also flagged several reforms to the Pacific Australia Labour Mobility (PALM) scheme, including helping to meet upfront travel costs for Pacific workers, allowing participants to bring family members to live and work in Australia, and establishing a 4-year Agriculture Visa.

Notably, Labor has proposed establishing a Pacific window in Australia's permanent migration program, the new Pacific Engagement Visa. Modelled on New Zealand's Pacific Access Resident visa, the scheme will provide an initial 3,000 visas for those able to find employment in Australia, opening opportunities for permanent residency denied under temporary labour programs. In all, the proposals represent a significant step-up in Australia's approach to Pacific labour mobility, according to the ANU's Stephen Howes.

One group of researchers has put the case for an incoming Australian Government to go further in this area, proposing a 'New Regional Compact' that shifts the focus from temporary and short-term labour mobility programs to long-term policies that emphasise skills development. The compact would be designed to increase access for those Pacific countries with lower levels of labour mobility – including PNG, Solomon Islands and Vanuatu – and include pathways to permanent residency and assistance to 'support Pacific human capital development'.

Michael Shoebridge from the Australian Strategic Policy Institute argues that Australia should open its economy and labour market to South Pacific people, along the lines of Australia and New Zealand's Closer Economic Relations Trade Agreement and visa-free work and travel framework. Such a deal 'will matter much more than any amount of aid money and any amount of rapidly built large infrastructure and debt from our friends in Beijing', he suggests.

Academic John Blaxland has argued that Australia should offer a compact of association with the smaller South Pacific countries, akin to the treaty arrangements the US maintains with Palau, the Marshall Islands and the Federated States of Micronesia, and the associated status which Niue and the Cook Islands have with New Zealand. The compact would allow for shared governance of administrative territories, including policing and defence, and provide opportunities for permanent residency in Australia.

Blaxland's was one of a number of proposals for greater economic integration considered by the Joint Standing Committee on Foreign Affairs, Defence and Trade in its inquiry into Strengthening Australia's relationships in the Pacific (March 2022). The committee acknowledged 'the sensitivities' around proposals for a compact of association – specifically in regard to the issue of Pacific sovereignty – but noted that such an approach could offer significant benefits to both Australia and Pacific Island countries, particularly those most vulnerable to population displacement risks due to climate change (p. 80). The committee recommended Australia 'start dialogue' with Pacific Island countries and 'evaluate bold ideas for longer term Pacific region "deep integration"' (pp. 100–101).

The inquiry was one of 4 the committee conducted into Australia's relations with the Pacific in 2021–22, which also included the Inquiry into Australia's Defence relationships in the Pacific (April 2021), Deepening relations with the Pacific nations through trade (September 2021) and the Inquiry into the human rights of women and girls in the Pacific (November 2021).

The reports' recommendations were wide ranging and included calls for Australia to deepen defence and security relations with Pacific Island countries; increase support for COVID-19 recovery; boost trade, economic support and investment in infrastructure; strengthen people-to-people links, including through sport, churches, media and education; establish greater Australian media presence in the region; and advance the status of women and girls across Australia's engagement.

They also recommended building on existing labour mobility schemes to improve Pacific workers' welfare and promote skills transfer, remittance income, and creating pathways to permanent residency and migration intake.

The Australian Parliament plays an important role in supporting parliaments in the Pacific through forums such as the Inter-Parliamentary Union (IPU) and the Asia Pacific Parliamentary Forum (APPF), and through parliamentary capacity-building programs, twinning arrangements and delegation visits. The IPU and the APPF hold regular conferences to bring together parliamentarians from across the region to discuss key issues facing democracies and promote integrity in government and parliaments.

Labor has pledged to reinstate bipartisan Parliamentary Pacific visits as part of its commitment to strengthening Australia's relations with the region, noting that 'Bipartisan visits were undertaken by the Turnbull Government and former Foreign Minister Bishop, but have not been continued by the Morrison Government'.

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REFUGEES AND ASYLUM SEEKERS

Harriet Spinks, Social Policy

Key issue

This year (2022) has seen global human displacement rise to record levels. Australia offers resettlement to refugees through the UNHCR (United Nations High Commissioner for Refugees), but the number of places available under this program remains relatively low, particularly in the context of increasing demand.

Australia also faces the question of resolving the status of almost 20,000 people currently living here on temporary protection visas, and that of the offshore processing cohort who have not yet been granted permanent resettlement in any country.

While the COVID-19 pandemic has resulted in many restrictions on human movement globally over the last 2 years, the number of refugees worldwide has continued to rise. As at the end of 2021 there were around 89.3 million forcibly displaced worldwide, including around 27.1 million refugees and 4.6 million asylum seekers. Recent crisis situations in Afghanistan, Venezuela and Ukraine – there are now more than 6 million refugees from Ukraine alone – have pushed these numbers even higher. The UNHCR now estimates that the number of persons displaced around the world exceeds 100 million for the first time on record.

Australia has a long history of welcoming refugees and others in humanitarian need. However, Australia's policy responses to human displacement have been the subject of much debate over the last several years, both within the Parliament and outside it. These policy issues, including the size of Australia's humanitarian intake and the future of temporary protection visas and offshore processing, are likely to be of concern to the new Parliament.

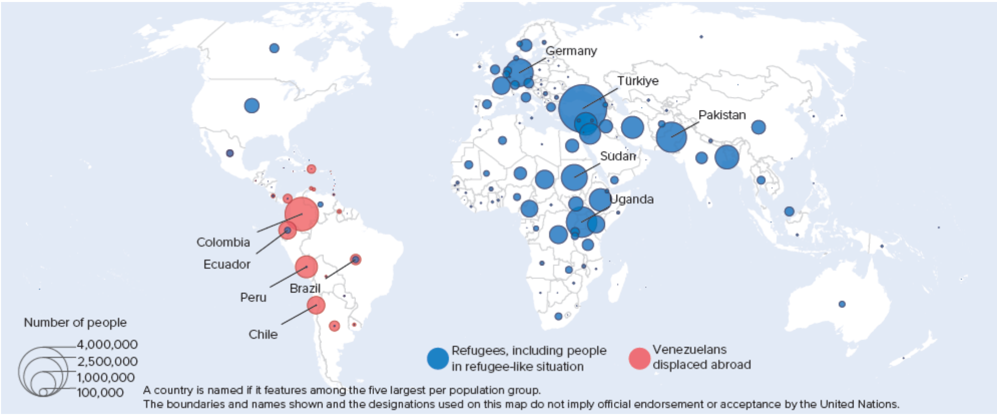
Global refugee trends

Numbers of refugees and other displaced persons have reached record levels in the first half of 2022. As at the end of 2021, the UNHCR reported that the top source countries for refugees and people in refugee-like situations were Syria (6.8 million people), Venezuela (4.6 million people), Afghanistan (2.7 million people) and South Sudan (2.4 million people). Since then, Ukraine has become a major source country of refugees, with over 6.5 million refugees estimated to have left Ukraine for neighbouring countries since 24 February 2022.

Most refugees, and other people displaced across international borders, are hosted in countries close to the refugees' country of origin. As at the end of 2021, some 83% of refugees were being hosted by low and middle income countries, with the largest refugee populations being hosted by Turkey (3.8 million), Colombia (1.8 million), Uganda (1.5 million) and Pakistan (1.5 million). Figure 1 shows the locations of refugees and other international displaced persons around the world, by population size, as at the end of 2021.

Australia is one of only 23 countries that accepted refugees for resettlement in 2021 through the UNHCR resettlement process. However, resettlement in a third country is available for less than 1% of the global refugee population each year, with those considered the most vulnerable prioritised for referral to resettlement countries. In 2021 UNHCR submitted resettlement applications for around 61,000 people. Most refugees remain in countries close to their country of origin and wait either to be able to return home (voluntary repatriation), or for permission to remain permanently in their host country (local integration).

Figure 1 – Refugees, people in refugee-like situations and Venezuelans displaced abroad, end of 2021



Source: United Nations High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2021*, (Geneva: UNHCR, 2022), 21.

Australia's Humanitarian Program

Australia maintains a formal Humanitarian Program under which people may be granted either a permanent visa to resettle in Australia from overseas (offshore resettlement), or, if they are already in Australia, a permanent protection visa permitting them to stay (onshore protection).

The offshore resettlement component of the program comprises both refugees who are referred to Australia for resettlement by the UNHCR (usually around 6,000 places per year), and people in humanitarian need who are proposed for resettlement by a person or organisation in Australia. People in the latter category do not need to demonstrate they meet the threshold for refugee status under the UN Convention Relating to the Status of Refugees, although many do.

The onshore protection component of the program comprises people who arrive in Australia with a valid visa and subsequently apply for, and are found to be owed, protection. It does not include those who arrive in Australia 'irregularly' – that is, either by boat or by air without a valid visa. People in this category who are found to be owed protection are currently not eligible for permanent visas and are not counted within the permanent Humanitarian Program. Instead, they are granted a temporary protection visa valid for either 3 or 5 years (see further discussion below).

The Government sets a planning figure for the Humanitarian Program each year. The planning figure was around 13,750 for many years (with a temporary boost to 20,000 under the last Labor Government in 2012–13). Under the Coalition Government the planning figure reverted to 13,750, but was then gradually increased, beginning in 2015–16 to provide for an additional 12,000 places over 4 years for people displaced by conflict in Syria and Iraq, before being reduced again to 13,750 in 2019–20. Table 1 shows total Humanitarian Program visas grants over the last 10 years, by offshore and onshore components.

The 2019–20 and 2020–21 program years saw a

Table 1 – Humanitarian Program by component, 2011–12 to 2020–21

Year	Offshore resettlement	Onshore protection	Total Humanitarian Program grants
2011–12	6,718	7,038	13,756
2012–13	12,515	7,507	20,022
2013–14	11,016	2,752	13,768
2014–15	11,009	2,750	13,759
2015–16	15,552	2,003	17,555
2016–17	20,257	1,711	21,968
2017–18	14,825	1,425	16,250
2018–19	17,112	1,650	18,762
2019–20	11,521	1,650	13,171
2020–21	4,558	1,389	5,947

Source: Department of Home Affairs, *Australian Migration Statistics 2020–21*, Table 3.0, December 2021.

significant drop in the number of entrants under the Humanitarian Program due to the COVID-19 pandemic and resulting border closures. The granting of offshore humanitarian visas was suspended on 19 March 2020 (p. 12), and resettlement of refugees who had already been granted a visa under the offshore component of the Humanitarian Program was also largely suspended in March 2020, in line with the UNHCR and International Organization for Migration (IOM) suspension of resettlement travel. With borders not reopening to humanitarian entrants until December 2021 it is possible the Humanitarian Program planning figure may similarly not be reached for 2021–22.

Stakeholders have been calling for an increase in Australia's humanitarian intake for many years, in line with the UNHCR's goal of increasing third-country resettlement places globally, and in response to recent crisis situations such as in Afghanistan. The Morrison Government announced in January 2022 that it would provide 10,000 humanitarian visas for Afghan nationals over the next 4 years (as well as quarantining 5,000 family visas for Afghans) but these places were to be allocated within the existing Humanitarian Program quota, not in addition to it. More recently, there have been calls for Australia to accept large numbers of refugees from Ukraine on top of the existing Humanitarian Program quota.

The Australian Labor Party (ALP) has not expressly committed to increasing the humanitarian intake, but its 2021 National Platform states that it 'aspires' to progressively increase the intake to 27,000 per year (p. 123). This was the figure recommended by the Expert Panel on Asylum Seekers in 2012, and, if reached, will represent Australia's largest annual humanitarian intake on record.

What next for those on temporary protection visas?

As noted above, asylum seekers who arrive in Australia irregularly (either by boat or by air without a valid visa), and are found to be owed protection, are not currently counted in the permanent Humanitarian Program, as they are not granted a permanent visa. Instead, under changes made to the *Migration Act 1958* in 2014, they are granted one of 2 temporary visas – a 3-year Temporary Protection Visa (TPV) or a 5-year Safe Haven Enterprise Visa (SHEV). The latter offers a chance at permanent residency for those who work or study in a designated regional area for 3½ years without claiming social security payments, and can meet the criteria for a permanent skilled or family visa. For both visas, the protection claim must be re-proved every 3 or 5 years in order to be eligible for a subsequent TPV or SHEV (unless they have met the SHEV permanent residency pathway requirements).

There is a large group of refugees in Australia holding a form of temporary protection – as at 30 April 2022 there were 18,959 people in Australia holding either a TPV or a SHEV. These are people who arrived in Australia prior to the introduction of Operation Sovereign Borders in 2013, and so were not transferred offshore for processing (see discussion of offshore processing below). Temporary protection has been widely criticised by refugee advocates and human rights groups who argue that it keeps refugees in a state of fear and uncertainty, making it difficult for them to settle into the community and rebuild their lives. The ALP has argued that temporary protection is 'costly and wasteful', and unnecessary for deterrence, so long as boat turnbacks and offshore processing remain in place.

The ALP has committed to abolishing temporary protection visas and moving refugees currently on temporary visas onto permanent visas (p. 123). This will require amendments to the Migration Regulations 1994, which currently provide that a person who is an unauthorised maritime arrival (as defined by section 5AA of the *Migration Act*) or who holds, or has ever held, a TPV or SHEV, is unable to make a valid application for a permanent protection visa (regulation 1401(3)(d)). It will also require the minister to 'lift the bar' under section 46A of the *Migration Act* to allow people in this cohort to make a valid visa application – section 46A provides that a visa application is not valid if it is made by an unauthorised maritime arrival in Australia who is an unlawful non-citizen or who holds a bridging visa, temporary protection visa, or a temporary visa of a prescribed kind, unless the minister makes a determination that this provision does not apply.

While amending the Regulations will be sufficient to enable people currently on TPVs and SHEVs to be granted a permanent visa, it is the Act, not the Regulations, that provides for the existence of these temporary visas. Abolishing these visa classes entirely would therefore require the Government to amend the

Migration Act.

Resettling the offshore processing cohort

One of the most criticised aspects of Australia's refugee and asylum seeker policies over the last decade has been the processing of asylum seekers in Australian-funded centres in Nauru and Papua New Guinea (PNG). The transfer of asylum seekers to offshore processing centres, which had been a feature of asylum policy under the Howard Government from 2001 to 2007, recommenced under the Gillard Labor Government in 2012. Since September 2013, offshore processing, along with turning boats around at sea, has been a cornerstone of Operation Sovereign Borders, the Coalition Government's response to asylum seekers arriving by sea. Numerous critics including refugee advocates, human rights groups, and legal and medical experts have condemned this policy, arguing that it has caused significant harm to the people transferred offshore, has wasted billions of dollars, and is in breach of Australia's international obligations. Offshore processing has also been the subject of multiple inquiries and reviews investigating allegations of self-harm and physical and sexual abuse.

The ALP has stated that it will retain the key elements of Operation Sovereign Borders by continuing to turn asylum seeker boats back at sea 'where it is safe to do so', and maintaining an offshore processing capability in Nauru for any irregular maritime asylum seekers who cannot be safely turned back. With most vessels now being intercepted and turned back at sea, it is unlikely that large numbers of asylum seekers will be transferred for offshore processing in the future. The key issue for the incoming Government will therefore be finding suitable resettlement outcomes for the people from this cohort who remain in limbo in Nauru and Australia.

It was initially intended that people transferred from Australia to a processing centre in PNG or Nauru who were found to be refugees would either settle there permanently (in the case of PNG) or be granted a long-term visa to remain (in the case of Nauru). PNG finalised its refugee resettlement policy in June 2015 and resettlement of refugees began late in 2015. Regional processing arrangements in PNG ended on 31 December 2021 and people remaining in PNG after this date are no longer considered part of Australia's regional processing caseload. Their resettlement options (either in PNG or elsewhere) will be determined by the Government of PNG.

Regional processing remains in place in Nauru, with a new memorandum of understanding to 'establish an enduring regional processing capability' there having been signed in September 2021. As at 30 April 2022 there were 112 people remaining in Nauru who had been transferred there under Operation Sovereign Borders – 83 confirmed refugees, 12 still in a refugee status determination process, and 17 who had been found not to be refugees. Additionally, as at 4 April 2022 there were 1,175 'transitory persons' in Australia (p. 12) – that is, people from the offshore processing cohort who have been temporarily brought to Australia, generally for medical treatment or to accompany someone who requires medical treatment. None of these people is eligible to settle permanently in Australia, and the ALP has stated that it will continue the policy of not allowing them (or any potential future maritime arrivals) to settle here. Currently, the long-term options available to this group of people are to voluntarily return to their country of origin, settle permanently in Nauru, or apply for resettlement to the US or New Zealand.

The Turnbull Government announced in November 2016 that it had agreed on a resettlement arrangement with the US, under which up to 1,250 people who had been found to be refugees would be resettled to the US from the Regional Processing Centres in Nauru and PNG. As at 30 April 2022, 1,002 refugees had been resettled in the US under this arrangement – 401 departed from Nauru, 427 departed from PNG and 174 departed from Australia. This means there are roughly 250 places remaining under this arrangement.

In March 2022, following many years of refusing to accept a resettlement offer from New Zealand, the Morrison Government announced that it had reached an agreement with New Zealand to resettle up to 150 people from the offshore processing caseload there each year for the next 3 years. These 450 resettlement places, and the remaining places in the US resettlement agreement, will offer a chance at permanent resettlement for around half of the people remaining in the regional processing caseload. A small number of people have been resettled in other countries, including Canada, through private sponsorship arrangements. This option will likely still exist, but the numbers available through this pathway are likely to continue to be very small. Resolving the status of the remaining several hundred people in this cohort is therefore likely to be a significant challenge for the incoming Government, and a subject of intense interest to many in the Parliament.

Further reading

United Nations High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2021*, (Geneva: UNHCR, 2022).

Janet Phillips, *Australia's Humanitarian Program: a Quick Guide to the Statistics Since 1947*, Research paper series 2016–17, (Canberra: Parliamentary Library, 2017).

RIGHT-WING EXTREMISM IN AUSTRALIA

Caitlin Grant, Foreign Affairs, Defence and Security

Key issue

Right-wing extremism has existed in Australia for many decades, with groups coming and going over time. Recently, there has been a notable rise in the public awareness of these groups and the risk they pose to the Australian community and security. The rise of the internet and the COVID-19 pandemic have changed the security landscape in Australia when it comes to these groups and their potential to do harm.

Introduction

Right-wing or 'far right' extremism is not a new phenomenon, in Australia or internationally, but in recent years has re-emerged to become more visible and a growing threat to national security.

Right-wing extremism is an overarching term defined by the Australian Security Intelligence Organisation (ASIO) as 'the support for violence to achieve political outcomes relating to ideologies, including but not limited to, white supremacism and Neo-Nazism'. The Institute for Economics and Peace describes a number of components that make up a right-wing ideology: 'strident nationalism (usually racial or exclusivist in some fashion), fascism, racism, anti-Semitism, anti-immigration, chauvinism, nativism, and xenophobia' (p. 45). These groups are also known for conspiracy theories and anti-government sentiment that can often be linked back to these racist and xenophobic roots.

It is important to note that right-wing extremism does not always involve violent extremist movements. Groups exist in small pockets and echo chambers that internalise hateful messaging and may promote violence. The New Zealand Royal Commission into the Christchurch attack noted that there are often 'fluid boundaries' between hate crimes and right-wing terrorism.

While it is important to note that in a balanced democracy all opinions are represented, this article deals with those right-wing opinions and ideology that focus on harming others and support violence in order to achieve political and ideological goals.

Security landscape

The overall terrorist threat in Australia is currently 'probable', which means that 'credible intelligence, assessed by [Australian] security agencies, indicates that individuals or groups have the intent and capability to conduct a terrorist attack in Australia'. The ASIO Director-General, Mike Burgess, notes in the annual threat assessment for 2022 that during the past 12 months this threat emanates more from a potential lone actor than groups. In a previous threat assessment the Director-General observed that right-wing extremists are generally motivated by some perceived notion of social or economic hardship, are much harder to identify and tend to be middle class and educated rather than the stereotype of poor and uneducated.

Since becoming Director-General in 2019, Mr Burgess has stated in every annual threat assessment that ASIO has seen an increase in the threat from right-wing extremists. A particular trend identified by ASIO, starting with the 2020 assessment, is the young age at which people are being radicalised in extremism. In 2021 minors accounted for 15% of ASIO's counter-terrorism investigations, a marked increase compared with only a few years before. In 2022 the Director-General identified that the Australians being radicalised are younger than ever, with the number of minors increasing and the age at which they are becoming radicalised decreasing.

The year 2020 saw a number of firsts for countering right-wing extremism, including a person being charged under Commonwealth terrorism legislation and a passport cancellation preventing a person travelling to fight with right-wing groups internationally. Additionally, a second terrorism threat linked to extreme right-wing groups was disrupted.

In early 2021 ASIO decided to change how terrorism threats are categorised and understood. While previously, terms such as 'far-right extremism' or 'terrorism' and 'Islamic terrorism' had been used, more overarching terminology was introduced to refocus intelligence efforts. The new terms are 'ideologically motivated violent extremism' and 'religiously motivated violent extremism'. In announcing the change in terminology ASIO explained that this enables ASIO to be more flexible by focusing on the threat of violence rather than the specific political or religious motivation. Of course, there are times when specific labels may be necessary to understand the nature of a group or individual.

What is ideologically motivated violent extremism?

Ideologically motivated violent extremism (IMVE) is an umbrella term coined by ASIO in 2021 to describe the use of violence by individuals or groups in order to achieve political goals or express social grievances.

Parliamentary Joint Committee on Intelligence and Security Inquiry

The PJCIS began its inquiry into 'Extremist Movements and Radicalism in Australia' in December 2020 on referral from the Minister for Home Affairs. The terms of reference tasked the committee with examining the threat and nature of extremist groups in Australia, where they are located and any changes that may need to be made at the Commonwealth level to address any issues found. The committee received submissions from state and federal agencies, as well as the private sector and state governments. Two public hearings were held and all invited witnesses made submissions.

ASIO's submission noted that extreme right-wing groups have been 'in ASIO's sights for many decades' (p. 3), but that these groups are more security conscious and organised than before. During the hearings for the inquiry, the Director-General confirmed that investigations into ideologically motivated violent extremism now make up roughly 40% of all ASIO cases, in part because ASIO recognises the seriousness of the threat and has decided to dedicate more resources to countering it.

The evidence provided to the committee showed that the threat of violent extremism in Australia is very real and has increased in recent years. Many submissions mentioned the use of Countering Violent Extremism (CVE) measures that aim to identify and intervene with those who might be vulnerable to radicalisation.

The PJCIS tabled an interim report on 1 April 2022, with the inquiry lapsing at the end of the 46th Parliament on 11 April 2022. In the interim report the committee recommended that new terms of reference and a new inquiry be referred to the PJCIS in the 47th Parliament. The interim report also noted the ASIO Director-General's threat assessments of 2021 and 2022, particularly the comments relating to the young age of Australians being radicalised, the use of online technologies, and the rise that ASIO has seen in extremist movements in Australia.

Right-wing extremism and COVID-19

During the COVID-19 pandemic there has been an increase in public protests against governments and policies such as lockdowns and vaccination mandates. In the 2021 ASIO threat assessment, the Director-General noted the way in which right-wing groups were able to use COVID-19 restrictions as propaganda to further embed anti-government sentiment by portraying the government as overreaching and 'globalisation, multiculturalism and democracy as flawed and failing'. By 2022 he observed:

> The behaviours we are seeing in response to COVID lockdowns and vaccinations are not specifically left or right wing. They are a cocktail of views, fears, frustrations and conspiracies.

> Individuals who hold these views, and are willing to support violence to further them, are best and most accurately described as ideologically motivated violent extremists.

In a May 2020 position paper, not-for-profit charity and self-described 'racial equity organisation', All Together Now, noted that as a way of managing the pandemic, many young people were seeking belonging and community during periods of isolation and that right-wing groups were increasingly targeting these young people using online forums and websites where they can express their views.

In Victoria during the lockdowns of 2021, peaceful protests by construction workers against government restrictions were hijacked by members of the far-right in an attempt to draw attention to and further their cause while painting the Victorian Government as oppressive and unreasonable. Some protests turned violent, eliciting a strong response from the Victorian Government and Victoria Police. In an article in the *Atlantic*, Australian National University academic Simon Copland notes that the extreme right was able to infiltrate these protests with ease, in part because of the nature of the Victorian Government's response, and continue to play on negative feelings about the Government in the broader community. By capitalising on a particular fear these groups let those who feel alienated know they have somewhere to go and over time opened a space for dialogue and the sharing of other parts of their ideology.

Following the official declaration of the pandemic in March 2020, there were a number of academic studies in Australia examining the exploitation of the pandemic to bolster and further extremist ideology. Campion, Ferrill and Milligan found that extremist groups were integrating the pandemic into their existing ideology to reinforce their beliefs and engage with new audiences, particularly in online forums. They also found that groups were expanding the base of their ideology, including, in some cases, with ideas that conflicted with their previous stances – effectively taking on the ideas of others as they interacted. There was also evidence of groups bringing in specific conspiratorial narratives, particularly those around 5G networks, which seemingly had no relation to the ideologies these groups had previously espoused. Campion et al. concluded that these changes, particularly the adoption of new ideas and leadership, has complicated the national security environment because it has the potential to make it harder for the security and law enforcement agencies to identify distinct groups, due to the overlapping nature of their beliefs.

The right-wing online

As with many things in the 21st century the online environment has become not only somewhere for right-wing extremists to meet and share ideas, but also to recruit. The online operations of these groups have become quite sophisticated.

The rise of social media, both mainstream and alternative, as well as encrypted messaging services, has allowed groups and individuals to share ideas and build community with like-minded people. Groups have been able to connect with individuals, particularly young people who felt physically and socially isolated, perhaps bonding over one shared grievance before drawing in further beliefs. The joint submission to the PJCIS inquiry by the departments of Home Affairs, Foreign Affairs and Trade, and Attorney-General's echoes others' observations about extremist groups using social media to recruit young people and expand their reach to new audiences.

In the same submission, the departments outline how the dark web and 'anonymising technology' is increasingly being used by extremist movements. These technologies, including bespoke encrypted devices, enable extremists to share information and operate across jurisdictions with ease. The use of this kind of encrypted technology is problematic for law enforcement as groups are more easily able to hide their activities. Victoria Police noted in its submission to the PJCIS inquiry that social media sites that are based overseas also make it difficult for law enforcement to access material that may be used as evidence.

As extremists turn to the online environment to connect and share their message, there has been some talk of 'deplatforming'. In practice, this means to remove the accounts of people and groups who promote or share extremist messaging. In her parliamentary submission, academic and researcher, Lydia Khalil, discussed the recent efforts of some platforms to remove accounts and pages that share extremist content. As yet, there is no telling if this is a long-term solution, with debate online as to whether taking down these pages and community spaces actually disrupts extremist activities or encourages movement to alt-tech platforms that are more challenging to monitor. Academic Maura Conway has pondered the difficulties in deplatforming right-wing extremists compared to Islamic State, noting that right-wing extremism is an ideology with any number of groups and no clear structure, unlike Islamic State, which is a single group with a clear leadership structure.

While deplatforming and similar efforts may well assist in disrupting the online activities of right-wing extremists and associated groups, any move to alternative sites by these groups and individuals risks fuelling 'othering' (the perception and stigmatisation of difference) and enhancing their efforts to build right-wing communities.

Recent policy initiatives and announcements

Countering Violent Extremism is central to Australia's approach to the prevention of terrorism and violent extremist actions. CVE is a joint initiative of all Australian governments, state and federal, overseen by the Department of Home Affairs. The CVE initiative centres on working with communities to 'build resistance' to extremist ideologies, and works by engaging with communities to support diversion, build resistance against radicalisation, and rehabilitate and reintegrate those who have left violent extremist groups. The Department of Home Affairs estimates that $120 million has been spent on CVE programs since 2013 (as at February 2022).

Part of the CVE effort is the 'Living Safe Together' initiative, a website that provides information for communities and individuals in order to build resilient communities. The website has information about what extremism is, how to recognise the signs a person is being radicalised and what individuals and communities can do if they think someone is being radicalised. There is also information on government programs and a facility to report potential cases of radicalisation. The initiative has produced a number of fact sheets including, 'What is Violent Extremism?' and 'What is Radicalisation?'.

The proscription of terrorist organisations is a process that was enabled when terrorism offences were inserted into the Criminal Code in the wake of the September 11 attacks in 2001. Terrorist organisations can be proscribed under Division 102 of the *Criminal Code Act 1995*. In March 2021, following campaigning by the Labor Opposition – in particular, the Shadow Minister for Home Affairs Kristina Keneally – a right-wing group, Sonnenkrieg Division, was listed as a terrorist organisation under the Criminal Code for the first time. In November 2021 a second right-wing group, The Base, was listed. The listing of these organisations enables all terrorist offences and associated penalties to be applied to them.

Further reading

Kristy Campion, Chasing Shadows: The Untold and Deadly Story of Terrorism in Australia, (Australia: Allen & Unwin, 2022).

Mario Peuker and Debra Smith, *The Far-Right in Contemporary Australia*, (Germany: Springer Singapore, 2019).

THE ONGOING MILITARISATION OF SPACE

Stephen Fallon, Foreign Affairs, Defence and Security

Key issue

When Defence Minister Peter Dutton announced the establishment of Australia's Defence Space Command in January 2022, not all commentators took it seriously. However, space is recognised as a warfighting domain. Australia's decision to establish the Defence Space Command, which was officially stood-up in March 2022, follows the founding of similar organisations in the US, UK, Russia and China.

Space has been a contested domain since the former Soviet Union's launch of the world's first artificial satellite, Sputnik I, in 1957. However, the crucial role of military enabling satellites providing surveillance, navigation and communication capabilities, and the deployment of offensive and defensive space systems, has the potential to escalate conflict in the space domain with potentially ruinous consequences.

Space as a military domain

The use of space for military purposes is not a new phenomenon. The US Air Force launched the first communications satellite in 1958 (p. 1), which President Eisenhower used to present a Christmas message of good will and peace to the world. Satellite technology swiftly advanced, with the Corona photo-reconnaissance program providing imagery intelligence from 1960 to 1972. Today the world uses global navigation systems, such as GPS, for military and civilian activities.

Modern military operations, which involve a coordinated use of multi-domain capabilities, rely on the use of space-based technology. Satellites, for example, provide communications and intelligence capabilities integral to the ability of militaries to find, fix, track, target, engage and assess. In recent wars against insurgents and Islamist terrorists in the Middle East, allied forces have enjoyed complete dominance in the space domain, affording them a significant edge.

The elevation of space as a military domain was recently acknowledged by the Morrison Government in opening the Australian Defence Space Command in March 2022. The then Defence Minister Peter Dutton portrayed the new command as responding to aggressive steps taken by countries such as China and Russia. He argued that greater Australian space capabilities would improve the country's self-reliance and make it a better ally.

The then Shadow Defence Minister, Brendan O'Connor, welcomed the establishment of the Defence Space Command, noting that the 'increase in hypersonic missile activity, grey zone activities and targeting of satellites and space systems and networks has hastened the need for capabilities in this area' and that investing in this area will support Australia's defence relationships with allies and partners.

As both politicians suggested, as great-power competition increases, the probability of fighting a peer or near-peer adversary grows and the threat posed by potential adversaries to Western space-based capabilities is a growing concern. Countries recognise that militaries depend on the use of space capabilities to collect and disseminate information rapidly. They are therefore developing, testing and deploying counterspace capabilities designed to constrain each other's freedom of manoeuvre in space in a conflict.

This not only threatens the West's ability to prevail in conflict, but also threatens the modern way of life, which depends on the use of satellites for a variety of everyday, non-military tasks.

Counterspace capabilities

Counterspace capabilities take a variety of forms. Kinetic weapons are designed to physically damage or destroy a space capability, while non-kinetic counterspace systems attempt to affect satellites or ground systems without making physical contact. The Center for Strategic & International Studies' (CSIS) *2022 Space threat assessment* provides a useful summary of these capabilities (pp. 3–5):

- Kinetic physical counterspace weapons attempt to strike directly or detonate close to a satellite or ground station. They come in three main forms: (1) Direct-ascent anti-satellite (ASAT) weapons, which are launched from earth to strike a satellite in orbit. (2) Co-orbital ASAT weapons are placed in orbit then manoeuvred to their target when required. (3) Ground station attacks are targeted against Earth-based sites controlling satellites or the communication of satellite data to users.
- Non-kinetic physical counterspace weapons target satellite or ground systems without physically touching them. For example, lasers can be used to temporarily or permanently blind sensors on satellites or cause them to overheat. High-powered microwave (HPM) weapons can disrupt satellite electronics or cause permanent damage to circuits and processors, while a nuclear detonation in space can cause an electromagnetic pulse that would affect satellites. Lasers and HPM weapons can be operated from a variety of platforms, including land, sea, air and space-based platforms. It is worth noting here that the Outer Space Treaty Article IV prohibits the use of nuclear weapons in space.
- Electronic counterspace weapons target the electromagnetic spectrum that space systems use to transmit and receive data. 'Uplink jammers' interfere with signals travelling from Earth to a satellite, such as signals that control the satellite, while 'downlink jammers' jam the signal from the satellite to Earth-based users. A 'spoofer' can be used to introduce false information into data streams or even issue false commands to a satellite. The Royal United Services Institute (RUSI), a UK defence think tank, observes that jamming is generally neither difficult nor costly.
- Cyberoperations against satellites can monitor data traffic patterns, intercept data, or insert false or corrupted data. Such operations can target a number of nodes in the system: satellites, ground stations or end-user equipment.

Writing from an American perspective, the 2020 US *Defense space strategy* warned:

> China and Russia present the greatest strategic threat due to their development, testing, and deployment of counterspace capabilities and their associated military doctrine for employment in conflict extending to space. China and Russia each have weaponized space as a means to reduce U.S. and allied military effectiveness and challenge our freedom of operation in space (p. 1).

The US Defense Intelligence Agency's 2022 unclassified report on challenges to security in space assessed that China and Russia grew their in-orbit assets by approximately 70% (combined) between 2019 and 2021. The CSIS report also corroborates these assessments, describing China and Russia as among the most sophisticated actors in space operations, while India, which aspires to great-power status, is also making significant strides towards becoming a space power. However, the US is still considered to be the pre-eminent space power. Competition between these powers is driving the development of capabilities that create the potential for miscalculation and destructive military operations that threaten the ability of all nations to access space, as discussed later in this paper.

United States

In its 2022 global counterspace capabilities study, the Secure World Foundation judged that the US 'currently has the most advanced military space capabilities in the world' (p. 01-01). According to the foundation:

> … the United States fields one acknowledged counterspace system that uses electronic warfare capabilities to interfere with satellite signals, but it also has multiple other operational systems that could be used in counterspace roles. There is evidence to suggest a robust debate is underway, largely behind closed doors, on whether the United States should develop new counterspace capabilities, both to counter or deter an adversary from attacking U.S. assets in space and to deny an

> adversary their own space capabilities in the event of a future conflict. The impetus for this debate is renewed Russian and Chinese counterspace development and the recent conclusion that the United States is engaged in great power competition with Russia and China [p. 01-01].

Among these systems that could be used in a counterspace role, according to the foundation, are technologies to approach and rendezvous with spacecraft, which would allow the US to develop a co-orbital capability quickly if it chose to do so (p. 01-01). While the US has not acknowledged a direct-ascent ASAT capability, it does have missile capabilities that have been demonstrated in an ASAT role (p. 01-10).

The US also has non-kinetic options in the form of electronic warfare systems:

> … the Counter Communications System (CCS), which can be deployed globally to provide uplink jamming capability against geostationary communications satellites. It is working on Meadowlands, an updated version of the CCS system, which is intended to be used in an offensive capacity against satellite communications [p. 01-17].

The US has also conducted extensive research on the use of ground-based high-energy lasers for counterspace purposes and it possesses low-power laser systems that can dazzle and possibly blind imaging satellites. However, there is no evidence, according to the foundation, that the US has a space-based directed energy weapon (DEW), or laser, capability (p. 01-21).

In terms of US cyber capabilities, the International Institute for Strategic Studies has identified the US as a tier 1 cyber power with a capacity for 'offensive cyber operations [that] is probably more developed than that of any other country', suggesting that the US is probably at least as capable as any other nation of using cyberoperations in a counterspace role.

China

CSIS assesses that China has a 'robust arsenal of space and counterspace capabilities' (p. 10). Perhaps most notably, this was demonstrated in 2007 when China used a direct-ascent ASAT weapon to destroy one of its own satellites, creating a dangerous debris field. Furthermore, China has demonstrated the ability to rendezvous with other satellites in orbit, which, while not an official counterspace weapon demonstration, nevertheless proves that China has the experience and knowledge required to operate co-orbital counterspace weapons (p. 10).

CSIS also observes that China has a growing list of jamming and spoofing capabilities that can be used against space and non-space signals. On cyber, it acknowledges that little is known about China's counterspace cyber capabilities; however, pointing to its cyber capabilities in other domains, it assesses that China has a useful foundation that could be directed towards counterspace operations (p. 10).

The Secure World Foundation's *2022 Global counterspace capabilities* report agrees with CSIS's conclusions, noting that there 'is strong evidence indicating that China has a sustained effort to develop a broad range of counterspace capabilities' (p. xvii), including ASAT weapons and electronic warfare counterspace capabilities targeting navigations systems, such as GPS, and satellite communications. It also concludes that China is likely building directed energy weapons (DEW) for counterspace purposes. DEW capabilities have been pursued by China since the 1960s, though evidence about Chinese capability in this field is scarce. However, the report observes that a December 2013 article in a Chinese scientific journal stated that a successful laser blinding test had been carried out in 2005 against a satellite at an altitude of 600 km (p. 03-18).

Russia

Russia has a comprehensive suite of counterspace weapons, according to CSIS (p. 13). It conducted an ASAT test on 15 November 2021, destroying one of its own satellites. This test was criticised because it created a significant field of debris and endangered the crew on the International Space Station. Russia also recently demonstrated its ability to jam satellite communications and GPS signals in conflict areas. RUSI highlighted, for example, that satellite communications providers are experiencing offensive cyberoperations and GPS signals above Ukraine have been jammed. The US has blamed Russia for the latter issue, while the former is likely also, at least partly, due to Russian action – as RUSI highlights, Russian military doctrine prioritises 'information dominance'.

Of note, CSIS reports that a recent focus of Russia's efforts appears to be the collection of intelligence via satellites designed to capture communications and detect ground-based objects (p. 13). It does not appear to regularly use cyber means to target space systems, though CSIS highlights that Russia is capable of doing so (p. 13).

The Secure World Foundation supports the CSIS analysis. It also expands on it, observing that a resurgence in Russian rendezvous and proximity operations (RPO) – basically, positioning one space object close to another – is raising concerns that Russia is developing new co-orbital anti-satellite capabilities. It appears to be putting craft into orbit that are capable of manoeuvring to approach other objects in space. In one instance, for example, a Russian payload, identified as Cosmos 2504, positioned itself to move within 2 km of a piece of Chinese space debris created by China's 2007 ASAT test in what the Secure World Foundation speculates was a mission that may have been seeking intelligence on the Chinese direct-ascent ASAT program (p. 02-07).

India

While it lags behind the US, China and Russia as a spacefaring nation, India is seeking to progress in this domain, driven by a combination of a desire to build India's prestige, capture business opportunities and advance its national security (pp. 7–10). In the security sphere, it has been investing heavily in military intelligence satellites and focusing on its contested border with China (p. 15).

India tested its ASAT capability in 2019, destroying an Indian satellite. According to the Carnegie Endowment for International Peace, India took steps to limit the orbital life of the debris created by the test, which was aimed at deterring China. From a counterspace perspective, CSIS assesses that although it has demonstrated its direct-ascent ASAT capability, there is no public evidence that confirms India possesses non-kinetic counterspace capabilities – it is unclear whether India used electronic warfare and cyberoperations to target space systems (p. 15).

Australia in the space domain

The establishment of the Defence Space Command brings together members of Air Force, Army, Navy and the Australian Public Service under an integrated headquarters reporting to the Chief of Air Force. It aims to drive space priorities in Australia and with allies and partners, create a cohort of trained specialists and conduct strategic planning.

While Australia is in the early stages of developing sovereign space capabilities, it is able to leverage its alliance with the US to obtain significant benefits, including, for example, intelligence derived from US space capabilities. Australia is also collaborating with the US on its Space Surveillance Telescope, operated by the US Space Force's Space and Missile Systems Center and located in Western Australia, which will improve space domain awareness available to Australia, the US, and allies.

Australia's *Defence space strategy* acknowledges that Defence has limited sovereign space capabilities, forcing it to rely on the US, other international partners and commercial entities. As a consequence, Australia is investing significant sums to improve its self-reliance. The strategy highlights that the *2020 Defence strategic update* includes 'over AUD $17 billion investment in space capabilities to 2036' aimed at delivering 'a mix of sovereign and collaborative systems to Defence including Positioning, Navigation and Timing, Satellite Communications, Intelligence Surveillance and Reconnaissance, and Space Domain Awareness' (p. 13). In particular, the strategy notes the importance of 'resilience, survivability and the ability to continue operating under gradual degradation of national and allied space capabilities' (p. 13).

The *Defence strategic update* also emphasises the importance of investing in space situational awareness, including sensors and tracking systems and states that Defence will continue to work with government agencies and industry to advance its space capabilities (p. 39).

Elements of the strategy appear to be in train. For example, a February 2022 media report observed that the Morrison Government had issued a tender for a contract to deliver at least 2 and as many as 4 military communication satellites worth $4 billion. The project scope includes ground stations, launch and life-cycle costs. As the report notes, perhaps the biggest challenge will not be procuring the equipment, but staffing it: building a cohort with the appropriate skills to fully exploit the satellite constellation will be a challenge.

Furthermore, according to Air Vice-Marshal Catherine Roberts, Commander of Defence Space Command, Defence is currently developing kinetic and non-kinetic capabilities to deal with adversary satellites without creating risk debris fields. The Morrison Government was also investing in developing Australian-made satellites and was promoting cooperation between Australia's space industry and India.

On the need for resilience, survivability and the ability to continue combat operations as space capabilities are degraded, Malcolm Davis, an analyst at the Australian Strategic Policy Institute, has argued that Defence should aim for a 'high-low mix', buying sophisticated satellites from allies and complementing them with 'small, many and cheap' satellites, some of which are available from Australian manufacturers. Ideally, Davis points out, Australia requires a sovereign launch capability that can quickly reconstitute satellite capabilities lost to enemy action, providing a resilient, survivable constellation.

Risks presented by the militarisation of space

As noted above, contemporary warfare depends upon the use of space. This offers enormous advantages, facilitating high-speed, time-sensitive military operations. However, it creates an environment in which escalation is a significant risk.

For example, in a crisis between 2 great powers, both of which rely on space capabilities to facilitate military operations, both sides will possibly be motivated to attack their opponent's space assets first. As US Space Force deputy chief of operations Lt Gen. B Chance Saltzman has stated, 'We are seeing a shift to where the first strike advantages are encountered in space … They're the first mover advantage, whoever can go first on the offense has an advantage'. An awareness of the advantage offered to whoever strikes first will possibly create 'use it or lose it' scenarios (p. 46), raising the risk of tension escalating into conflict.

The ability to attack satellites without killing adversary personnel may also lead to miscalculations that make conflict more likely. For example, a belligerent might calculate that an attack on its adversary's satellites, which kills no one, is less likely to prompt retaliation than an attack on a satellite ground station operated by personnel. Similarly, the use of 'soft-kill' techniques, such as using a laser to dazzle a satellite, might be considered by an attacker to be less escalatory than destroying a satellite. However, the target of such attacks may not appreciate the distinction and retaliate.

Perhaps of greatest concern is that nuclear powers typically rely on satellites for 'early warning of missile launches, communications, geopositioning, navigation, and timing and synchronization of NC3 [nuclear command, control, and communication] systems and networks'. Such satellites also commonly serve tactical and strategic, nuclear and conventional roles. If such satellites are targeted, even in a non-nuclear confrontation, there is a risk that their user will believe that the enemy is attempting to 'blind' them as a precursor to a nuclear strike.

This would create another 'use it or lose it' scenario: would the targeted country wait and risk losing more control over its nuclear forces, or would it feel compelled to escalate to the nuclear level before its ability to do so, and to detect its opponent doing so, deteriorated further as a result of possible future attacks? As the academic Sitki Egeli observes, there would be a risk that 'impending decisions will be made on the basis of insufficient and potentially erroneous information, and the climate will be ripe for unfounded presumptions and predispositions'. According to Egeli, the US has already threatened to use nuclear weapons if its NC3 comes under attack with non-nuclear weapons.

Finally, kinetic attacks on satellites risk creating extremely dangerous debris fields. CSIS has highlighted the consequences:

> Russia's latest direct-ascent anti-satellite missile test unleashed a debris field of approximately 1,500 trackable pieces when it destroyed Cosmos-1408, a defunct Soviet satellite. NASA reported that the astronauts and cosmonauts aboard the International Space Station took emergency measures as the station passed "through or near the cloud every 90 minutes" for several hours. From this event alone, the risk of contributing to a Kessler Syndrome event increased by five percent according to France. This is alarming for all states,

> explains former NATO secretary general Anders Fogh Rasmussen, because "even a fleck of paint can cause critical damage to infrastructure in space" assuming it's traveling at an average of 10 km per second.
>
> According to the U.S. nonprofit Union of Concerned Scientists, orbital debris in LEO—orbits with an altitude of 2,000 kilometers or less—can travel "30 times faster than a commercial jet aircraft. At these speeds, pieces of debris larger than 1 cm (half an inch) can severely damage or destroy a satellite, and it is not possible to shield effectively against debris of this size."

The Kessler Syndrome, named after former NASA scientist Donald Kessler, describes a scenario in which a cascade of orbital debris could potentially hinder humanity's space ambitions and activities. Academic Wendy N Whitman Cobb explains, the environmental consequences of space warfare, highlighting that 'Debris-creating conflicts in space would likely lead to the environmental degradation of the near-earth environment, potentially restricting use of some orbits if not making them completely unusable'. Given that so much of modern life depends on the use of space, this alone is cause for concern.

Space is contested, but it is also increasingly congested, which adds to the risk of an extremely damaging Kessler Syndrome event. According to *The Conversation*, there were 7,941 satellites orbiting Earth as of 16 September 2021. This number is rapidly growing, with 1,400 new satellites launched between 1 January and 16 September 2021.

This is largely a result of the 'democratisation of space'. Access to space is no longer restricted to the wealthiest and most technologically advanced countries. Instead, '[l]arge space agencies, multimillion dollar budgets, and big satellite missions have given way to private companies, universities, and research centers, smaller budgets, and small satellites'. This has broadened access to space-based capabilities. As an illustration, open-source researchers are now able to obtain access to commercial satellite imagery, which they have used to identify military developments. This has led CSIS to conclude that the democratisation of space 'and commercialization of satellite images are quickly becoming creative tools to affect foreign policy in ways that, just a few decades ago, were next to impossible'.

Australian firms are exploiting these reduced barriers to space. For example, Skycraft, a Canberra-based firm, designs, builds and operates satellite constellations, while companies such as Southern Launch, based in South Australia, offers launch services to put payloads into space. This burgeoning industry offers the prospect of Australia building a degree of sovereign space capability.

Further reading

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THE THREAT OF RANSOMWARE

Bernie Lai, Foreign Affairs, Defence and Security

Key issue

The ransomware threat is the most serious cybercrime threat to Australia, creating significant risks for both governments, businesses and individuals. During the 46th Parliament, both major parties released their respective strategies and introduced relevant law reforms to tackle this threat. The 47th Parliament is likely to see continued legislative and policy actions to address the problem, given the evolving nature of ransomware, the cost inflicted on its victims, and the practical difficulties involved in combating it. In particular, law enforcement agencies and businesses alike face shortages of qualified staff, while investigation and prosecution of offenders, who can be based anywhere in the world, can have low prospects of success.

Cybercrime takes many forms, including identity crime, computer hacking, phishing, botnet activity, computer-facilitated crime, and cyber intrusion directed at private and national infrastructure. However, in 2021, the Australian Cyber Security Centre (ACSC) labelled ransomware as the most serious of the cybercrime threats to Australia due to its high financial impact and other disruptive impacts to victims and the broader community (p. 16).

Ransomware is malicious software used by threat actors to look for vulnerabilities in the IT systems of individuals or organisations and deny them access to their files or devices (by locking up, encrypting or exfiltrating data) until a ransom is paid. If a ransom demand is not met within the designated timeframe, then the threat actors may sell, publish or delete the exfiltrated data. This makes the threat of ransomware attacks both a national security and personal privacy issue.

The Morrison Government introduced a number of policy and law reform initiatives during the latter part of the 46th Parliament, some of which lapsed on prorogation. The Albanese Government's appointment of the first dedicated Minister for Cyber Security, and its commitment to a ransomware strategy while in Opposition, suggest that this issue may again be on the agenda in the early months of the new Parliament.

Recent trends

The 2022 *Verizon data breach investigations report* found that the number of ransomware attacks worldwide increased by 13% over 2020–21, which represented a larger increase than the past 5 years combined (p. 7). Meanwhile, CrowdStrike Intelligence, apparently using a different methodology, observed an 82% increase in 'ransomware-related data leaks' from 1,474 instances in 2020 to 2,686 instances in 2021.

According to a survey conducted by Sophos, 66% of organisations worldwide were affected by ransomware attacks in 2021, which was up from 37% in 2020 and represented a 78% increase over a year (p. 3). This trend suggested that threat actors had become more adept at executing the most significant attacks at scale and likely reflected that the Ransomware-as-a-Service (RaaS) model was gaining traction (p. 3). With ransomware having evolved into a subscription service, the RaaS model allows ordinary criminals to purchase ransomware from skilled ransomware developers and conduct attacks without significant technical expertise.

Consistent with these global trends, ransomware attacks have also proliferated in Australia. The ACSC received almost 500 ransomware-related cybercrime reports in the 2020–21 financial year, which represented an increase of nearly 15% on the previous financial year. The ACSC attributed this increase to threat actors being more willing to extort money from particularly vulnerable and critical elements of society. Australia's health sector has been a major target of ransomware attacks during the COVID-19 pandemic, as threat actors take advantage of the perceived willingness of health service providers to pay ransoms due to the health and safety risks to their patients.

Further, Cybersecurity Ventures predicted 5 years ago that the global cost of ransomware would be US$20 billion in 2021 and expects that number to increase to US$265 billion annually by 2031. In Australia, it has been said that ransomware incidents cost the Australian economy as much as $2.59 billion annually, with organisations reportedly paying on average $250,000 per incident.

Coalition Government's Ransomware Action Plan

In October 2021, the Morrison Government published its *Ransomware action plan* (RAP), which outlined its strategic approach to combating the threat posed by ransomware. The RAP stated that the Morrison Government would:

- introduce a mandatory ransomware incident reporting scheme to the Australian Government
- introduce a new stand-alone offence for all forms of cyber extortion
- introduce a new stand-alone aggravated offence for cybercriminals seeking to target critical infrastructure (proposed in the Security Legislation Amendment (Critical Infrastructure) Bill 2020 [2021])
- modernise legislation to ensure that cybercriminals can be prosecuted, and that law enforcement can track, seize or freeze their illegal profits.

Home Affairs Minister Karen Andrews also announced in a related media release that as part of the RAP, the Morrison Government would criminalise the act of dealing with stolen data knowingly obtained in the course of committing a separate criminal offence, as well as the buying or selling of malware to commit computer crimes.

The RAP also proposed a range of policy and operational responses to the ransomware threat including:

- establishing the multi-agency taskforce, Operation Orcus, led by the Australian Federal Police to combat the ransomware threat
- awareness training and clear advice for critical infrastructure, large businesses and small to medium enterprises on ransomware payments
- joint operations with international counterparts to strengthen shared capabilities to detect, investigate, disrupt and prosecute malicious cyber actors who engage in ransomware
- actively calling out states that support or provide safe havens to cybercriminals.

To implement some of the law reforms proposed in the RAP, in February 2022 the Morrison Government introduced the Crimes Legislation Amendment (Ransomware Action Plan) Bill 2022 (the Coalition's 2022 Bill). The Bill did not introduce a mandatory ransomware incident reporting scheme as proposed in the RAP. It lapsed on prorogation of the 46th Parliament.

Labor's National Ransomware Strategy discussion paper

In February 2021 the Labor Party in Opposition released a discussion paper calling for a National Ransomware Strategy (NRS) to reduce the attractiveness of Australian targets to cybercriminals (p. 6). It envisaged that the strategy would contain a range of initiatives to increase the costs of mounting campaigns against Australian entities and to reduce the returns realised from such campaigns by (pp. 8–19):

- closing the 'cyber enforcement gap' by:
    - bolstering cybercrime data collection and publication to better inform policymakers and the public of the scale of the ransomware threat and the effectiveness of the law enforcement response in Australia
    - pushing for greater diplomatic and international cooperation to target ransomware threat actors. This would include through aggressive participation in joint international law enforcement operations and through regional cooperation in the Indo-Pacific to prevent the emergence of new countries that play host to ransomware affiliates (who pay for access to RaaS platforms from ransomware developers)
- imposing sanctions on ransomware threat actors where enforcement is not possible

- implementing a clear policy framework on offensive cyber operations that aims to impose costs on ransomware threat actors
- reducing the returns on investments of ransomware attacks on Australian entities through:
    - imposing controls on ransomware payments
    - targeting rogue cryptocurrency exchanges that enable ransomware payments
    - hardening network security of Australia-based entities
- introducing strategies to help both public and private sector entities in Australia improve their cyber resilience against the ransomware threat
- appointing a dedicated minister with responsibility for cybersecurity to signal to adversaries that the Australian Government takes cybersecurity seriously.

In relation to the NRS's proposal to impose sanctions on ransomware threat actors, it should be noted that the *Autonomous Sanctions Amendment (Magnitsky-style and Other Thematic Sanctions) Act 2021* was enacted in December 2021. The Australian Government can now impose thematic sanctions to address 'malicious cyber activity' and 'threats to international peace and security', among other things. Of relevance is that in September 2021, the US Government imposed for the first time sanctions against a virtual currency exchange, SUEX, which was found to be responsible for facilitating ransomware payments to cybercriminals associated with at least 8 ransomware variants.

In June 2021, the Shadow Assistant Minister for Cyber Security, Tim Watts, introduced the Ransomware Payments Bill 2021 (Labor's 2021 Bill), which proposed implementing a mandatory reporting scheme for ransomware payments. Labor's 2021 Bill would require Commonwealth entities, state or territory agencies, and specified private sector entities who make ransomware payments to notify the ACSC of key details of the attack, the attacker and the payment. This information would be held by the ACSC and used to:

- share de-identified information to the private sector through the ACSC threat-sharing platform
- collect and share information that may be used by law enforcement
- collect and share information to inform policymaking and to track the effectiveness of policy responses.

In August 2021, the Shadow Minister for Home Affairs, Kristina Keneally, introduced an identical Bill into the Senate as the Ransomware Payments Bill 2021 (No. 2). Both Bills lapsed on prorogation.

Key issues arising from the Ransomware Action Plan and the proposed National Ransomware Strategy

The then Shadow Assistant Minister for Cyber Security, who co-authored Labor's NRS discussion paper, stated that the RAP 'is totally different from' the NRS. However, he also said that the RAP 'has picked up many of the policy ideas' from the NRS, which suggests there is some degree of similarity between both strategies and possibly some degree of bipartisanship on the ransomware threat. In any event, direct comparisons between the RAP and the proposed NRS should be made with caution, given that the RAP was a formal Australian Government plan while the NRS was an Opposition policy.

One of the key features of the RAP was its proposal to further criminalise ransomware-related conduct. In February 2022, the Coalition's 2022 Bill sought to create new or aggravated offences as proposed in the RAP and increase the maximum penalty for some existing computer offences, among other things. The Parliamentary Library's Bills Digest on the Coalition's 2022 Bill notes that these proposed changes 'represent an increase in the breadth and severity of computer-based offences in Part 10.7 of the Criminal Code [*Criminal Code Act 1995*] generally, rather than just those related to ransomware activity' (p. 6).

Meanwhile, noting that prosecutions of ransomware cybercrimes under Commonwealth legislation are rare, Labor's proposed NRS acknowledged the transnational nature of these crimes and that 'the likelihood for law enforcement action is so low that it would have little impact on a ransomware crew's decision to target an Australian organisation' (p. 8). This might be why the NRS makes no mention of any proposals to create further offences or expand existing offences as proposed by the RAP.

Both the RAP and the proposed NRS had some similar features. Both policy initiatives advocated for increased participation in law enforcement operations with international counterparts to combat the ransomware threat. Both also shared a concern about threat actors' use of cryptocurrency exchanges that enable ransomware payments. While the NRS proposed to explore with the US Department of Treasury ways of cooperating on international efforts in this regard (p. 17), the RAP sought to modernise legislation to allow law enforcement to tackle cryptocurrency transactions associated with the proceeds of ransomware crimes (p. 6). The Coalition's 2022 Bill proposed expanding the application of various elements of the framework under the *Proceeds of Crime Act 2002* to cryptocurrency exchanges, in addition to financial institutions (pp. 25–26).

Further, the mandatory ransomware incident reporting schemes proposed by the Coalition and Labor shared a notable feature that raised some media attention. Both the Coalition and Labor indicated that to reduce the compliance burdens for small businesses, the regime under either government would not be expected to apply to private sector organisations with an aggregate turnover of less than $10 million. However, this proposed reporting threshold may have implications for achieving the intended purposes of a reporting scheme.

In his second reading speech on Labor's 2021 Bill, the Shadow Assistant Minister for Cyber Security said that 'large businesses and government entities' reporting their intentions to make ransomware payments would:

- allow the signals intelligence and law enforcement agencies to collect actionable intelligence on where this money is going, so they could track and target the responsible criminal groups
- help others in the private sector by providing de-identified actionable threat intelligence that they could use to defend their networks.

The Explanatory Memorandum for Labor's 2021 Bill also stated that the purpose of excluding small businesses was to 'ensure that ACSC has access to high-quality actionable intelligence from the mandatory disclosures'. However, as at June 2021, businesses with an aggregate turnover of $10 million or more comprised only 1.58% of all businesses actively trading in Australia, and therefore, 98.42% were 'small business entities' with a turnover of less than $10 million (as defined in section 328-110 of the *Income Tax Assessment Act 1997*). While those businesses with a $10 million or more turnover represent a high proportion of overall business activity, the exclusion of 98% of Australian businesses from the reporting scheme could mean that aggregated intelligence on the remaining fraction of the private sector would not necessarily give 'a fuller picture of ransomware attacks in Australia'. Further, as the law firm Clyde & Co has posited:

> It's also a fallacy to assume that small businesses can't afford to pay ransom demands (and therefore don't) and so this won't apply to them. Often – small businesses of this size have cyber insurance which typically covers ransom demands.

Indeed, both major parties acknowledge the ransomware threat to small businesses. In the RAP, the Coalition Government cited 'taking from small businesses' as an example of 'cybercriminals [using] ransomware to do Australians real and long-lasting harm' (p. 6). It then proposed 'awareness training and clear advice for … small to medium enterprises on ransomware payments' as part of its policy and operational response to the threat (p .6). Meanwhile, in the NRS discussion paper, Labor criticised the 'lack of engagement' by small (and medium) businesses with the importance of building cyber resilience against the ransomware threat – based on their low usage of the ACSC's online guidance (pp. 17–18). Labor attributed this lack of engagement to the Coalition Government 'not effectively communicating cyber security messages to the private sector entities' (p. 18).

Mandating small businesses to report ransomware payments would be a rather indirect way of addressing any systemic lack of cyber resilience awareness in the private sector, especially where its root cause relates to education and government communication of cybersecurity messages. Even so, it may well be a missed opportunity for the Australian Government to expand the threat intelligence base that would better inform law enforcement, diplomacy and offensive cyber operations if it decided to exclude those 'disengaged' small businesses from a ransomware incident reporting scheme due to anticipated regulatory burdens. However, for the scheme to be an effective source of threat intelligence, resourcing of the ACSC as the scheme's regulator would also be a relevant consideration – regardless of the reporting threshold.

A similar issue is being explored in the ongoing review of the *Privacy Act 1988*, which contains a mandatory data breach notification scheme and generally does not apply to businesses with an annual turnover of less than $3 million, which comprised about 95.26% of all Australian businesses as at December 2021 (p. 48). According to the *Privacy Act review – discussion paper* (pp. 40–49), there was a high level of interest from a diverse range of stakeholders who provided submissions on the small business exemption issue. Submitters who opposed removal of the exemption raised the issue of compliance costs for and the regulatory burden on small businesses, while submitters who supported removal of the exemption pointed to consumer expectations, the outdated nature of the exemption due to technological changes and the increased cybersecurity threat to small businesses. It is likely that these arguments will be replicated during any future consultations or debates on the reporting threshold of a mandatory ransomware incident reporting scheme.

Further, pursuant to clause 5 of Labor's 2021 Bill, private hospitals, medical practitioners or private aged care facilities with an annual turnover of less than $10 million would not be subject to the ransomware incident reporting scheme under that Bill. This might lead to a situation where a private health service provider holding sensitive health information about its patients would be subject to the data breach notification scheme under the *Privacy Act*, but would not be regulated by the ransomware incident reporting scheme, even though the entity belongs to an industry sector that has been a major target of ransomware attacks – as recognised by both Labor (p. 4) and the Coalition (p. 4). The same goes for all other types of private sector organisations with a turnover of over $3 million but less than $10 million, which are regulated by the *Privacy Act* but would not be subject to the proposed regime under Labor's 2021 Bill.

WAR CRIMES IN AFGHANISTAN: THE BRERETON REPORT AND THE OFFICE OF THE SPECIAL INVESTIGATOR

Dr Shannon Torrens, Law and Bills Digest

Key issue

- A 2020 report of the Inspector-General of the Australian Defence Force found credible information of war crimes committed by the ADF in Afghanistan between 2005 and 2016.
- The Office of the Special Investigator (OSI) is investigating these accusations. To date, no individuals have been referred for prosecution.
- The Taliban's takeover of Afghanistan has created practical difficulties for investigators.
- Australia has obligations under international law to investigate and prosecute war crimes.

As a result of rumours that surfaced regarding alleged war crimes by Australian Special Forces in Afghanistan, in 2016 the Chief of Army referred the situation to the Inspector-General of the ADF (IGADF), who then directed the Assistant IGADF to inquire into the matter (Brereton Report, p. 10).

The *Inspector-General of the Australian Defence Force Afghanistan Inquiry report*, released in 2020 (the Brereton Report) found credible information that members of the Australian Special Forces had committed war crimes during their operations in Afghanistan between 2005 and 2016. These accusations led to the establishment of the Office of the Special Investigator (OSI).

The Brereton Report and the ongoing work of the OSI is significant due to the role of Australia's armed forces overseas, Australia's international reputation and the need to ensure that the ADF is adhering to International Humanitarian Law (IHL).

It is likely that over the course of the 47th Parliament, some of the work of the OSI as well as structural and cultural responses by Defence are likely to come to completion. Parliament will have an ongoing role in monitoring this work, particularly as over time the momentum for change may diminish in the context of other pressing issues.

Australia has obligations under IHL to prosecute grave breaches of the Geneva Conventions. In addition, Australia is a state party to the Rome Statute of the International Criminal Court (ICC), which carries international obligations to investigate and prosecute war crimes.

Currently, the investigations by the OSI are continuing, with a recent injection of funds in the 2022–23 federal Budget (see the Parliamentary Library's 2022 ***Budget review*** article on the OSI), although to date no referrals have been made from the OSI to the Commonwealth Director of Public Prosecutions (CDPP) for prosecution. It is likely, however, that these referrals will be made over time.

When the OSI was established by the Morrison Government, the then Opposition Leader Anthony Albanese said that Australia 'must act on the Brereton Report findings and never hide from the truth of our past'. Following the release of the report in November 2020, the then Shadow Defence Minister, Richard Marles, called on the Morrison Government to implement all the recommendations of the Brereton Report and said that Labor supported the establishment of the OSI.

The Brereton Report

On 6 November 2020 the Chief of the Defence Force, General Angus Campbell, received the Brereton Report from the Inspector-General of the ADF, James Gaynor. The Inspector-General is an independent statutory office holder, with powers similar to a royal commission (Brereton Report, p. 27). The Afghanistan Inquiry was subsequently conducted by Major General Paul Brereton, a judge of the NSW Supreme Court and Army Reserve Officer, acting in the capacity of an Assistant IGADF. The findings of the Brereton Report were announced on 19 November 2020 and a redacted public version was released.

Australia's military involvement in Afghanistan began in September 2001 and continued until mid-June 2021, making it the longest engagement by Australia in an armed conflict (p. 26). The Brereton Report labels the actions of a number of Australian Special Forces members 'disgraceful and a profound betrayal of the Australian Defence Force's professional standards and expectations' (p. 41).

While the Afghanistan Inquiry did not make final conclusions on whether a criminal or disciplinary offence had been committed by a specific person, it was able to make findings that credible information existed, which, if substantiated, could lead to criminal convictions (pp. 146–157). This reflects that it functioned as a fact-finding inquiry into the broader issue (see Part 4, Division 4A of the Inspector-General of the Australian Defence Force Regulation 2016) rather than as a criminal court, which has the task of making a finding of fact in relation to specific criminal charges brought against a named individual. Importantly, in performing its tasks it operates under different rules of evidence, providing different levels of protection to witnesses and the accused. As the report states: 'the purpose was to inform options for further action … it is the beginning of a process' (p. 27).

The Brereton Report states that credible information existed of 23 incidents in which one or more non-combatants were unlawfully killed by or at the direction of Australian Special Forces, which may constitute the war crime of murder. There was also credible information of a further 2 incidents where a non-combatant was mistreated in a way that may constitute the war crime of cruel treatment (pp. 28–29). The report found credible information that during these alleged incidents, a total of 39 individuals were killed and a further 2 individuals were treated cruelly. In total, 25 current or former ADF personnel were identified as alleged perpetrators – either as principals or accessories (p. 29).

The Brereton Report states that these acts were not 'incidents of disputable decisions made under pressure in the heat of battle' (p. 29). Rather, they were situations 'in which it was or should have been plain that the person killed was a non-combatant, or *hors-de-combat*' (p. 29). If an individual is ***hors-de-combat*** this means that they are in the power of an adverse party, they have clearly expressed an intention to surrender or they are defenceless, because*,* for example, they are unconscious or incapacitated. Attacking an individual who is *hors-de-combat* is prohibited under IHL and they must be treated humanely.

The Brereton Report also found that there is credible information that some members of the ADF placed weapons with the body of an 'enemy killed in action'. This was done 'in order to portray that the person killed had been carrying the weapon or other military equipment when engaged and was a legitimate target' (p. 29).

The Brereton Report recommended that the Chief of the Defence Force refer 36 matters comprising 23 incidents and 19 individuals to the Australian Federal Police (AFP) for criminal investigation (p. 40). These 19 individuals could face prosecution for war crimes in Australia under the ***Criminal Code Act 1995*** (Cth) Division 268. These crimes could also potentially be prosecuted at the ICC as Australia is a state party to the Rome Statute.

The Brereton Report also recommended that 'consideration be given to administrative action for some serving [ADF] members, where there is credible information of misconduct which either does not meet the threshold for referral for criminal investigation, or is insufficiently grave for referral, but should have some consequence' (p. 41). The Brereton Report also made recommendations to address the broader reasons behind the findings of potential war crimes such as 'strategic, operational, structural, training and cultural factors' that contributed to the alleged crimes indirectly (p. 41).

Government response

In response to the Brereton Report, the Department of Defence said it would deal with disciplinary matters relating to soldiers accused of war crimes and other misconduct in Afghanistan. This was outlined in the 2021 *Afghanistan Inquiry reform plan*.

According to media reports, as a result of the Brereton Report, 17 lower-ranked soldiers have been issued termination notices for 'alleged failure to meet ADF expectations and values'. The reports suggest that several of these soldiers were dismissed, some continued serving and others were medically discharged. Documents obtained through Freedom of Information requests revealed that General Campbell suspended potential administrative actions against 7 serving and former officers until the OSI investigations concluded.

The Australian Government also established the separate and independent Afghanistan Inquiry Implementation Oversight Panel. The Oversight Panel is intended to provide independent oversight and assurance of the Department of Defence's broader response to the Afghanistan Inquiry. In undertaking its work, the Oversight Panel reports quarterly to the Minister for Defence (p. 15).

Victims of war crimes committed in Afghanistan

The Brereton Report recommended that where 'there is credible information that an identified or identifiable Afghan national has been unlawfully killed', Australia should compensate the family of the individual without waiting for the establishment of criminal liability: 'This will be an important step in rehabilitating Australia's international reputation, in particular with Afghanistan, and it is simply the right thing to do' (p. 41).

In the 2021 *Afghanistan Inquiry reform plan* the Government committed to developing a whole-of-government response to the recommendations to compensate families of victims of war crimes by the end of 2021. In April 2022, the Department of Defence confirmed that this response had yet to be finalised and that the department 'was still consulting with a range of government agencies regarding the compensation recommendations'.

Office of the Special Investigator

On 12 November 2020 the Morrison Government announced it would establish the Office of the Special Investigator (OSI), with the task of reviewing the findings of the Brereton Report. In doing so the OSI is working with the AFP to investigate allegations of war crimes committed by the ADF in Afghanistan from 2005 to 2016. The investigations are being conducted as part of a joint OSI–AFP investigation model and each team has at least one AFP investigator (OSI *2020–21 Annual report*, p. 10).

The OSI is also developing briefs of evidence with respect to offences that are established under Australian law, for referral to the CDPP.

On December 2020 an Executive Council Order was approved by the Governor-General to establish the OSI as an Executive Agency under section 65 of the *Public Service Act 1999*. The OSI was formally established on 4 January 2021 and sits within the Home Affairs portfolio.

On announcing the establishment of the OSI, Prime Minister Morrison said: 'We need to ensure justice is truly served by illuminating the conduct of those who may have acted in ways that do not accord with the high standards expected of our ADF'.

At Senate Estimates in May 2021, Director-General of the OSI, Chris Moraitis, stated that the OSI, in cooperation with the AFP, was investigating not just the potential criminal matters raised in the Brereton Report, but also any new allegations of criminal offences by the ADF from 2005 to 2016 in Afghanistan (p. 114). At Senate Estimates in October 2021, he said that the OSI had not exonerated any of the 19 individuals implicated and that the investigations process could take up to 5 years to conclude (p. 55).

At the same Senate Estimates hearing on 25 October 2021, Mr Moraitis said that the joint OSI–AFP investigations were underway with more than 50 investigators and intelligence analysts, including 10 teams of investigators (p. 54).

The fall of Kabul to the Taliban in August 2021 has created practical difficulties for the collection of evidence in Afghanistan. According to Mr Moraitis, 'To date, our work has not been markedly impeded by the situation in Afghanistan' (p. 54). He indicated that investigations could continue as investigating teams were focused on gaining information from a variety of other sources aside from on the ground in Afghanistan. However, 'the situation is not ideal from an

Case study: Iraq/UK and the ICC

The ICC undertook a preliminary examination into the Iraq/UK situation that focused on crimes allegedly committed by UK nationals in the Iraq conflict between 2003 and 2008. The Office of the Prosecutor noted that the preliminary examination found 'a reasonable basis to believe that members of UK armed forces committed war crimes within the jurisdiction of the Court against persons in their custody' (p. 4).

However, the Office of the Prosecutor found that the UK was not unwilling to carry out relevant investigative inquiries or prosecutions in accordance with Article 17(1)(a) of the Rome Statute. Where there were decisions by the UK not to carry out prosecutions in specific cases, this did not result from a genuine unwillingness to prosecute (Article 17(1)(b). Therefore, the preliminary examination was closed on 9 December 2020 without seeking authorisation to open an investigation (p. 4).

investigation perspective … access to individuals in Afghanistan or even evidence or places is extremely difficult, if not currently impossible' (p. 55).

Similarly, at Senate Additional Estimates hearings on 14 February 2022, Mr Moraitis indicated that, 'it's not ideal in the sense that you can't visit the country and pursue avenues there. It just means that we need to focus on what we can do, rather than what we can't do' (p. 129). He reiterated that the OSI was focused on gathering evidence outside Afghanistan as well as from inside Afghanistan, without physically being present (p. 129).

A key risk is that ultimately the OSI investigations may not result in charges being brought due to the difficulties in obtaining evidence and the extended period of time since the alleged offences occurred.

Wider context: the International Criminal Court

Australia's response to the allegations made in relation to the ADF in Afghanistan should also be viewed in the wider context of the international legal framework.

The world's first permanent international criminal court, the ICC, was established pursuant to the Rome Statute in 1998 and Australia is a state party.

As noted, under the Rome Statute, states parties have a duty to investigate and appropriately prosecute suspected perpetrators of international crimes. The ICC has an obligation to prosecute international crimes within its jurisdiction only if a state with jurisdiction is 'unwilling or unable' to prosecute (Article 17(1)(a)). This is known as the principle of complementarity.

The ICC is currently undertaking an investigation into international crimes committed in Afghanistan since 1 May 2003, including alleged crimes related to the conflict in Afghanistan that were committed on the territory of other states parties to the Rome Statute since 1 July 2002. This investigation was authorised by the Appeals Chamber of the ICC on 5 March 2020.

In 2020, Afghanistan requested that the investigation into Afghanistan be deferred so that the state could conduct national proceedings. The ability of Afghanistan to do so has, however, been questioned by human rights organisations. In September 2021 the ICC prosecutor requested that the investigation be resumed.

The inquiry into allegations of Australian war crimes in Afghanistan may increase the possibility of further inquiries and investigations into the actions of the ADF operating in other countries, such as Iraq. In both New Zealand and the UK, the actions of military forces operating in these overseas military operations has been questioned due to allegations of war crimes.

Further reading

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6

POLITICS AND GOVERNMENT

NATIONAL INTEGRITY COMMISSION

Cathy Madden, Politics and Public Administration

Key issue

There has been increasing momentum to establish a dedicated federal anti-corruption agency, as has occurred in every state and territory. Labor has promised to introduce legislation by the end of 2022 to establish such a commission, an aim strongly supported by the Australian Greens and incoming 'teal' independents. Although Labor and the independents support Helen Haines's existing implementation Bill, the specific details are yet to be finalised.

The establishment of a national integrity commission (NIC) was a significant issue during the 2022 election campaign and highlighted a key difference between the major parties. Labor identified establishing a NIC as a key legislative priority, an objective strongly supported by the 'teal' independents and Greens. During the last 2 parliaments there has been growing political and public advocacy for an anti-corruption commission, in conjunction with efforts to improve parliamentary standards and ethics (see the article in this *Briefing book* on Parliamentary Workplace Reform).

Designing and implementing an effective operational structure will be critical to a NIC's success and encompass questions of jurisdiction, independence, powers and accountability. Over the recent months debate has focused on a few key areas, including:

- how corruption is defined, which will determine the NIC's jurisdiction. Existing state agencies vary from NSW's very broad definition (any conduct of any person that adversely affects, or could adversely affect the honest or impartial exercise of official functions of a public official), to South Australia's more limited definition.
- the ability to hold public hearings, which can promote transparency and understanding of the anti-corruption process. However, exclusively private examinations can help avoid undue prejudice to a person's reputation, and are a legislated requirement in SA.
- investigative powers, such as those ordinarily associated with royal commissions. This includes the ability to compel the production of documents and witness testimony and the power to search, seize and use surveillance devices.
- the ability for the NIC to decide to begin investigations based on complaints, referrals from other agencies, and own-motion investigations.
- the ability to retrospectively look into behaviour that occurred before the Act is passed. Most of the state integrity models allow for some level of retrospectivity.

Background

In December 2018 the Morrison Coalition Government committed to establishing a 'Commonwealth Integrity Commission' (CIC), released a consultation paper on its proposed model and subsequently promised to introduce legislation during the 46th Parliament. However, in February 2022 the Attorney-General Michaelia Cash confirmed that the Government would not progress the CIC before the election.

Unlike the states and territories, each of which has a dedicated anti-corruption agency, the Commonwealth uses a multi-agency approach to combat corruption within the public service and Parliament. This includes the Australian Commission for Law Enforcement Integrity, the Commonwealth Ombudsman, the Australian National Audit Office, the Australian Public Service Commission, and the Independent Parliamentary Expenses Authority.

This multi-agency approach, focusing on strengthening existing anti-corruption measures, has been adopted in a number of countries, including the US. Other countries, such as Botswana, Hong Kong, Korea and Thailand, use a single-agency model, which centralises the primary responsibility of implementing an anti-corruption program. The NSW Independent Commission Against Corruption (ICAC) was modelled on the Hong Kong ICAC. Comparable overseas parliaments such a Canada and the UK have also established specific agencies to deal with parliamentary ethics and standards. Brief summaries of these overseas agencies are set out in a recent Parliamentary Library research paper.

In 2018 two-thirds of Australians strongly supported a federal anti-corruption commission. More recently, in April 2022, 75% of respondents to an Australia Institute poll supported a NIC. This aligns with the April 2022 ABC Vote Compass survey that found just under half of respondents said corruption was a big problem, 36% thought it was 'somewhat' of a problem, and only 1% said it is not a problem at all.

Transparency International's *Corruption perceptions index* – recognised as a key indicator of Australia's integrity performance – shows Australia's declining global standing. Over the past decade Australia's ranking has dropped from 7 to 18, while regional neighbours, such as Papua New Guinea, have been trending up and New Zealand is consistently equal first.

This decline comes against a backdrop of continued allegations of corrupt conduct in the public and private sectors and some unions. The federal government's inaction on an integrity commission Bill, despite controversies including community sports grants, commuter carparks, the Leppington Triangle land purchase, parliamentary workplace accountability and sexual harassment issues and alleged ministerial misconduct, has strengthened the calls for establishing a NIC.

Commentators on a NIC

Several prominent anti-corruption experts and organisations support a NIC and have published options for proposed models.

Anti-corruption researchers, including Professor AJ Brown, published the options paper, *A national integrity commission: options for Australia*, in August 2018. Based on the existing design's strengths and weaknesses, the researchers identified 3 options to strengthen the federal public integrity framework:

- establish an integrity and anti-corruption coordination council
- establish an ICAC based on current state ICACs
- establish a custom-built federal integrity commission drawing on the state's experiences but with 'a broader range' of relevant functions.

The think tank, the Australia Institute, established the National Integrity Committee to 'advise on specific accountability reforms, including the establishment of a National Integrity Commission'. The committee published several briefing papers that included recommendations on a NIC design, based on comparable state agencies.

Days before the election, the Centre for Public Integrity published an open letter addressed to all political parties and signed by 31 retired judges arguing for a strong anti-corruption commission. The centre previously published a discussion paper comparing Australia's existing state and territory ICACs and advocating for a similar federal body with the ability to:

- investigate conduct that affects the impartial exercise of public administration, including those outside the public service
- begin investigations (including own investigations) without satisfying a threshold of evidence
- hold public hearings if in the public interest
- make findings and report publicly.

The report argued that 'comparing the features of existing state integrity commissions with the models proposed by the [Morrison] Federal Government, the ALP and Dr Haines reveals that the Government's CIC would be the weakest and least effective integrity agency in the country'.

State and territory integrity commissions

Since the state and territory ICACs were established (see Table 1), there has been ongoing debate about their proper role and conduct. Criticisms have been raised, particularly in regard to the NSW ICAC, over the reputational harm inflicted through public hearings and that findings of corruption remain in place even if followed by acquittal in the criminal court.

In recent years the NSW ICAC, Victoria's IBAC and the Queensland CCC have faced amendments to their structure and scope. Most recently, in October 2021, the SA Parliament amended the *Independent Commission against Corruption Act 2012* to limit the commission's powers to investigate corruption, misconduct or maladministration and reduce its transparency.

Greens and independents

The Australian Greens and crossbenchers have made the most recent attempts to legislate for a federal anti-corruption commission strengthening the parliamentary integrity framework, believing such major reforms should come from them. Greens senator, Larissa Waters, introduced the National Integrity Commission Bill 2018 (No. 2) which passed the Senate in September 2019 but lapsed at the end of the 46th Parliament. In October 2020 Helen Haines introduced the Australian Federal Integrity Commission Bill 2021 (to establish a federal ICAC largely modelled on the NSW ICAC) and Senator Rex Patrick introduced essentially the same Bill, the Australian Federal Integrity Commission Bill 2021 in October 2021. Dr Haines also reintroduced her Bill at this time but debate was denied and it lapsed when the House dissolved.

The Commonwealth Parliamentary Standards Bill 2020, introduced by Dr Haines in 2020, sought to establish a Parliamentary Integrity Adviser, Parliamentary Standards Commissioner and a parliamentary code of conduct. Previous Bills introduced by the Greens, including the National Integrity (Parliamentary Standards) Bill 2019 would have established an Independent Parliamentary Adviser.

Many current and incoming independent parliamentarians support Dr Haines's Bill to establish an integrity commission with broad powers, including the scope for public hearings and a definition of corruption to potentially cover government 'pork barrelling'. The new Albanese Government is also likely to negotiate with Senate crossbenchers regarding legislation on the NIC.

Coalition proposal

The former Coalition Government released its proposed model for a NIC in an exposure draft in 2018 and allocated $104.5 million over 4 years (including capital funding of $10 million) in the 2019–20 Budget.

However, the NIC contained in the exposure draft was widely condemned as ineffective with key stakeholders such as Transparency International Australia, the Accountability Round Table and the National Integrity Committee criticising several features. For example, its ability to conduct public hearings was inconsistent and required a 'reasonable suspicion' of criminality before it could begin an investigation. The more limited powers proposed for the public sector integrity division

Table 1 – Current state and territory anti-corruption commissions

Jurisdiction	Year of establishment	Current anti-corruption agency
NSW	1988	Independent Commission against Corruption
Victoria	2012	Independent Broad based Anti-Corruption Commission
Queensland	2014	Crime and Misconduct Commission
South Australia	2012	The Independent Commission against Corruption
Western Australia	2004	Corruption and Crime Commission
Tasmania	2010	Integrity Commission
ACT	2018	Integrity Commission
Northern Territory	2017	Office of the Independent Commissioner Against Corruption

Source: compiled by the Parliamentary Library.

(covering parliamentarians and other public sector agencies) contrasted with more stringent provisions that would relate to the law enforcement integrity division (LEID).

The new Opposition Leader, Peter Dutton, has indicated that he supports a NIC and wants to work with the Dr Haines Bill.

Labor proposal

The Albanese Labor Government has committed to establishing 'a powerful, transparent and independent National Anti-Corruption Commission (NACC)' to be legislated by the end of 2022. Attorney-General Mark Dreyfus has indicated that the commission is going to be independent, powerful, and have the powers of a royal commission. The commission would: have the power to deal with serious and systemic corruption; be able to receive allegations from a range of sources; be able to, at its discretion, hold public hearings; and have retrospective powers.

The NACC would have broad jurisdiction to investigate serious and systemic corruption by Commonwealth ministers and parliamentarians, ministerial advisers, statutory office holders, government agencies and public servants. A new departmental taskforce within the Attorney-General's Department will be established to develop policy options and consult with stakeholders while working closely with the Australian Commission for Law Enforcement Integrity.

However, Labor's model has also been criticised, particularly for lacking detail in the form of principles rather than fully developed legislation. During the election campaign Labor had indicated that when it does legislate, the Bill will be extremely similar to the one independent Dr Haines introduced into Parliament. Dr Haines has suggested that she co-chair a joint select committee of the Parliament to work through the technicalities and allow various experts to make their views known. Labor is considering this proposal. One of the challenges facing the design of a NIC is balancing the strong powers of the body with the need to protect against reputational harm, respect for the rights of all, a focus on serious and systemic corruption, and ultimately the confidence of the public.

Further reading

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PARLIAMENTARY WORKPLACE REFORM

Dr Michael Sloane, Politics and Public Administration

Key issue

A series of bullying, harassment and sexual assault allegations in Commonwealth parliamentary workplaces were made public during the 46th Parliament. This led the Government to commission both a short-term review of the available support services (the Foster Review) and a comprehensive independent review of parliamentary workplace culture and regulation (the Jenkins Review). Some of the reviews' recommendations were implemented before the 46th Parliament concluded; however, several more complex and historically contested reforms remain to be considered. These include establishing a code of conduct for parliamentarians and an appropriate investigation and enforcement process for apparent breaches.

Background

Commonwealth parliamentary workplaces (CPW) are complex environments in which large numbers of people – working under a variety of employment arrangements, each with its own reporting and leadership structures – interact. The culture of these workplaces became the focus of significant public attention during the 46th Parliament following media reports of an alleged sexual assault of a ministerial staffer in Parliament House in March 2019. Subsequently, other allegations of mistreatment of members of parliament and political and parliamentary staff have emerged. In response, the Australian Government initiated multiple reviews and investigations, including the Foster and Jenkins reviews in February and March 2021, respectively.

While many of the Foster Review recommendations have been implemented, the more complex reforms recommended by the Jenkins Review have not yet been completed. The Jenkins Review envisages the implementation of recommendations occurring in several phases over 2 years. Implementing the full suite of recommendations in the life of the 47th Parliament will require action by parliamentarians, political parties, the Government and its departments, and parliamentary departments.

Similar accusations relating to bullying, sexual harassment and sexual assault have also arisen in several state and territory parliaments, as well as in comparable overseas parliaments, including those of the UK, New Zealand and Canada. In these jurisdictions governments or parliamentary chambers have commissioned independent reviews to gather evidence on parliamentary workplace misconduct and make recommendations for improvement. Brief summaries of these recent developments, as well as measures taken by Australian political parties to address bullying and harassment, are set out in a recent Parliamentary Library research paper.

The Foster Review

On 16 February 2021 Prime Minister Morrison commissioned the Deputy Secretary of the Department of the Prime Minister and Cabinet, Stephanie Foster, to prepare a report on: current reporting procedures relating to serious incidents in the parliamentary workplace, particularly assault and sexual assault; measures to implement reporting and response processes that are independent from employers; and measures to provide improved support to victims. Ms Foster's review focused primarily on parliamentarians and staff employed under the *Members of Parliament (Staff) Act 1984* (MOP(S) Act)

Findings

Ms Foster's review was completed on 24 May 2021. Her report, *Review of the parliamentary workplace: responding to serious incidents* identified 3 matters that required immediate attention:

- the absence of readily accessible, timely, independent, trauma informed services and response mechanisms
- a trusted independent complaint mechanism capable of delivering proportionate consequences for misconduct
- adequate training and education for parliamentarians and their staff.

Recommendations

The report made 10 recommendations, all of which were adopted by the Government. These recommendations included the establishment of an independent complaints mechanism to handle serious incidents in the parliamentary workplace that occurred after the 46th Parliament commenced. The service, known as the Parliamentary Workplace Support Service (PWSS) was launched on 23 September 2021 and made available initially to MOP(S) Act staff and parliamentarians.

A further recommendation proposed that each House of the Parliament pass resolutions to recognise the independent complaints mechanism and to set out a process where parliamentarians who fail to cooperate with, or act on the recommendations of, a review may be referred to the relevant privileges committee. Resolutions addressing this issue, and declaring how the privileges committees must treat such a referral, where passed on 18 October 2021 and 19 October 2021.

The report also recommended amendments to the *Statement of ministerial standards* and the *Statement of standards for ministerial staff* to clearly articulate that assault, sexual assault, sexual harassment, and serious and systemic bullying are not acceptable. The *Statement of ministerial standards* was amended on 8 April 2022 to include new provisions relating to the obligations of ministers as employers and setting out how complaints concerning ministers' conduct made to the PWSS will be treated. The *Statement of standards for ministerial staff* does not appear to have been amended as yet.

Further recommendations addressed:

- the need for all parliamentarians and their staff to undertake training to understand their workplace health and safety responsibilities and how to respond to unacceptable behaviour
- amendments to first response procedures for Parliamentary Security Service officers and Australian Federal Police officers
- measures to monitor after-hours access to Parliament House.

The Jenkins Review

The Sex Discrimination Commissioner, Kate Jenkins, commenced an independent review on 5 March 2021 to identify measures to ensure all CPWs are safe and respectful, and reflect best practice in preventing bullying, sexual harassment and sexual assault. The final report, *Set the standard: report on the Independent Review into Commonwealth Parliamentary Workplaces*, was delivered on 30 November 2021.

Findings

An anonymous online survey of CPW employees was conducted and revealed approximately half (51%) had experienced at least one incident of bullying, harassment or actual or attempted sexual assault in a CPW (p. 17). The report described systemic drivers and institution-specific risk factors associated with bullying, sexual harassment and sexual assault in CPWs, including:

- significant power imbalances between employees
- underrepresentation of women in senior roles and a lack of diversity more broadly
- a lack of accountability and appropriate consequences for those engaging in misconduct and limited recourse for those who have experienced bullying, sexual assault or sexual harassment
- a lack of clear standards of behaviour in some CPWs and inconsistent enforcement of standards
- some leaders in CPWs either being directly

responsible for misconduct, or lacking the skills necessary to prevent or discourage misconduct by others

- political loyalties and interests, intense media and public scrutiny and fears over job security leading to a reluctance to report or address misconduct
- high levels of pressure, travel, poor work/life balance and alcohol consumption creating environments which increase the likelihood of bullying, sexual harassment and sexual assault occurring
- employment structures that lead to high levels of job insecurity, particularly for those employed under the MOP(S) Act, which discourage employees from raising bullying, sexual harassment and sexual assault concerns. (pp. 14–16)

Recommendations

The report's 28 recommendations intended to make improvements to CPWs in 5 areas: leadership; diversity, quality and inclusion; systems to support performance; standards reporting and accountability; and safety and wellbeing. Due to the complex nature of parliamentary administration, responsibility for implementing these recommendations is dispersed among a variety of different bodies. These include the chambers and parliamentary departments, the Government and its departments, parliamentarians and political parties. If all 28 recommendations are to be successfully implemented, it will require cooperation from, and coordination between, these various bodies that are not directed by any overarching authority.

The *Mid-year economic and fiscal outlook 2021–22* allocated $17.8 million over 4 years for costs associated with implementing the report's recommendations. This included $6.3 million for the PWSS, $6 million to establish an implementation taskforce, and ongoing funding for workplace training programs and a dedicated support line (p. 217). The 2022–23 Budget further allocated $4.1 million to establish an Office of Parliamentarian Staffing and Culture (OPSC) – with a shopfront located at Parliament House – and expansion of the PWSS (p. 64).

Prior to the conclusion of the 46th Parliament, the Government or Parliament had:

- established the Parliamentary Leadership Taskforce (PLT), a cross party steering group led by an independent expert chair, Kerri Hartland, responsible for coordinating and reporting on the implementation of the 28 recommendations (see recommendation 2)
- apologised for the unacceptable history of bullying, harassment and sexual assault in CPWs (see recommendation 1)
- passed the Parliamentary Workplace Reform (Set the Standard) Measures No 1) Bill 2022, which: amended the MOP(S) Act to clarify the application of the *Fair Work Act 2009* and require parliamentarians to provide a reason where they dismiss an employee (see recommendation 17); and amended the Age and Disability Discrimination Acts to clarify their application to MOP(S) Act employees (see recommendation 24)
- established the Joint Parliamentary Committee on Parliamentary Standards to develop codes of conduct for parliamentarians, parliamentary staff and CPWs. This committee concluded when the House of Representatives was dissolved and will need to be re-established when the new Parliament commences (see recommendation 21)
- expanded the remit of the PWSS to include all workers in CPWs and historic complaints (see recommendation 20)
- commenced a comprehensive review of the MOP(S) Act (see recommendation 18).

Every state and territory parliament has adopted a code of conduct for parliamentarians; however, attempts to establish such a code federally have failed since the issue was first raised in 1975 (this history is briefly discussed in a recent Parliamentary Library research paper (pp. 5–6)). The adoption of a code of conduct is critical to establishing and consistently enforcing appropriate standards of conduct in parliamentary workplaces, and potentially overlaps with current proposals to establish a Commonwealth integrity commission. Some state integrity commissions can investigate breaches of parliamentary codes of conduct, provided certain thresholds are met (see, for example, sections 7–9 of the *Independent Commission Against Corruption Act 1988* (NSW)).

This situation may be replicated federally, depending on how its scope is defined (see the *Briefing book* article, 'National integrity commission').

Other more complex recommendations remain, including proposals to establish an Office of Parliamentarian Staffing and Culture (OPSC) and an Independent Parliamentary Standards Commission (IPSC) (see recommendations 11–16 and 2). In both cases, the review intends these bodies to be structured to provide them with independence from government or partisan political pressure, while ensuring they are accountable to the Parliament.

The report proposes that the OPSC be established as an independent, non-partisan institution, headed by a statutory officer who is accountable to the Parliament. The OPSC would provide support to parliamentarians and develop standardised policies, processes and programs in relation to recruitment, induction, performance management, professional development and career pathways. The OPSC would also deliver best practice, mandatory respectful workplace behaviour training and people management training (p. 22).

The IPSC would receive disclosures and handle informal and formal complaints about misconduct. It would also enforce relevant codes of conduct, make findings about misconduct, recommend sanctions and also apply sanctions where they do not interfere with parliamentary functions. The Jenkins Review envisaged that imposing sanctions on parliamentarians would rely on powers delegated to the IPSC by the 2 Houses. Where more serious sanctions are proposed, the IPSC would make a recommendation to the relevant House for determination (p. 25).

Private member's Bills presented by successive members for Indi, Cathy McGowan in 2018, and by Helen Haines in 2020, each contained proposals to establish a Parliamentary Standards Commissioner – an independent officer of the Parliament tasked with investigating, making findings on and recommending sanctions in relation to apparent breaches of applicable codes of conduct. The Bills proposed that the commissioner would report to the relevant privileges committee and that any sanctions would require the support of two-thirds of the members of the chamber concerned. While these proposals predate the Jenkins Review, they illustrate how a body similar to the IPSC might be legislated.

The report refers to the standards framework as it relates to bullying and harassment complaints established by the House of Commons in the UK, which includes processes for independent investigations, review of more serious proposed sanctions by an Independent Expert Panel, and imposition of more serious proposed penalties by the House of Commons itself under its powers to punish contempts (p. 243). This process has in one case resulted in the suspension of a parliamentarian for 6 weeks for conduct the Independent Expert Panel found amounted to sexual harassment of a staff member.

The report also made recommendations that sitting calendars and routines of business be reviewed by the procedure committees of each House to limit practices that negatively affect parliamentary workers, including long and late sittings hours (see recommendation 27). Additionally, the report recommended the Presiding Officers review standing orders and conventions to eliminate language, behaviour and practices that are sexist or exclusionary, and improve safety and respect in the chambers (see recommendation 10). These recommendations have not yet been acted on; however, Prime Minister Albanese has expressed his aspiration to run a family-friendly Parliament, and other parliamentarians have expressed support for a variety of procedural reforms in the House of Representatives in the context of a significantly expanded crossbench. During the 46th Parliament the House of Representatives Procedure Committee proposed reforms to Question Time, but its proposals were not supported by the Morrison Government.

Further reading

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CONSTITUTIONAL REFORM

Jonathan Mills, Law and Bills Digest

Key issue

The incoming Government has committed to working towards 2 major constitutional reforms, an Indigenous Voice to Parliament and a Republic referendum. The *Australian Constitution* was drafted in the 1890s and has only been altered 8 times since it took effect in 1901. There have been relatively frequent calls for various aspects of this foundational document to be updated to address both changing circumstances and its identified or perceived weaknesses.

Despite this, there have been no attempts to alter the *Constitution* since the unsuccessful republic and preamble referendum in 1999.

This article is intended to prompt consideration of the broader issues of why constitutional change has historically been so difficult, how Parliament might identify and progress constitutional alterations that may be needed, and how the Australian people might be engaged in that process.

Australia's *Constitution*

The *Constitution* is the founding document and pre-eminent source of law of the Commonwealth of Australia as it exists today. It is the law against which the administration and other laws of our nation may be judged. It sets out many vitally important matters, from the subjects that the Commonwealth Parliament is empowered to legislate on, to the powers of each branch of government. While it may seem distant, theoretical or of little practical relevance to our day to day lives, it can be used to test the validity of government actions and laws. It even prescribes the grounds for disqualification for individual members of parliament, as some have discovered to their detriment since 2017. Beyond these practical legal issues, the words and status of the *Constitution* undoubtedly hold a deeper meaning for many.

Process for amending the *Constitution*

In light of its importance and its intended longevity, the framers of the *Constitution* ensured that it contained a mechanism for its own alteration should the people of Australia consider that any change was needed. Section 128 provides that the *Constitution* may only be changed by a proposed law that has first been passed by Parliament and is then presented to the voters of Australia. This is referred to as a referendum. In order for the proposed law to alter the *Constitution* it must be supported by a majority of all eligible voters in Australia as well as by a majority of eligible voters in a majority of the states. Notably, the framers of the *Constitution* intended it to be a living document that could be altered as needed, and indeed there were 13 proposals for alteration put to the people within 20 years of Federation, although only 2 of those succeeded.

The requirement for this so-called 'double majority' of votes has set a very high threshold for any proposed alteration to pass and has resulted in a fairly conservative reform mechanism weighted towards maintaining the status quo. According to John Quick and Robert Garran, participants in the constitutional conventions and authors of the original *Annotated Constitution* of 1901, the 'double majority' requirement was introduced into section 128 by the framers of the *Constitution* to provide not only a check against the populations of the larger states being able to control the future direction of the *Constitution*, but to force any constitutional changes to be well considered and discussed. Quick and Garran noted that the mechanism was intended to provide safeguards and was not intended to prevent or resist change, only change that might be 'made in haste or stealth'.

More than one proposal for the alteration of the *Constitution* may be put to the electors at any one time, although each proposal must be passed by Parliament and each must be set out on the ballot paper and voted on individually at the referendum. The form and arrangements for the holding of referendums are set out in the *Referendum (Machinery Provisions) Act 1984* (the Referendum Act). These chiefly involve the Australian Electoral Commission (AEC) taking the proposal or proposals as passed by Parliament and progressing the arrangements for the vote (similar to the process for an election), and also including the distribution to each elector of material that contains the proposed alterations, as well as information for the 'yes' and 'no' cases. As with elections, voting is compulsory for eligible electors.

The most recent attempts to reform the *Constitution* occurred in 1999, when proposals for a republic model and a new constitutional preamble were put to the people of Australia. Both proposals failed to achieve the necessary voter support. Before this the success rate of constitutional referendums in Australia is relatively bleak with a total of 44 proposed constitutional alterations put to the voters at referendums on 17 occasions, with only 8 succeeding. The successful proposals that altered the *Constitution* dealt with:

- Senate Elections, to enable elections for both Houses to be held concurrently, in 1906
- State Debts, to give the Commonwealth unrestricted power to take over state debts, in 1910
- State Debts, to end the system of per capita payments which have been made by the Commonwealth to the states since 1910, and to restrict the right of each state to borrow for its own development by subjecting that borrowing to control by a loan council, in 1928
- Social Services, to give the Commonwealth power to legislate on a wide range of social services, in 1946
- Aboriginals [sic], to enable the Commonwealth to enact laws for Aboriginal people and to remove the census prohibition, in 1967
- Senate Casual Vacancies, to ensure that a casual vacancy in the Senate is filled by a person of the same political party, in 1977
- Referendums – Territories, to allow electors in territories to vote in constitutional referendums, in 1977 and
- Retirement of Judges, to provide for retiring ages for judges of federal courts, in 1977.

The only proposals put to the people since the last successful changes in 1977 were those in 1984, 1988 and 1999. The lack of any change in our *Constitution* for over 4 decades now is notable and 'Governments, understandably, have become pessimistic about the pursuit of constitutional change'.

In a recent article, Professor Anne Twomey argued that our referendum system is inherently conservative as it is weighted in favour of preserving the status quo and is vulnerable to negative campaigns. Professor Twomey argued that despite this it is important that the *Constitution* be made to serve the needs of the present day, rather than those of the 1890s when it was drafted, and that we do not give up on attempting important constitutional reforms. The factors that Professor Twomey highlighted as being important for a successful referendum included 'widespread will for change, the drive and persistence of proponents, good leadership, sound well-considered proposals and building a broad cross-party consensus'.

Similarly, a 2018 article by Paul Kildea references the 'five pillars' that the record shows can lead to referendum success, as identified by George Williams and David Hume in their 2010 book, *People power: the history and future of the referendum in Australia*. Those 5 pillars are:

- bipartisanship
- popular ownership
- popular education
- sound and sensible proposals
- a modern referendum process.

However, Kildea emphasises the importance of seeing these factors as being helpful to the success of referendums rather than considering them to be necessary preconditions for proceeding with a proposal. With particular reference to the issue of bipartisan support, Kildea argues that the belief that a referendum will necessarily fail without these preconditions has become a major and perhaps unnecessary impediment to attempts at reform. Rather, it may be better to 'see referendums as part of an ongoing process of constitutional debate', a process which may be altered but would not necessarily be ended by a 'no' vote.

Proposals to amend the *Constitution*

The new Labor Government has committed to progressing work to achieve a constitutionally enshrined Voice to Parliament for First Nations people 'as a matter of priority'. For further information, see the article on '*Indigenous constitutional recognition and representation*' elsewhere in this *Briefing book*.

The Labor Party has also committed to working towards the establishment of a republic with an Australian head of state.

In addition to these 2 reforms, in 2019 the Australian Law Reform Commission (ALRC) summarised (at p. 55) other substantive constitutional issues which have been raised by interested parties as possible areas for reform, including:

- section 44 and eligibility requirements for Parliament
- the electoral system and fixed parliamentary terms
- the separation of powers and roles of the executive and judiciary
- human rights protections
- federalism issues, roles, responsibilities and funding.

Constitutional reform body

There have been calls to appoint a body with ongoing responsibility for considering constitutional reform issues. Most recently, the House of Representatives Standing Committee on Social Policy and Legal Affairs, following a series of hearings and expert submissions, released the *Report of its Inquiry into Constitutional Reform and Referendums* in December 2021. This inquiry focused on the processes for constitutional reform and the conduct of referendums, rather than substantive proposals for constitutional amendment on particular issues. The Committee recommended a range of reforms including many aimed at raising public awareness and education of the *Constitution* and referendums, establishing a Joint Standing Committee on Constitutional Matters and an Independent Expert Panel to advise it before each referendum, and various amendments to update the Referendum Act.

In 2019, the ALRC called for a standing constitutional reform body to be established to engage and inform the public 'while also involving the Government in planning and oversight' (pp. 55–56). This body could also identify the future reform topics that would then require further investigation. The ALRC noted that there has been an increased use in overseas jurisdictions of participatory mechanisms such as small citizen groups to deliberate on and progress constitutional reforms (pp. 57–58).

A consistent theme of many of the papers and reports dealing with constitutional reform has been a concern that the constitutional mechanisms in place for alteration, when combined with the institutional and societal frameworks that have developed since Federation, have resulted in a population that is not particularly invested in the *Constitution* or interested in any particular discussions about altering, updating or improving the *Constitution*. This appears to be a problem that can only be remedied with positive actions of some form, be that public discourse, political leadership, education, institutional design to provide some stewardship for the potential reforms, or likely a combination of these.

The challenges for the Parliament in coming years will be 2-fold: both to move forward with specific proposals for constitutional change, and to consider how to better position our nation to identify and properly carry through further changes that may be necessary or desired in the future. Meeting each of these challenges will require at least a focus on communication and public engagement.

Further reading

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AUSTRALIAN HUMAN RIGHTS COMMISSION

Dr Shannon Torrens, Law and Bills Digest

Key issue

The Australian Human Rights Commission (AHRC) is an independent statutory authority that protects and promotes human rights in Australia.

The AHRC is Australia's National Human Rights Institution (NHRI) and is a member of the Global Alliance of National Human Rights Institutions (GANHRI). GANHRI reviews and accredits NHRIs. 'A-status' NHRIs have independent participation rights at the United Nations Human Rights Council, its subsidiary bodies and some General Assembly bodies and mechanisms. They are eligible for full membership of GANHRI, including the right to vote and hold governance positions. NHRIs accredited with 'B status' participate in GANHRI meetings but are unable to vote or hold governance positions.

The AHRC currently has 'A-status' accreditation. However, in March 2022 GANHRI raised a number of concerns in relation to the AHRC's application for re-accreditation and has delayed a final decision for 18 months, to allow time for its concerns to be addressed. If the issues raised by GANHRI are not addressed to its satisfaction, the AHRC's accreditation status may be downgraded.

Work of the AHRC

Established by the *Australian Human Rights Commission Act 1986*, the AHRC investigates and conciliates complaints about discrimination and human rights breaches, advocates to government for the consideration of human rights in laws and policymaking, and provides advice, reviews laws, and makes submissions to parliamentary inquiries.

The AHRC has an important role in promoting and raising awareness about human rights issues through education and training, as well as events, discussion and media outreach. The AHRC also undertakes research into human rights and discrimination issues in Australia and holds national inquiries into human rights issues.

The AHRC has power to intervene, with leave of the court, in relevant proceedings and AHRC Commissioners may also assist the Federal Court and the Federal Circuit and Family Court of Australia as a friend of the court (*amicus curiae*). In addition, the AHRC produces guidelines for employers and provides training and resources for organisations to assist them in supporting diversity and inclusion and addressing modern slavery. The AHRC also runs international education and training programs for other human rights institutions in the Asia-Pacific region.

Finally, the AHRC takes part in the monitoring and scrutinising of Australia's performance in meeting its international human rights commitments and, in doing so, provides independent reports to the UN.

Human rights

Human rights are rights that are inherent to all human beings. They are rights that everyone has regardless of their race, sex, nationality, ethnicity, language, religion, or other status.

The 1948 Universal Declaration of Human Rights notes that 'recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world' (Preamble).

Human rights treaties

Australia is a party to the following core 7 human rights treaties:

International Covenant on Civil and Political Rights (ICCPR)

International Covenant on Economic, Social and Cultural Rights (ICESCR)

International Convention on the Elimination of All Forms of Racial Discrimination (CERD)

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)

Convention on the Rights of the Child (CRC)

Convention on the Rights of Persons with Disabilities (CRPD)

The AHRC comprises a president, Rosalind Croucher, as well as 7 commissioners who are each responsible for a different area of human rights (predominantly in relation to a specific form of discrimination). The current commissioners are:

- June Oscar (Aboriginal and Torres Strait Islander Social Justice Commissioner)
- Kay Patterson (Age Discrimination Commissioner)
- Anne Hollonds (Children's Commissioner)
- Ben Gauntlett (Disability Discrimination Commissioner)
- Lorraine Finlay (Human Rights Commissioner)
- Chin Tan (Race Discrimination Commissioner)
- Kate Jenkins (Sex Discrimination Commissioner).

GANHRI Review

The AHRC is Australia's National Human Rights Institution (NHRI) and is a member of the Global Alliance of National Human Rights Institutions (GANHRI). The minimum standards that NHRIs must meet in order to be considered credible and to operate effectively are set out in the Principles relating to the Status of National Institutions (the Paris Principles), adopted by the UN General Assembly in 1993. The Paris Principles deal with the responsibilities and composition of NHRIs and seek to guarantee their independence from government, including through requirements for appointment of NHRI members and provision of adequate funding.

GANHRI reviews and accredits NHRIs in compliance with the Paris Principles. NHRIs that are assessed as complying with the Paris Principles are accredited with 'A status'. Those that only partially comply have 'B status'. 'A-status' NHRIs have independent participation rights at the UN Human Rights Council, its subsidiary bodies and some General Assembly bodies and mechanisms. They are eligible for full membership of GANHRI, including the right to vote and hold governance positions. NHRIs accredited with 'B status' participate in GANHRI meetings, but are unable to vote or hold governance positions.

GANHRI has 120 members, 90 accredited as 'A-status' NHRIs and 30 as 'B-status' NHRIs – the latter includes NHRIs in Sweden, Belgium, Myanmar, and Libya. Compliance reviews are carried out by the Sub-Committee on Accreditation (SCA) of GANHRI, with its recommendations submitted for acceptance by the GANHRI Bureau (the final decision-maker).

A NHRI is reviewed by the SCA against the Paris Principles when it first applies for accreditation and every 5 years after that, when it must apply for re-accreditation.

At its March 2022 session, the SCA determined that the AHRC's application for re-accreditation would be deferred for 18 months to give Australia an opportunity to address the SCA's concerns regarding:

- the legitimacy and independence of processes for the selection and appointment of AHRC commissioners
- the ability to re-appoint commissioners more than once
- the AHRC's limited legislative mandate
- the adequacy of the AHRC's funding.

If Australia does not respond to the issues raised to GANHRI's satisfaction, the AHRC may be downgraded to ‘B status’, losing its rights to independent participation at the UN Human Rights Council and other UN mechanisms, and only able to participate as an observer.

This is the first time the AHRC has been at risk of losing its ‘A status’, and comes amidst domestic concerns about the AHRC’s financial viability.

Selection and appointment

The SCA’s most significant concern is how AHRC commissioners are appointed and the ability to bypass a transparent merit-based selection process. In its General Observation 1.8 on ‘Selection and appointment of the decision-making body of NHRIs’ the SCA states that a selection and appointment process ‘that promotes merit-based selection and ensures pluralism is necessary to ensure the independence of, and public confidence in, the senior leadership of an NHRI’. To this end, the SCA considers that such a process should include requirements to:

- publicise vacancies broadly
- maximise the number of potential candidates from a wide range of societal groups
- promote broad consultation and/or participation in the application, screening, selection and appointment process
- assess applicants on the basis of pre-determined, objective and publicly available criteria
- select members to serve in their own individual capacity rather than on behalf of the organisation they represent.

AHRC commissioners are appointed by the Governor-General acting with the advice of the Federal Executive Council (see sections 8B, 46B, 46MC of the *Australian Human Rights Commission Act 1986*; section 53A of the *Age Discrimination Act 2004*; section 113 of the *Disability Discrimination Act 1992*; section 29 of the *Racial Discrimination Act 1975* and section 96 of the *Sex Discrimination Act 1984*). Appointment processes are set out in the *Government’s merit and transparency policy* which specifies a ‘merit-based and transparent process’ for filling vacancies, and in the *Cabinet handbook*, which states:

> Where a significant Government appointment is proposed, the responsible minister must write to the Prime Minister seeking approval of the appointment before any appointment action is finalised. While most significant appointments will require Cabinet approval, the Prime Minister may determine that Cabinet consideration is not required and authorise the appointment’ (p. 22).

While outlining the provisions for transparent and merit-based assessment set out in the *Government’s merit and transparency policy*, the SCA notes that the policy provides for ‘circumstances where the Attorney-General may consider that a full selection process is not required’. These include where there is an urgent requirement to fill a position, and the availability of an eminent person ‘where there would be little value in conducting a selection process’. Such appointments must be approved by the Prime Minister. The SCA’s recent decision reiterates concerns expressed in the 2016 GANHRI report that ‘such appointments have the potential to bring into question the legitimacy of appointees and the independence of the NHRI’.

Reappointment of commissioners

As noted above, the SCA also raised concern in relation to the potentially unlimited terms of office of AHRC commissioners. The AHRC Act, the Anti-Discrimination Acts and the *Acts Interpretation Act 1901* allow the reappointment of members. However, the SCA has mentioned that there is a silence in the law on the number of times an individual can be reappointed. This means that there are no limits to the duration of tenure, which was of concern to the SCA. In order to promote institutional independence, the SCA considers that it would be preferable for the term of a commissioner’s office to be limited to one reappointment.

Mandate of the AHRC

The decision also notes that the AHRC Act does not make explicit reference to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, or the ICESCR. The decision notes that, while the AHRC interprets its legislation to include all human rights, the Paris Principles require that the NHRI should have a legislative mandate that specifically encompasses all relevant sources of human rights.

Treaties mentioned in the GHANRI Decision

The Convention Against Torture is the most significant treaty responding to torture and obliges signatories to prohibit and prevent torture and cruel, inhuman or degrading treatment or punishment in all circumstances.

The International Covenant on Economic, Social and Cultural Rights aims to ensure the rights of all people to enjoy economic, social and cultural rights, including the right to an adequate standard of living, adequate food, clothing and housing and the continuous improvement of living conditions (Article 11).

AHRC funding

The SCA decision, as well as a 2022 Parliamentary Library ***Budget review*** article, outline concerns over the finances of the AHRC, with reduced funding over the forward estimates (see the 2022–23 federal Budget (p. 136). The SCA decision emphasises that 'to function effectively, an NHRI must be provided with an appropriate level of funding in order to guarantee its ability to freely determine its priorities and activities'. It encourages the AHRC to 'advocate for an appropriate level of funding to ensure the sustainability of its funding base in carrying out its mandate'.

Timing of final accreditation decision

A final decision on the AHRC's accreditation status will be made in October 2023. The SCA's recent decision 'encourages the AHRC to take the actions necessary to address these issues and to provide further information and evidence' in relation to measures to address the SCA's concerns. If those concerns are not addressed to the satisfaction of the SCA, the AHRC's accreditation status could be downgraded to 'B status'.

Further reading

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COMMONWEALTH HUMAN BIOSECURITY POWERS

Howard Maclean, Law and Bills Digest

Key issue

The human biosecurity emergency (HBE) powers under the *Biosecurity Act 2015* (Cth) provided the legal basis for many of the Commonwealth's emergency COVID-19 pandemic measures that were in force for over 2 years between 18 March 2020 and 17 April 2022.

The Senate Select Committee on COVID-19 recommended that a Royal Commission be established to examine Australia's response to the COVID-19 pandemic to inform future preparedness. The Senate Standing Committee for the Scrutiny of Delegated Legislation has also separately recommended amendments to the human biosecurity emergency powers.

This article provides an overview of some of the matters raised with the operation of the HBE powers, which are likely to be considered as part of any broader legislative review of federal pandemic arrangements.

History of Australia's quarantine framework

The Australian *Constitution* includes a power for the Commonwealth Parliament to make laws with respect to 'quarantine' in section 51(ix). The High Court has never characterised the extent of the quarantine power, making its exact limits and nature uncertain. The Commonwealth's quarantine laws have, however, always included powers to take extraordinary emergency measures to prevent outbreaks of disease, used for the first time in 1913, when the Commonwealth quarantined Sydney in response to a smallpox outbreak.

The states and self-governing territories each have their own legislative frameworks providing for similarly broad emergency powers in response to outbreaks of disease and have had such frameworks since before federation. The line between the Commonwealth's power to legislate with respect to quarantine and the states' power to legislate with respect to public health is not clear, but it is likely that there are at least some elements of pandemic response that are outside the Commonwealth's constitutional capabilities, requiring intergovernmental cooperation.

After both the 1913 smallpox epidemic, and the Spanish flu pandemic, efforts were made to create a durable pandemic management framework that would prevent a breakdown in inter-governmental coordination. In both cases, these efforts failed. The November 1913 conference between Commonwealth and state chief medical officers recommended that in the future, measures be:

> … agreed on by the parties in common, not during the operation of restraint and restrictions, and political or other influences, but in circumstances which all the authorities concerned are in the same position with respect to the health requirements and the subjects considered.

The 1913 conference preceded the November 1918 conference that attempted to coordinate Australia's response to the Spanish flu pandemic, and the National Cabinet framework that was established in response to the COVID-19 pandemic.

Following the Spanish flu pandemic, the Commonwealth created the Department of Health to coordinate future pandemic management, and expanded Commonwealth legislative provisions related to pandemic management through the passage of amendments to the then *Quarantine Act 1908*. Over the following century, however, the Department of Health's focus shifted away from pandemic management, and the Commonwealth's quarantine framework became progressively more focused on plant and animal biosecurity rather than infectious human diseases.

The 1997 Nairn Review noted:

> … the strong quarantine focus on human health in the early part of the twentieth century is now overshadowed by the focus on animals and plants of agricultural importance … [p. 30]

In 2008 the Rudd Government reviewed the Australian biosecurity and quarantine framework in response to perceived failures of quarantine that lead to the 2007 equine influenza outbreak. The Beale Review recommended that the *Quarantine Act 1908* be completely replaced by a new Biosecurity Act, which eventually became the *Biosecurity Act 2015* (Biosecurity Act).

This history highlights the challenges of creating and maintaining a fit for purpose, capable national pandemic management framework following a pandemic as a framework may go decades or generations relatively unchanged before its full capacity is needed again.

The human biosecurity emergency powers

To enable swift responses, the Commonwealth and each of the states have always had legislation delegating a broad power to the Executive Government to respond to outbreaks of infectious disease without requiring further scrutiny from parliaments. Currently, at a Commonwealth level, these are provided for in the Biosecurity Act.

Chapter 8 of the Biosecurity Act provides the legislative framework for the human biosecurity powers. Relevant powers under the Biosecurity Act can only be used in relation to 'listed human diseases'.The Minister for Health may advise the Governor-General to declare a human biosecurity emergency if they are satisfied that a listed human disease is 'posing a severe and immediate threat or is causing harm on a nationally significant scale' and that the declaration is necessary to address the situation.

Once a human biosecurity emergency is declared, the minister may make human biosecurity requirements and directions that they are satisfied are **necessary** and **proportionate** to address the emergency. HBE requirements and directions override any other Australian law and cannot be disallowed by Parliament.

An HBE declaration can only last for a maximum of 3 months but can be extended an indefinite number of times provided the Health Minister remains satisfied it is still necessary to address the human biosecurity emergency (which is what happened during the COVID-19 pandemic). Failure to comply with an HBE direction or requirement is a criminal offence, punishable by up to 5 years imprisonment or a $66,600 fine, or both.

There were challenges to the validity of exercises of the HBE powers over the course of the COVID-19 pandemic, notably ***Newman v Minister for Health and Aged Care***, which concerned the validity of the India Travel Pause Determination and ***LibertyWorks Inc v Commonwealth of Australia***, which concerned the validity of the Overseas Travel Ban Determination. In both cases, the Federal Court reaffirmed the validity of the determinations, dismissing the challenges. To date, no judicial challenge to the validity an exercise of the HBE powers has been successful.

Issues regarding the operation of the HBE powers

More broadly, pandemics and epidemics present challenges, including:

- an effective public health response to outbreaks or incursions of serious diseases frequently requires measures to be taken swiftly
- such measures often involve the abrogation or suspension of regular laws, and the limitation of common law and human rights of persons
- such outbreaks are irregular and may be very infrequent
- decision-makers operate in environments of high uncertainty, particularly regarding novel diseases of which the epidemiology (rate of reproduction, vectors of transmission, mortality rate, chronic conditions resulting) is not yet known
- given the varied epidemiology and seriousness of potential outbreaks, the scope of powers needed

for an effective public health response cannot be known before time

- the existence of the outbreak may constrain the ability of Parliament to meet to review, extend, or alter the powers granted to the Executive, or grant such powers if a legislative scheme does not already exist.
- the consequences of an inadequate or slow public health response can be catastrophic to human life, economic, social and cultural wellbeing. The consequences of an excessive public health response can be substantial in financial, social, and human rights terms.

These challenges reflect the rationale as to why the HBE powers confer such broad powers on the minister to respond to an outbreak, including to modify and override existing Acts of Parliament. Professor George Williams described the HBE powers as 'one of the most remarkable provisions on the statute book'.

During the pandemic 4 key issues emerged surrounding the HBE powers:

the fact that HBE declarations, extensions, and requirements cannot be disallowed by Parliament (ss 475(2), ss 476(2), ss 477(2))

- the fact that HBE requirements and directions can override *any* Australian law, a provision known as a 'Henry VIII clause', including in ways that abrogate common law rights (ss 477(5), ss 478(4)).
- the capacity of the minister to apply the HBE powers to policy areas not directly related to infection control via the broad constitutional basis of the Biosecurity Act
- the lack of clarity about how the HBE powers interreact with state public health frameworks.

Reviews and policy proposals for reform

There have been several proposals for reforms of the HBE framework:

- In its final report the Senate Select Committee on COVID-19 recommended that a 'Royal Commission be established to examine Australia's response to the COVID-19 pandemic to inform preparedness for future COVID-19 waves and future pandemics' (Recommendation 17).
- The Senate Select Committee on COVID-19 also recommended the establishment of a Australian Centre for Disease Control (Recommendation 1). Labor promised to action this recommendation as an election commitment, to 'ensure ongoing pandemic preparedness' and 'lead the federal response to future infectious disease outbreaks' as did the Australian Greens.
- The Senate Standing Committee for the Scrutiny of Delegated Legislation recommended that the declaration and extension of a Human Biosecurity Emergency declaration, and the making and varying of HBE requirements, be subject to parliamentary disallowance. Amendments to that effect were moved on behalf of the committee in the Senate to the Biosecurity Amendment (Enhanced Risk Management) Bill 2021, which lapsed at the end of the 46th Parliament.
- There has not been a review of the human biosecurity emergency powers generally during the pandemic. Elements of the human biosecurity emergency framework were considered by the NSW Special Commission of Inquiry and the Inspector-General of Biosecurity in their separate reviews into the *Ruby Princess* incident, but these did not focus on the HBE powers.

In responding to the COVID-19 pandemic, Australian federal and state governments were required to make urgent decisions, while developing policy in an ever-evolving situation. Future reviews of the governments' responses are likely to consider if these powers were appropriately configured to meet these challenges – if it had the correct decision-makers, processes, limits, and systems of parliamentary oversight – with an eye to the next pandemic.

Further reading

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NEXT STEPS FOR NATIONAL CABINET

Dr Andrew Banfield and Dr Nathan Church, Politics and Public Administration

Key issue

Australian inter-governmental decision-making underwent multiple changes during the previous parliament, predominantly in response to the COVID-19 pandemic. The former Council of Australian Governments (COAG) was discontinued, with its functions and operations replaced with a National Cabinet. When the Government went into caretaker mode on 11 April 2022, National Cabinet had existed for just over 2 years, all of which were under COVID-19 conditions. While the enduring nature of the pandemic remains uncertain, the National Cabinet will face opportunities and challenges in navigating other policy development and service delivery requirements throughout the next 3 years.

Executive federalism in Australia

Executive federalism is the necessary process of negotiations and deliberations within 'the executives of the different levels of governments with the federal system'. In Australia, the concurrent nature of government responsibilities, 'requires extensive intergovernmental relations and agreements' and the resultant systems 'are beyond parliamentary scrutiny and responsibility'. Concurrent federalism can be described as a 'marble cake' where the Commonwealth, state, and local governments have integrated policy goals and administrative duties, such as health and education. These elite negotiations have a long history in Australia, starting first with the pre-Federation Premiers' Conferences.

The Council of Australian Governments (COAG) was established in 1992 to be a 'permanent body for ongoing consultation between the Prime Minister, Premiers, Chief Ministers and the President of the Australian Local Government Association (ALGA)'. Despite launching with great fanfare, COAG became 'a slow bottom-up framework … that too often resulted in lowest common denominator outcomes'. Indeed, as early as June 1993, COAG underwent the first of 8 reviews to reduce overheads and streamline processes. In 2020, the Conran Review recommended a similar course of action, rationalising COAG's councils and ministerial forums from 41 to 18 – with only 9 designated as regular meetings. This process of review and cull led to Prime Minister Scott Morrison's observation of the forum as a place 'where good ideas went to die'.

In concurrent federal systems, decision making tends to shift upwards toward national leaders, creating both advantages and risks. Benefits include quicker decisions as all the primary players are in a single room, while also allowing the smaller states and territories to have an equal voice at the table. However, executive federalism is not without shortcomings. For example, its decisions have been criticised as anti-democratic by operating outside the scrutiny of the Parliament and disregarding parliamentary and democratic processes.

Canada also has a long history with executive federalism, where most constitutional public policy considerations take place. First Minister Meetings (FMM) are those called and chaired by the prime minister to discuss ad hoc matters of 'national importance and concern'. By contrast, Canada's provincial and territorial leaders regularly meet to discuss issues of mutual concern in the Council of the Federation. The Council of the Federation operates in form and function like the Council for the Australian Federation. That is, only state and territorial chief executives, absent the federal level, and Chair responsibilities are rotated among the members.

Rise of National Cabinet

On 13 March 2020, in response to the COVID-19 pandemic, the National Cabinet was established 'to coordinate and deliver a consistent national response to the Covid-19 pandemic' Since its inception, National Cabinet has met more than 60 times. This clarity of purpose largely aligned with the new structure, with Centre for Economic Development of Australia's (CEDA) Chief Economist, Jarrod Ball, assessing National Cabinet as 'at its best when it agrees on a broad framework, then leaves the states and territories to implement the solutions'. However, as all levels of government continue planning for a post-pandemic society, ACT Chief Minister Andrew Barr expressed in March 2022 a widely-held sense that National Cabinet should change from its current 'crisis management arrangement' to a structure that 'leads to a more constructive Federation'. Indeed, survey data from mid-2020 indicated a strong public sentiment that National Cabinet should focus on long-term reform, particularly on climate change, health outcomes and job creation. Some of this work may fall within the purview of the National Federation Reform Council, comprising National Cabinet members plus Treasurers and the ALGA President.

In terms of ongoing reform, Independent Senator Rex Patrick called for a Senate inquiry into the current National Cabinet arrangements, contending that 'we need to look ahead to see whether the current ad hoc machinery is fit for purpose and delivers fair outcomes for all Australians, especially the smaller States and regional and remote Australia'. CEDA has also recommended other reforms including 'greater disclosure of deliberations, agreed outcomes and commitments from National Cabinet', and advocated for a federal-state intergenerational report.

National Cabinet as distinct from Cabinet

Shortly after National Cabinet was established, Prime Minister Scott Morrison articulated the differences he saw between COAG and National Cabinet:

> One of the reasons why National Cabinet has worked is it has actually operated as a Cabinet. And that means it operates within Cabinet rules and it operates under the Federal Cabinet's rules and that relates to the security of documents, process, procedure … Having these groups operate like a fair dinkum Cabinet, I think has been really important. We're all members of Cabinet so we all understand what those rules are and I don't think that has been the MO for how COAG has operated and I think that's a really big change.

This emphasis on 'Cabinet' subsequently led to questions as to whether National Cabinet was legally under the 'Cabinet-in-Confidence' information security designation.

At the heart of this query is the core constitutional convention of responsible government. The *Constitution* does not refer to 'Cabinet' or 'prime minister', but their existence is not in doubt. The Crown appoints ministers who are members of parliament, thus allowing direct engagement from other parliamentarians. Ministers, led by the prime minister, share in collaborative decision-making (collective ministerial responsibility). Individual ministers will have the confidence of the Parliament and be responsible for their department. Any allegations of incompetence or impropriety are to be appropriately investigated and dealt with and if the minister is found at fault, the convention requires them to resign.

The Coalition Government believed steadfastly that National Cabinet was constitutionally a Cabinet and thus the convention of Cabinet confidentiality (collective ministerial responsibility) applied to its deliberations. Senator Patrick challenged this notion with a freedom of information (FOI) request for public access to certain National Cabinet documents. The Government argued that National Cabinet was a committee of Cabinet, and accordingly exempt from FOI requests.

This claim of cabinet confidentiality was challenged and rejected by the Administrative Appeals Tribunal (AAT) on the grounds that the evidence was 'persuasively against the National Cabinet being a committee of the Cabinet within the meaning of the statutory expression' (para. 210). Indeed, Justice White observed 'mere use of the name "National Cabinet" does not, of itself, have the effect of making a group of persons using the name "committee of the cabinet"'. Federal Cabinet committees derive their power and membership from the Cabinet. National Cabinet does not meet this threshold as only the prime minister is a member of the federal Cabinet.

Discussions about the ‘Cabinet-like’ nature of National Cabinet dominated parliamentary debate, even in the aftermath of the AAT ruling. Indeed, the Government subsequently introduced legislation to exempt National Cabinet from FOI requests, but due to a lack of parliamentary support, the Bill lapsed at dissolution. The 47th Parliament will have the opportunity to focus on how National Cabinet should be structured to facilitate operations, including questions of secrecy if required.

National Cabinet during the 47th Parliament

The change of government following the 2022 election will likely have substantial implications for National Cabinet’s scope and processes. The prime minister’s role is highly pertinent, as former West Australian premier, Colin Barnett, has noted: ‘My experience of the COAG was that the way it worked very much depended on the attitude of the prime minister of the day. I expect the national cabinet will be the same’. For his part, Prime Minister Anthony Albanese has previously committed to maintaining National Cabinet as the formal mechanism for inter-governmental engagement.

More broadly, the change of government offers a potential reset in direction of National Cabinet. For example, when asked at the National Press Club in January 2022 about federation reform, Anthony Albanese responded:

> You need consistency and we need to work the issues through. If we do, there are massive efficiencies. We need to get back to the growth agenda and the microeconomic reform and productivity agenda. And part of the way that you do that is through Federation reform. The duplication that's there is a problem for our economy, but more importantly, during this pandemic, it's been a source of enormous frustration from people as they look at buck passing. And we need to do better.

Senior government minister, and former ACT chief minister, Senator Katy Gallagher, has also signalled a change in focus, contending:

> I think the National Cabinet process has, well I think it’s fractured the federation in a way from when I sat at COAG. It was a much more collaborative, equal partnership, it seems you know, national cabinet was a sort of construct to, in a sense, become a PR machine through the pandemic. So I think there’s a real opportunity to get back to working with the states around the table. I think it should not be too ambitious because its hard to get through some reforms. But you know, if you pick off a couple of areas where you want to work with the states and territories on improving things, I think there’s a real opportunity, you know, less division, more consensus and agreement about what needs to get done.

In terms of establishing its reform agenda, the incoming Government has cited housing supply as an example policy area for heightened National Cabinet focus. During the election campaign Jason Clare (as Shadow Minister for Housing) announced the ALP’s policy to establish a National Housing Supply and Affordability Council, which would directly report to National Cabinet. The previous National Housing Supply Council was disbanded in 2013, following the last change of government. In contrast, the current National Cabinet architecture designates housing policy to the Council on Federal Financial Relations (Treasurers meeting).

Overarching this, and other policy discussions, is an expectation the new Government will follow through on its commitment to return the ALGA President to the forum. This would provide all 3 levels of government with National Cabinet representation.

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POLITICAL FINANCE

Dr Damon Muller, Politics and Public Administration

Key issue

The federal political finance system has gone without significant reform for over a decade and critics argue that it provides little of the transparency required to prevent undue influence and give Australians confidence in the integrity of the system. It is also increasingly out of step with the states' and territories' regulatory systems which generally feature lower disclosure thresholds, more frequent reporting, and expenditure or donation caps. Some commentators have suggested this divergence between jurisdictions can contribute to political corruption.

The current system also treats independent candidates and parties inconsistently, and deals poorly with the rise of large, expensive campaigns by independents.

One of the recurring themes of concern to voters in the 2022 federal election was the corrosive effect of money on politics and elections. Political finance reform was a feature of some 'teal' independents' policy platforms and was also used as a point of attack against them.

The federal system for regulating political finance, which is provided for in Part XX of the *Commonwealth Electoral Act 1918* (the CEA), saw its last substantial changes in 2006. While there have been some small amendments to the CEA in recent parliaments, there are 2 main areas worth examining:

- the increasing divergence between the federal government's political finance regime and the considerably more rigorous political finance systems now existing in most Australian states and territories
- the different ways that the federal political finance system treats parties and non-party candidates.

The divergence between the federal and the state and territory systems can lead to confusion and inadvertent non-compliance for parties and donors, but also the potential for using one jurisdiction's system to avoid the transparency measure of another jurisdiction. With the High Court having recognised that political finance laws in the states and territories may serve to reduce corruption and undue influence, the discrepancies between the laws risk undermining these important anti-corruption measures.

More generally, features of the current federal political finance system allow large amounts of donations and political spending to remain undisclosed. From the inception of the federal political finance system, it was recognised that donations have the potential to exert influence and that the integrity of the system required the public to be aware of sources of funds to parties and candidates. The current disclosure threshold, inconsistencies in reporting requirements and delays in reporting have reduced the transparency of the federal system. This lack of transparency may be contributing to the declining confidence of Australians in federal politics.

The constitutional restrictions on political finance laws are complex and have largely been defined by several recent High Court cases, most of which related to laws in Queensland and NSW. Generally, the High Court has found that restrictions on political finance are a burden on the constitutionally implied freedom of political communication, but that the burden may be justified based on policy objectives such as preventing corruption and undue influence and levelling the 'playing field'.

Recent changes to federal political finance laws

Ban on foreign donations

The most significant recent change to the federal political finance laws was the introduction of a ban on foreign political donations.

The *Electoral Legislation Amendment (Electoral Funding and Disclosure Reform) Act 2018* amended the CEA to make it an offence to receive donations from foreign donors. This legislation has since been extended to include donations to members of parliament and to non-party candidates and limits on electoral expenditure by foreign campaigners.

Third party registration

Entities that are not political parties, candidates or their associated entities are referred to as third parties (associated entities are organisations that are set up to help candidates, parties or third parties, or that are otherwise controlled by them). In 2018 legislative amendments imposed a requirement for third parties to register as political campaigners if they exceeded a certain level of expenditure. Political campaigners were subject to essentially the same disclosure regime as political parties. In 2021 the *Electoral Legislation Amendment (Political Campaigners) Act 2021* lowered the financial threshold at which an entity becomes a political campaigner and renamed political campaigners as 'significant third parties'.

Such amendments have caused some consternation among charities as to whether their activities would constitute electoral expenditure and lead to a reporting obligation. In practice, the changes seem to have made little difference to how third parties operate. In the 2020–21 reporting period, 17 entities were registered with the Australian Electoral Commission (AEC) as political campaigners, most of which were unions or industry bodies.

Protecting federal donations

The 2018 legislative amendments sought to completely quarantine federal political donations from state regulatory regimes so that federal donations would not be subject to disclosure thresholds and donor bans under state legislation. However, the provisions were found to be wholly invalid by the High Court in 2019. In response, the *Electoral Legislation Amendment (Miscellaneous Measures) Act 2020* required parties to keep a federal campaign account so donations made for federal purposes are not subject to more restrictive state and territory laws. Campaign accounts are common in other Australian jurisdictions as a way of compartmentalising regulated campaign money. The specific High Court cases are discussed in more detail in the *Briefing book* article on political finance for the 46th Parliament.

Divergence between state and territory and federal laws

Most of the Australian states and territories have undertaken significant political finance reform in the last decade or so. The one notable exception, Tasmania, announced reforms in early 2021 and introduced legislation to the Parliament in early June 2022.

The approaches taken by the states and territories show a rich variety of policy responses to the question of money in politics, including:

- limits on who can donate
- caps on donations and election expenditure
- real-time or more frequent disclosure of donations
- lowered disclosure thresholds (the amounts over which donations need to be disclosed).

The High Court has ruled several times that expenditure caps are not inherently unconstitutional, but clarified that the caps must be consistently applied. Similarly, the constitutionality of banning certain donors has been upheld. While there is some important legal nuance to these decisions, with sufficiently careful legislation, such reforms are possible (in contrast to banning political advertising).

In general, the various approaches taken by the states and territories have not severely restricted money in politics. For example, where donations have been limited, this has tended to be compensated for with increased public funding. However, these reforms have made the system more transparent and limited an individual or interest group's capacity to disproportionately affect election outcomes.

It can be argued that these state and territory reforms were specifically a reaction to the federal system. For example, Victoria relied almost entirely on federal political finance laws before introducing its own legislation that, among other reforms, imposed severe restrictions on donations.

While it is unlikely that Australia will ever achieve complete harmonisation of its political finance laws, the size of the discrepancy across levels of government is problematic. In its report into Operation Aero, the NSW Independent Commission Against Corruption (ICAC) commented on this discrepancy creating loopholes to circumvent state laws by allowing prohibited donors to exert influence by making major donations elsewhere. The NSW ICAC specifically cited evidence of illegal donations under the NSW system being accepted into the federal account of the party's NSW branch (p. 270). Reducing the disclosure threshold for political donations from the current $14,500 to $1,000, as in NSW, Queensland and Victoria, would therefore work to close these loopholes.

Different rules for parties and independents

The CEA treats independents (referred to as 'candidates') and parties differently when it comes to political finance. Some examples include:

- candidates must provide a return listing their electoral expenditure 15 weeks after polling day, but parties are not required to report their election expenditure (section 307A)
- independent candidates are required to disclose donations they receive, but party candidates are only required to disclose via the party (section 305A)
- the disclosure obligation for candidates only extends from 6 months before they nominated or announced their candidature until 30 days after the election (section 305A).

In 2021 the *Electoral Legislation Amendment (Political Campaigners) Act 2021* extended the provisions relating to associated entities, which previously had only applied to parties, to candidates. The prior arrangements had led to organisations that had been set up to process donations or run campaigns for individual independents registering as third party campaigners, rather than associated entities.

While the Coalition Government's legislative efforts have gone some way to addressing independents' political finance activities, the system is still somewhat arbitrary and piecemeal. In particular, the current reporting requirements for candidates appears not to have anticipated the campaigns run by some of the independent candidates in the 2022 federal election that involved sophisticated and expensive campaigning infrastructure and large amounts of money raised through donations. The complexity of the system also makes it difficult for independent candidates to be compliant.

Reform of this part of the CEA so that parties and candidates have more consistent reporting obligations would result in greater transparency and would make reporting for parties and candidates more straightforward. While the scale of independent's campaigns can vary significantly, for legislative consistency the overall increased funding of independents' campaigns should correlate with tougher disclosure obligations. Given the success of some of the independent campaigns, these large, well-funded campaigns may become a recurring feature of federal elections, and so it is important that the legislation reflects this new development.

Areas for potential policy reform

The recent history of political finance reform, particularly in Australia's states and territories, provides a roadmap of reform options that could potentially be adopted by the federal parliament with the aim of increasing the transparency of the use of money in Australian federal elections, or potentially levelling the playing field between candidates, regardless of their financial resources.

Reducing the donation disclosure threshold

The disclosure threshold is the amount under which donations do not need to be publicly declared by parties and donors (although some parties do choose to declare lower value donations). The federal disclosure threshold is currently $14,500, indexed and increased every 6 months. In the 2019 election year around $113 million of political party income was not disclosed, with the majority of that amount likely from donations under the disclosure threshold.

The most common disclosure threshold used in Australian states and territories is $1,000 (NSW has had a disclosure threshold of $1,000 since 2008).

While the privacy of donors is a legitimate concern, the positive experience of other Australian jurisdictions demonstrates that a $1,000 threshold is feasible.

Clarifying what constitutes a donation

Large amounts of federal political fundraising is relatively easy to classify as something other than a donation. For example, a $14,400 table at a dinner can be classified in a party return as an 'other receipt' because it was provided in exchange for a meal. Some states and territories specifically address this in their legislation, such as South Australia, which caps money raised through political access to $500 per person (section 130ZL).

Ending donation splitting

The CEA does not require parties to declare multiple donations from the one source that are individually below the disclosure threshold but are in aggregate greater than the threshold. Additionally, many parties have separate state and territory branches that are treated as separate entities for political finance purposes. This allows large donations to a party to be split into separate donations below the disclosure threshold and given to each branch. Amending the CEA to require parties to disclose aggregated donations from a single donor, as is currently required for donors, would increase transparency.

Improving donation disclosure timeliness

The CEA requires that parties, associated entities, significant third parties and donors provide annual returns to the AEC, which are published each February. This means that no party returns for the 2022 federal election will be available until February 2023.

Many Australian states and territories have more frequent reporting cycles and have different reporting cycles in an election period. Three jurisdictions (Queensland, ACT and the NT) require weekly reporting during election periods.

Disclosing electoral expenditure

The CEA currently provides no requirements for parties to disclose their expenditure on elections. Since 2018 parties have been required to justify their expenditure to the AEC to claim public election funding; however, only the claimed amounts are published by the AEC and these only constitute a small component of election spending. Given the amount of public money that parties use for their election campaigns (which could be around $100 million in 2022), increased accountability could help increase confidence in the electoral system.

Capping electoral expenditure

Five Australian jurisdictions now limit party (and in some cases third party) spending on an election campaign. Expenditure caps generally apply for total election spending but can also include spending on individual electorates. With some limitations, the High Court has repeatedly ruled that electoral expenditure caps are constitutional. Expenditure caps for an election can generally be set to not restrict parties' ability to campaign fully, but rather prevent moneyed interests from drowning out other voices.

Capping donations and increasing public funding

Australia's 2 most populous states limit donations to political parties and candidates by an individual in a specified period. Donation caps prevent wealthy donors buying disproportionate influence, and the High Court has recognised this levelling of the playing field as a legitimate constraint of political speech.

While donation caps restrict political party fundraising, this may be offset with increased public funding. Most jurisdictions also provide administrative funding paid to political parties for routine (non-election) operations, based on their representation in the Parliament. Notably, the last Commonwealth attempt to introduce administrative funding (as compensation for decreasing the disclosure threshold to $1,000), descended into controversy and the legislation was abandoned.

Large donations have been a feature of recent Australian federal elections, including Malcolm Turnbull's $1.75 million donation to the Liberal Party in 2016 and Graeme Wood's $1.68 million donation to the Greens in 2010. At the 2022 federal election Climate 200 was reported to have donated $500,000 to 2 candidates and $12.5 million across all of its backed candidates. Capping donations without capping expenditure, as in the case of Victoria, might lead large donors to instead spend the money themselves, as third parties, for example. While donation caps appear to have been employed successfully in NSW and Victoria, this approach may not be compatible with the way politics is done at a federal level.

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THE AUSTRALIAN GOVERNMENT PUBLIC SECTOR

Philip Hamilton, Politics and Public Administration

Key issue

The Labor Government will differ from the Coalition Government on key aspects of public sector management. For example, Labor has promised to:

- abolish the Average Staffing Level (ASL) cap
- reduce 'waste' and 'excessive reliance' on contractors, consultants, and labour-hire companies
- invest nearly $500 million in 'rebuilding capability', particularly in service delivery roles at Services Australia, Veterans' Affairs and the National Disability Insurance Agency (NDIA)
- establish an Advanced Strategic Research Agency (ASRA) in the Defence portfolio

It has also pledged a Royal Commission into 'robodebt' and a 'user audit' of the myGov portal.

The Parliament will have opportunities to monitor the implementation of these policies through Senate Estimates committee hearings and Joint Committee of Public Accounts and Audit (JCPAA) inquiries. Auditor-General reports will also contribute to the Parliament's understanding and scrutiny of public administration.

Government entities

The Australian Government operates, owns, or controls numerous entities and companies that deliver an array of policy objectives. In some circumstances, these are collectively referred to as the public service, and the employees as public servants.

However, in law, the Australian Public Service (APS) comprises only those entities employing staff under the *Public Service Act 1999* (PS Act). This includes all departments of state, and 98 other entities (as at 19 April 2022). Generally, APS agencies are components of the legal entity that is the Commonwealth, so they are non-corporate Commonwealth entities (NCE). The responsibilities of the Australian Public Service Commission (APSC) include building workforce capability and promoting integrity in the APS.

In contrast, corporate Commonwealth entities (CCE) are generally established through legislation. Consequently, each of the 71 CCEs (as at 19 April 2022) has a legal existence separate from the Commonwealth. Although there are exceptions, CCE employees are generally not employed under the PS Act and so are not part of the APS or under the purview of the APSC.

The Commonwealth also controls 18 companies established under the *Corporations Act 2001* (as at 19 April 2022), whose employees are generally not employed under the PS Act. Some companies (for example, NBN Co Ltd) and CCEs (for example, Australia Post) are also Government Business Enterprises.

Administered and departmental funds

Budget appropriations for public sector entities are classified as either administered or departmental. Administered funds are non-discretionary funds expended by an agency on behalf of the Government for the benefit of external parties, generally through programs. For example, Services Australia is required to make income support payments to applicants who fulfil eligibility requirements. Other examples include grants, subsidies, and other obligations arising from legislated eligibility rules and conditions. The Parliamentary Budget Office (PBO) has calculated that, in the 2019–20 Budget, administered expenses accounted for around 86% of total expenses. In contrast, the remaining expenses were from departmental funds, which are generally intended to cover agency running costs such as employee salaries and equipment and property acquisitions.

Efficiency dividend

Since 1987–88, successive Australian governments have applied an Efficiency Dividend (ED) to agencies' departmental expenses, reducing funding to account for increased productivity. The ED is set as part of the Government's Budget development and applied prior to the addition of any new measures. Accordingly, the ED rate is not always explicitly transparent, as a non-budget measure. Additionally, various agencies have been fully or partially exempted from the base and one-off ED rates.

The ED rate has varied over time but has usually been either 1% or 1.25%. While the highest ED rate was 4% in 2012–13, most Budgets since 2014–15 have incorporated a 2% or 2.5% ED rate. Since the onset of COVID-19 in early 2020, the Government's Budget papers have not discussed the ED. However, during the 2022 election campaign the Coalition indicated that the ED was 1.5% and noted current exemptions for the NDIA, ABC, SBS, Safe Work Australia, and entities with an Average Staffing Level (ASL) below 200.

Labor's election statement on the public service did not mention the ED. However, further clarity is likely in either a ministerial statement on the economic and budget outlook when Parliament reopens in July or in a new Budget for 2022–23 expected in October.

Staffing, contractors and consultants, and capability

Average Staffing Level (ASL) and the ASL cap

When discussing public sector employees, Budget papers use ASL, to adjust for casual and part-time staff and to show the average number of full-time equivalent employees. ASL is almost always lower than a headcount of actual employees, used by the APSC.

The ASL cap commenced at the 2015–16 Budget, when the Coalition Government committed to a general government sector (GGS), excluding military and reserves, at around or below the 2006–07 ASL of 167,596 (2016–17 *Budget paper no. 4*, p. 132). In October 2020, the Government reported that while this had been achieved prior to the COVID-19 pandemic, temporary 'significant ASL increases will occur in a number of portfolios in 2020–21 … reflecting the nature of the response to COVID-19' (2020–21 *Budget paper no. 4*, p. 18).

During the 2022 election campaign Labor committed to abolishing the ASL cap, because it had 'impacted on services provided to Australians, eroded public sector capability, reduced job security and wasted taxpayer funds'. Accordingly, Labor promised '1,080 new secure frontline service delivery jobs' in agencies including Services Australia (200 staff), the Department of Veterans' Affairs (500 staff), and the NDIA (380 staff).

Contractors and consultants

In 2017 the Australian National Audit Office (ANAO) indicated that the total Commonwealth Government spend on consultancy contracts in 2016–17 was close to double the expenditure in 2012–13. The following year the JCPAA established an inquiry into procurement contract reporting, including examining government entities' use of consultants and contractors. Based on submissions to the JCPAA inquiry, media reporting noted that spending on contracted labour had doubled in 5 years. In November 2021 a Senate inquiry report into APS capability noted the very limited publicly-available APS labour hire data, including expenditure and headcount. The main public sector union told the inquiry that 'at least 20 000 APS positions are filled on a labour hire basis' (pp. 25; 27).

Labor has promised to 'reduce wasteful spending on external private labour (contractors, consultants and labour hire) … by $3 billion over four years', including reducing 'spending on external labour by 10 per cent in the first year'. The new Government has also proposed an APS employment audit and an intention for some labour hire, casual or contract roles to be converted into ongoing APS employment. However, *The Mandarin* has observed that consultants and contractors are 'entrenched' in agencies' work structures due to increased workloads and static staffing levels. In this circumstance, it will be challenging to unwind interdependencies.

Public sector capability

In recent years, the APSC has focused on capability development through establishing the APS Learning Board, APS Professional Streams, and the APS Academy. However, Labor has argued that the staffing cap and reliance on contractors and consultants has 'eroded public sector capability'. As such, the new Government has committed to 'invest[ing] nearly $500m in "rebuilding capability"' particularly in Services Australia, Veterans' Affairs and NDIA service delivery.

This position echoed the themes and recommendations of the Senate's 2021 inquiry into APS capability, and a previous 2019 report into the APS by David Thodey. However, the term 'APS capability' remains ill-defined, and lacks benchmarks. Consequently, there is no clear vision of what capability looks like, particularly in an environment where service delivery is heavily outsourced.

In a wide-ranging essay published by the Grattan Institute in 2021, Professor John Daley discussed the importance of public service capability in the context of governments' capacity to develop and implement policy, particularly 'policy reforms that would increase Australian prosperity'.

New and ongoing initiatives

Advanced Strategic Research Agency (ASRA)

Announcing the trilateral AUKUS security partnership in September 2021, the joint leaders of Australia, the UK and the US noted that AUKUS would 'foster deeper integration of security and defense-related science, technology, industrial bases, and supply chains'. In February 2022 the UK established the Advanced Research and Invention Agency. In this context, Labor has committed to creating an Advanced Strategic Research Agency (ASRA) in the Defence portfolio, emphasising that 'ASRA would be modelled after the United States Government's groundbreaking Defence Advanced Research Projects Agency (DARPA)'.

Key features of the 'DARPA model' are that program managers are hired for a limited tenure, and that DARPA does not have to comply with usual public sector procurement arrangements. In this context, the design, implementation and ultimate success of an Australian version of DARPA may depend on its corporate form (see 'Government entities' above), and the extent to which it can take advantage of non-conventional hiring and procurement arrangements that are substantially outside the normal public service rules, such as the Commonwealth Procurement Rules. A Parliamentary Library FlagPost outlines the 'DARPA model'.

Digital Identity system

A Digital Identity system has been in development since 2015. Budget papers indicate that more than $600 million will have been expended on the system by 2024. The Digital Transformation Agency (DTA) has explained that 'a secure Digital Identity replaces the need for multiple logins to access different services and makes getting things done with government faster and easier. The system will expand over time to include more government agencies as well as private sector organisations'.

An exposure draft of a Trusted Digital Identity Bill 2021 was circulated in late 2021, but the Bill was not introduced in the 46th Parliament. While it is likely that the system will be progressed during the 47th Parliament, many variables will depend on how the Labor Government responds to criticisms of the system, and the views of crossbench senators. A Parliamentary Library FlagPost provides an outline of the system and highlights criticisms about architecture, security, and biometrics.

Public sector reviews

Labor has committed to establishing a Royal Commission into the Centrelink online compliance initiative ('robodebt') by the end of 2022. Proposed terms of reference will cover the advice and processes informing scheme design and implementation, and potentially computer-supported decision-making, which reportedly caused 'incorrect or inflated debt calculations for over 450,000 individuals'. Other lines of investigation could include the scheme's complaints handling processes and use of third-party debt collectors.

Labor also promised to conduct a 'user audit' of the myGov portal, which provides access to a range of government services. In detailing its proposal, it stated 'the myGov audit will be conducted at arm's length from Services Australia and myGov but will be led by a senior public servant from within departmental resources'.

The ANAO, led by the Auditor-General, publishes an *Annual audit work program* for its planned audit coverage of Australian Government entities. The JCPAA has a statutory duty to examine all ANAO reports. The JCPAA also conducts its own inquiries, either arising from ANAO reports or on other matters relating to public administration. In the 46th Parliament the JCPAA reviewed the *Auditor-General Act 1997* (AG Act), a routine review undertaken approximately once per decade since the 1990s. The report made 27 recommendations for amendments to the AG Act and other related legislation, many of which are technical in nature. A Government response to the report can be expected.

In 2021 two former departmental secretaries and a Reserve Bank board member conducted the *APS hierarchy and classification review* of SES and non-SES classification levels and structures. In February 2022, the review's report was reportedly under consideration by the APS secretaries board, with the Government likely to consider any recommendations. The classification review was one of 40 recommendations made in the Thodey Review, which the new Government may also revisit. In July 2021 Professor John Daley of the Grattan Institute observed:

> There was a clear pattern to the [Coalition] Government's response to the Thodey review – it systematically rejected changes that would reduce the power of ministers. Unfortunately, those changes are precisely those most likely to improve the chances of reforms that would otherwise be blocked because they face hostile public opinion, party shibboleths, vested interests, or lack independent evidence.

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