Submission to the 2022 Productivity Commission Productivity Review Interim Reports

October 2022

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1. Overview

The Business Council of Australia welcomes the opportunity to provide a submission to the interim reports of the Productivity Commission's 2022 Productivity Review.

The Productivity Commission's assessment that "lifting productivity growth rates is the only sustainable way to ensure Australians experience income growth similar to that of the past few decades"[1] should be the benchmark against which we assess public policy at all levels of government. The federal government's Job and Skills Summit outcomes included recognition that "growing productivity for the benefit of all Australians" is at "the centre of the government's economic agenda." The government must deliver on that fundamental commitment and organise policy formulation and implementation around this priority. It must avoid the ad hoc policy making that has impeded productivity outcomes because it has not been properly evaluated against this fundamental economic objective. The past decade was the slowest for productivity growth in 60 years and is of paramount concern. It is no coincidence that it was also the slowest decade for incomes growth in 60 years.

The recent downgrade in the government's long-run productivity growth assumption to 1.2 per cent on average over the next decade from the previous assumption of 1.5 per cent highlights how much future income Australian's will prospectively lose to slower productivity growth. If we can raise productivity growth back to the 1990s average of 2.2 per cent, then average incomes can be more than $9,000 higher over the next ten years. This represents a material difference in living standards for all Australians.

A key driver and enabler of productivity growth is incentives. Successive Australian government's have undermined those incentives through a combination of regulatory accumulation and increasingly inefficient taxation. These are fixable problems, but require a renewed commitment to economic reform.

A major focus for reform should be improving efficiency in government service delivery, particularly in relation to government-funded human services, including through the processes of National Cabinet. If governments fail to address inefficient service delivery, the funded sectors of the economy will drive excessive growth in government expenditure and a growing tax burden. A growing tax burden will in turn impose efficiency costs on the Australian economy, slowing productivity and reducing growth in living standards.

Lacklustre productivity growth is contributing to inflationary pressures on the supply side of the economy, the need to revive lacklustre wages growth and the need to start tackling a near trillion-dollar public debt. Every additional 1 per cent GDP increase means the economy is more than $20 billion larger and delivers around $5 billion extra tax revenue.

Many of the challenges Australia faces today have been made more difficult to tackle due to past inaction. Former Productivity Commission chair Gary Banks's 'to do' list built around incentive policies, capability policies and flexibility policies is now a decade old and yet still largely unimplemented. As the Productivity Commission itself notes, the recommendations from the landmark 2017 *Shifting the Dial* report continue to be relevant, but most have not been acted on. Similarly, recommendations from this review cannot also be kicked into the long grass. To underscore this lack of progress, the Commission should consider producing an annual report in which it tracks government progress in implementing the Commission's recommendations of the productivity inquiry and other Commission reports. This would also serve as a handbook for outstanding reform priorities.

Skilled migration has an essential role in promoting the dynamism of the Australian economy, not just through its addition to the supply of skilled labour, but also as a driver of investment demand, new business formation, entrepreneurship and innovation. Getting migration settings right can further unlock the productive potential of the Australian economy

The list of possible productivity-enhancing reforms is long and the interim reports provide a solid foundation. This submission does not attempt to list all the necessary reforms but focuses on some of the key priorities within the interim reports from a business perspective needed to turn around Australia's worsening productivity performance. The attached BCA report, *Releasing the handbrakes on growth* – puts forward the urgent and less complex reforms that, if implemented, would immediately help reduce economic bottlenecks and improve the quality of life for Australians.

[1] Productivity Commission, *Australia's productivity performance: Call for submissions*, February 2022.

2. The big changes

We know there are big changes on the horizon which will create new pressures for Australia's economy and society – and compound existing ones. These include:

- an ageing population, mitigated only through skilled migration
- digitisation and new technologies
- a decarbonising economy, and
- changing geopolitics and security environment.

Australia must reshape its economy into a high wage, high productivity one to reverse the previous decade's lacklustre productivity and incomes growth.

This means strengthening our competitiveness by having the most talented people to meet future challenges, but also by leading the development and application of world-class technologies.

A critical element is also ensuring businesses and workers can make the most of new investments and innovations. This includes modern regulations and a workplace relations system that does not inhibit the ability to realise productivity benefits from investments and innovation.

To have a future made in Australia, Australian workers must make the goods and provide the services that are needed globally. We need to look for areas of comparative advantage and for opportunities within cross-border global supply chains.

Only by doing this can we get the scale we need to grow the industries that will provide high-paying, secure jobs for Australians. We must look at where we can be competitive in global markets and make the differentiated, high-value goods that are critical for global supply chains.

Australia has prospered from using its extensive natural resources to develop economic opportunities in carbon-intensive industries and agriculture. These sectors have delivered Australia prosperity in past decades. They will continue to be part of supporting Australia's great prosperity.

Going forward, we can also seize the opportunity to use these sectors as a foundation as we redefine Australia as a frontier nation. This means being at the cutting edge of driving new means of wealth and value creation, adopting innovation and new technologies, and growing new industries and skills.

2.1 The importance of having a vision of a frontier economy

It is critical for Australia to have a vision of what a modern and diversified Australian economy looks like, and the steps that will be taken to get there. A frontier economy is one in which Australian firms and industries are at the global cutting edge of new value creation and productive efficiency. This will lay the groundwork for delivering more productive, higher paying, and more secure jobs.

Rebalancing the economy will mean getting the policy settings right for Australia to create new jobs in sectors where we can play to our strengths. If we fail to do this, Australia will continue to fall behind our competitors. As we stand still, other countries are doing better and will overtake us. Australia needs:

- a more competitive tax system
- well planned infrastructure, coordinated between state and federal governments
- a high-quality skills and education system
- a productive workplace relations system
- access to affordable and reliable energy, and
- effective and efficient regulation.

Doing better also means growing the jobs needed to take advantage of a decarbonising global economy. It will mean ensuring businesses can take advantage of new technologies and making the right investments to support the care economy.

We are only part of the way through a global transition driving us towards net zero emissions – one which is being spearheaded by the global investment community. Our economy is heavily reliant on emission-intensive industries for much of its wealth creation – with one in four jobs currently in emission-intensive industries.

Fully decoupling economic growth from emissions growth will not be easy. It requires a strategic approach to diversifying our economy and innovation to close the technology gap inhibiting emission reductions in hard-to-abate sectors. It will mean building up the new and repurposed infrastructure before we attempt to move away completely from incumbent systems. A planned approach to a clean energy future is needed.

We can be at the forefront of reducing the carbon footprint of our carbon-intensive products by using renewable energy to become a clean energy exporting superpower.

We know there are parts of the economy that are going to withdraw or need to be substituted. We need to acknowledge what we know will be exiting and what opportunities we have. This will affect some areas more than others. Many carbon-intensive jobs are in regional areas, which will create challenges for these areas to generate new employment through the transition.

Part of this will need to include contemplation of the jobs and skills that will be needed to support the transition. Globally, the International Energy Agency (IEA) estimates 14 million new clean energy roles will be needed by 2030.[2] While this will more than offset the jobs lost in fossil fuel productions, there will not be a direct transfer between the two sectors, with many of the new jobs requiring new skills and expertise.[3]

Many of the jobs in the renewables sector do not have high formal training requirements – across solar PV and onshore and offshore wind, the majority of jobs require lower certifications and do not need 'STEM professionals'.[4] However, in the areas of growth, 60 per cent of energy employment to 2030 will require at least two years of post-secondary education.[5]

Governments and businesses will need to understand and anticipate what skills will be needed and appropriately train and recruit to meet these needs and support areas where carbon-intensive industries may decline. Government, industry and communities must work together to manage the disruption to regional economies and workers dependent on carbon-intensive industries. Governments have invested in innovation hubs and precincts designed to capitalise on productivity-enhancing agglomeration effects with mixed success. Consolidation and more focus is needed because there is much duplication of effort. Industry policy should be reviewed to embed an investment mindset rather than one of grants.

The BCA has previously recommended the creation of a National Regional Transition Taskforce, under the purview of the Climate Change Authority, to develop a low-carbon regional roadmap for the most affected regions – for example the Hunter Valley and the Latrobe Valley. This could also take the form of a standalone authority or ministerial taskforce reporting to National Cabinet. Regardless of the format, governments will need to rise to this challenge.

The National Reconstruction Fund should include as one part of its investment mandate a focus on a small number of internationally significant precincts. Other government investments and interventions – such as infrastructure projects – should be prioritised based on how they enable these precincts.

Action

- Driving the growth of a small number of globally significant precincts will require high-quality place-based decision making that is consistent with the energy transition. This means having:
  - A clear vision and understanding about why a precinct can, and will be, important in a global context. This is not just the number of jobs created, but also its significance for global trade, such as access to a strategic port or airport, years of previous investment, or demonstrated success and agglomeration.
  - A focus on the people and collaboration. A precinct needs to draw together the skills and capital needed from industry, tertiary institutions, and government. But, it also needs to be a place where people want to live, not just work.

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[2] New clean energy roles include renewables, energy efficiency, low-carbon fuels, nuclear power, battery storage and carbon capture, utilisation and storage; IEA 2021, *Net Zero by 2050: A Roadmap for the Global Energy Sector*.
[3] IRENA 2021, *Renewable Energy and Jobs Annual Review 2021*
[4] Sydney Energy Forum 2022, *Sydney Energy Forum Evidence Base*
[5] IEA 2021, *Net Zero by 2050: A Roadmap for the Global Energy Sector*

– A considered approach to infrastructure investment. This means structuring the investment needed to make it happen – not building a precinct to fit predetermined infrastructure choices.

3. Australia's data and digital dividend

3.1 Digital skills

The Commonwealth Government has set a goal of 1.2 million tech jobs by 2030. This will mean creating an additional 340,000 tech-related jobs. And these jobs will not just be people sitting on beanbags in start-ups – most 'tech' workers are employed in Australia's existing businesses, enabling them to meet the changing demands of their customers, such as through buying things they want online. For example, around 40 per cent of Transurban's workers are in technology roles.

The lack of access to workers is the key barrier to growing the digital economy in Australia (both to create new businesses and modernise existing ones).

If Australia is to remain competitive – both globally and in the region – governments, businesses and the community must not just embrace, but drive digitisation. Future productivity growth will rely on all businesses adopting new technologies, whether that is through deploying new software tools, taking advantage of data, or increasing the cyber resilience of highly interconnected systems. Fundamental to this will be giving Australian workers digital skills. Digitisation and automation also provide opportunities to make workplaces more inclusive for women and people living with disability, However, this will require the development of a coherent regulatory framework than facilitates rather than impedes innovation and digital adoption.

This is not a new trend: STEM skills have long been an integral part of Australia's labour market. In the 20-year period before February 2020, employment in STEM occupations grew by 85 per cent (more than double the rate in non-STEM fields).[6] As it currently stands, there are not enough workers with the right digital skills. Worse, we risk being left behind by global competitors. Australia lags countries like the United States and Singapore in demand for cutting-edge digital skills.[7] This suggests there is still a wider gap between where we think we *want* to be and where we *need* to be.

Equipping workers with tech and digital skills will be key to driving a reset of Australia's economic structure. Productivity growth will rely on businesses adopting new technologies, taking advantage of data, and protecting themselves from cyber risks.

The problems and challenges of meeting existing demand are well known:

- low levels of awareness about 'tech' jobs;
- a lack of diversity in 'tech' professions (particularly for women, older, regional, and Indigenous Australians);
- a limited domestic talent pool for experienced tech workers, COVID-19, and a slow and complex migration system have made it hard and uncompetitive for highly skilled and in-demand migrants to come to Australia; and
- lack of a coordinated effort to plan how to meet these skills needs between government, education providers, and industry.

The lack of diversity in the sector is one key challenge and there is a need to get underrepresented workers into fields of high demand. For example, the future tech and digital workforce will need to have greater gender equity as less than a third of IT workers are women.[8] Bridging this gap will not only help skills needs – it also ensures products are better designed and able to meet a broader range of needs. This applies to other areas of underrepresentation in the workforce, like Indigenous candidates and those in regional and remote areas.

What is needed is a way to forge a link between the training that is provided by various businesses and training providers and ensuring that those Australians receiving this training can demonstrate that they have attained these skills to employers.

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[6] National Skills Commission 2021, *The state of Australia's skills 2021: now and into the future,* p4.
[7] National Skills Commission 2021, *Digital skills in the Australian and International economies,* p23.
[8] ACS Digital Pulse 2022

Actions

- Focus on growing digital skills across the economy, in businesses of all sizes in the context of a coherent regulatory framework. This includes in underrepresented groups, such as women, Indigenous Australians and those living with disability.
  - Consider how existing digital training programs running across government, businesses, and the skills system can be scaled. Examples include the Digital Cadetships Trial, CyberCX's Cyber Academy, and Cisco's partnership with RMIT (among many others).The Foundation Skills for Your Future Program, flexible online training programs like Google career certificates and microcredentials have an important role to play underpinning the life-long learning critical to skills formation.
- Reform of the migration system so that Australia can attract the highly skilled workers we need.
  - This means significant changes to make migration processing faster and less complex and improved pathways to permanency to make Australia a more attractive destination.
  - There also should be recognition of the local training investment made by employers when those employers need to access overseas talent. This 'Trusted Trainer' model would provide benefits for employers investing in local skills, such as improved processing times, or credits/exemptions against the Skilling Australians Fund levy.

3.2 Digital adoption

Further, to reap the benefits of a digitised economy, Australia will need to drive the adoption and creation of new digital technologies and telecommunications infrastructure. There is no single change that will unlock the digital opportunity, and it is not just a question of building domestic talent or skills. Australia will need to bolster other key pillars of the digital economy. This includes ensuring Australians can connect and engage with confidence; policy, regulatory and tax settings encourage and support businesses to adopt and use new technologies and services and are not unnecessarily adversarial; and governments need to work with industry and the research community to ensure Australia remains at the leading edge in emerging fields like quantum computing.

Governments need to think differently about how they approach the challenges and opportunities digital businesses present. We need to lock in the productivity-enhancing incentives that encourage businesses – particularly smaller businesses – to pick up new digital tools, such as eInvoicing. The understanding of what 'digital' means also means looking beyond traditional notions of how 'digital' is procured – all organisations no longer need to buy their own 'big iron' (e.g. servers) to house in their basements: for most, it is far more sensible to procure the same functionality from cloud services. This has implications for how incentive structures need to work. They cannot be focused on big capital expenditures; instead many 'digital' investments would be categorised as operational expenditure.

As the report highlights, for larger businesses the high costs (both in dollars and in changing business processes) of transitioning legacy systems can be a challenge. This does not mean large businesses do not want to or cannot adopt new systems. But it does mean that mandates, incentives, and other government tools to encourage businesses to adopt new technologies cannot have a short runway.

While 'digital' is fast moving, the investment horizons used for major digital builds extend out years, particularly when it comes to highly complex and interlinked systems between groups and divisions within businesses. Even changes that appear straightforward can ripple across an entire organisation, as various ERP (enterprise resource planning software) systems need to be amended. These changes do not come cheaply, and - as they are often procured from key vendors – can often be out of the hands of the businesses themselves.

Action

- Consider how government policies and incentives can support digital adoption.
  - Tax settings need to incentivise adoption of new digital technologies. (e.g. through a broad-based digital investment allowance focused on adoption of cloud software). These need to have a long 'runway' (i.e. extending past the budget forward estimates), to ensure businesses are able to factor them into investment decisions and make the new productivity enhancing investments. This also applies to any decisions to 'mandate' or require use of certain tools.

- Government procurement decisions also need to support businesses investing in Australia. Procurement cannot only be focused on 'buying local' for digital: government needs to take advantage of the scale and security of international providers (as seen in the success and resilience of the 2021 Census).
- Accelerating the rollout of the eInvoicing initiative will be the critical next step to wider digital adoption, following Single Touch Payroll and SuperStream. A coherent plan developed with businesses to enable all parts of the economy to use eInvoicing will be critical.

3.3 Digital regulation

Most importantly, governments will need to have a coherent view of the digital economy across portfolios.

Too often, policies and regulation of the digital economy have been conflicting, at odds with other government initiatives, or poorly targeted. For example, the ACCC has been leading the long-running Digital Platforms Services Inquiry, which has examined the role of 'digital platform services' on competition and consumers.

But, through this inquiry, it has not been clear that there is a coherent definition of what a 'digital platform service' is, or 'digital activity' that raises the relevant ACCC concern. However, in the Discussion Paper for Interim Report No. 5 of the Inquiry,[9] it was clear the ACCC is focused on a small number of large businesses with significant domestic and international reach – namely Apple, Alphabet and Meta. But it is not clear why many of the activities of these platforms are of unique concern to digital platforms.

The ACCC has, for example, suggested concerns about the use of data by these 'digital platforms'. But, retailers in Australia have been collecting and using a very significant volume of customer data for a very long time without this being concern. The position taken in the paper also sits uneasily with government efforts to incentivise digitalisation in Australia. It also sits at odds with the recently passed *Data Availability and Transparency Act 2022*, which establishes a new data sharing scheme to allow Commonwealth bodies to share and use data that identifies individual Australians between agencies, state and federal governments and public Australian universities.

Further, each of the businesses identified by the ACCC operate substantially different services, all of which have different implications for consumers and competition. There is no cohesive 'through line' to explain why all these different services should be considered together, or why there is a need for measures that would apply to all digital platforms given the varied markets they operate in. The 'one size fits all' approach seems most likely to result in unanticipated harms to innovation and consumers.

There are very real risks to this kind of approach, not least that it creates uncertainty for all businesses in Australia, with the threat that a regulator may arbitrarily decide to include them in an ill-defined 'sector' of the economy. A sector wide approach is inappropriate if there are not clear and overlapping commonalities between the 'services' being regulated and the harms to be prevented. This is further compounded by a lack of clarity around why certain businesses are caught by sector wide reforms, resulting in unintended consequences with a much wider range of businesses being captured than intended or competitive distortions introduced because of different regulation of the same activity. This approach also creates undue compliance burdens for smaller and domestic-focused players seeking to compete with international businesses, thereby reducing business certainty and confidence in the absence of a broader policy problem to be resolved.

This is not to single out the ACCC in this. Poor consideration and definitions of 'digital' businesses plays out across many portfolios in government. For example, the draft Online Privacy Bill (and associated online privacy code) would have captured any organisation that provides online access to their services (banking, booking flights online, account information about electricity/gas/water usage etc) where they have more than 2.5 million customers.[10] This was clearly well beyond the policy intent and would have resulted in an onerous set of requirements on businesses across the country where there was no clear policy problem to be solved.

Poorly crafted regulation will also only make Australia less competitive and less attractive as a destination for international capital. This is not only through the direct costs of bad regulation, but also by disincentivising existing businesses from modernising their business models – either through new explicit regulatory barriers, or from the signals sent about openness and attitude towards 'digital' activities and investment. This would be a very poor outcome: Australia's future prosperity relies on businesses modernising and taking up new technologies and ways of doing business. Without this, we will be left behind.

[9] ACCC, Digital platform services inquiry 2020-2025, September 2022 interim report.
[10] https://consultations.ag.gov.au/rights-and-protections/online-privacy-bill-exposure-draft/

Action

- The legislative and regulatory posture across government needs to be coordinated, aligned in a single regulatory framework and focused on encouraging the adoption of digital tools by all businesses.

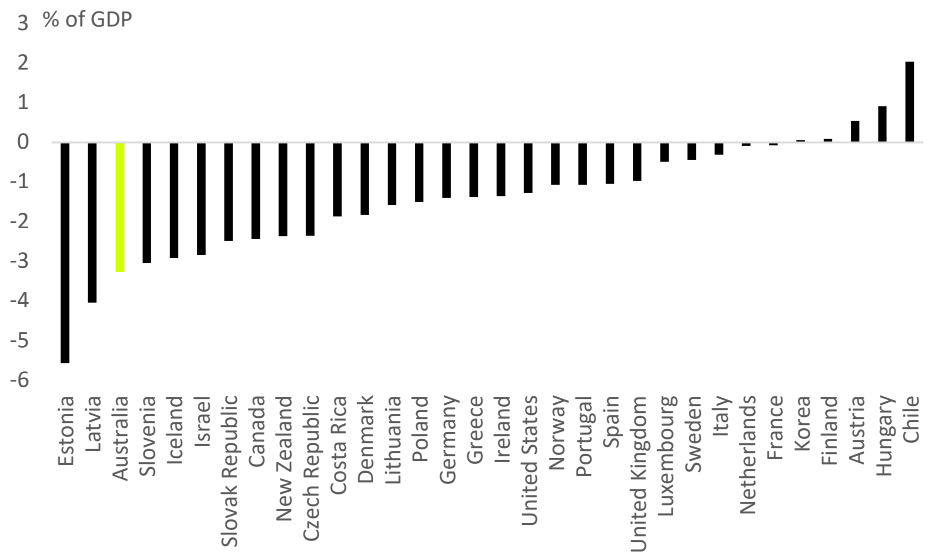
4. A competitive, dynamic and sustainable future

4.1 Competitive and dynamic markets

Business investment spending is a key driver of the adoption of new technology and innovations and its contribution to productivity growth. The BCA welcomes the Productivity Commission's finding that "subdued investment growth should be met with productivity-enhancing reforms". The weakness in non-mining investment may reflect structural shifts in the economy and changes in technology, while the BCA's original submission to this Review noted issues around risk and the case for investing in Australia having been made more difficult.

The Business Council notes the Productivity Commission's finding that "to some extent, lower investment levels are the result of desirable developments, including structural shifts in the economy and changes in technology". While this remains a topic that warrants further analysis, a concern for policymakers is Australia's performance relative to other countries. To illustrate, the Productivity Commission notes capital with 'brains' such as machinery and equipment and intellectual property products have been falling. Australia's investment in machinery and equipment as a share of GDP is among the lowest in the OECD – above only the UK and Canada in 2021. Furthermore, Australia has experienced one of the largest *falls* in investment in machinery and equipment as a share of GDP the past 15 years (see Figure 1).

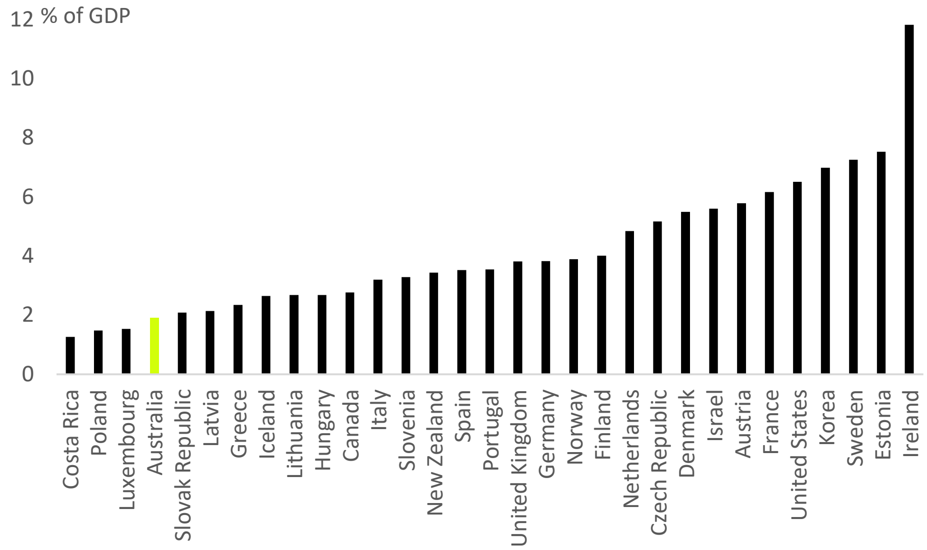
Figure 1 Change in investment in machinery and equipment, OECD, 2006 to 2021



Investment in intangibles such as software, computer databases, R&D etc has increased dramatically in Australia – increasing from 3 per cent to 18 per cent of business investment over the past 60 years. However, Australia is an OECD laggard by most metrics when it comes to investment in intangibles, implying we are underperforming in a relative sense. Relative to the OECD we have the:

- 4th lowest level of intangibles investment as a share of GDP (see Figure 2);
- 2nd lowest share of intangibles investment as a share of total investment; and
- 4th slowest real growth rate in intangibles investment over the past decade.

Figure 2 Intangibles investment, OECD, 2021



Actions

- Government needs to ensure that tax, regulatory and other policy settings are conducive to growth in new business investment spending. This includes minimising policy and regulatory uncertainty, which may deter business investment.
- Improve infrastructure decision-making and delivery systems.
- Drive improvements in planning approvals and streamlining regulation to support major projects, as well as housing supply.
- Supporting new industries to modernise and diversify the economy.

4.2 Openness to trade and foreign investment

4.2.1 Openness to trade

The BCA welcomes the Productivity Commission's recommendation to promote open and resilient trade – consistent with the initial BCA submission to the Review – including by reducing tariffs to zero and greater use of international standards where practicable.

Australia must effectively engage with other countries across our region and the rest of the world as the strength of our economy is underpinned by our openness. Australia is 1.7 per cent of the world economy and our opportunities lie in accessing the other 98.3 per cent. Openness to trade and investment helps drive productivity growth and improves living standards by increasing access to markets, enhancing product market competition and providing an important channel for the diffusion of technology across countries.

Maintaining an open economy that is more competitive on the world stage is critical. This means building relationships to advance Australia's economic integration in the Indo-Pacific. We have a small domestic market and will only ever reach efficient scale by accessing global markets. It also means sending a more positive message to foreign investors and a continued commitment to our migration program to ensure we attract individuals with new and emerging skills.

4.2.2 Tariff reform

Tariffs have largely been negotiated away through Free Trade Agreements (FTAs) and will fall further once agreements with the EU and UK are completed. Their importance as a trade barrier has fallen as issues around movement of people across borders, behind the border trade barriers and intellectual property issues have moved up the priority list.

Remaining tariffs raise limited – and declining – revenue, raise the cost of living, increase the cost of doing business and present inefficient red tape. Their removal could send a positive 'open for business' message to the rest of the world. Recent Productivity Commission analysis found "the costs associated with the tariff system can exceed the revenue collected" and businesses incur an average cost of 0.9-2.8 per cent of the value of the imports to avoid paying the tariff of five per cent.[11] In some cases, business may be unaware of preferences or do not access them because the cost of compliance is too high. These costs will increase further as other FTAs are negotiated.

Completely removing tariffs would contribute to alleviating inflation pressures. The tariff system that is ostensibly in place to support Australian businesses operating in global markets is miring businesses in red tape and making them less competitive.

Action

- Eliminate 'nuisance' tariffs which raise negligible revenue and impose unnecessary red tape.

4.2.2.1 International standards

Most goods are manufactured and tested in line with product safety standards in major markets such as North America and the European Union. BCA member companies have noted feedback from suppliers and manufacturers that domestic regulations are a key consideration in deciding whether to sell outside of North America and the European Union, where most businesses focus their sales.

Duplicative requirements in Australia can add unnecessary compliance costs for business, for example by requiring retesting of products or relabelling to demonstrate compliance with Australian standards. This can result in higher prices for consumers, slow or reduced access to products, while as recently proposed changes have noted, "arguably having no impact on product safety".[12]

Australia's product safety framework is critically important, but the current process is slow, cumbersome, and results in unnecessary costs and complexity. It can take a minimum 18 months for comparable overseas standards to be recognised in Australia. One BCA member identified several examples of tensions between more recent versions and mandated older versions of Australian standards. Where documentation for the most up-to-date version of an Australian standard is not sufficient to meet the letter of the Australian regulations for mandatory standards, this can cause friction for vendors who may have to obtain additional product testing to prove they comply with the older mandatory standard required for Australia. This can result in perverse outcomes where products complying with the up-to-date standard are most likely safer than a product that only complies with an older, yet mandatory, version of the standard.

Action

- Continue with reforms to better leverage trusted overseas product safety standards by removing duplicative compliance requirements, like retesting and relabelling for products imported into Australia, while maintaining the safety of Australian consumers. These reforms were previously estimated to save businesses $136 million a year.[13]

4.2.3 Foreign investment

The BCA welcomes the Productivity Commission's recommendation that foreign investment screening processes should avoid undue chilling effects on investment, including that Foreign Investment Review Board (FIRB) fees should not be used as a tax base. These fees act as an inefficient tax base that ultimately leads to lower investment, wages and incomes.

The BCA's original submission to the Review shows Australia has become a less attractive destination for foreign investment in the past few years, and this view has been reiterated by the Productivity Commission. Problems with FIRB processes (including delays and a lack of accountability on decisions) alongside significant fee increases in recent years – well beyond the cost of screening – are also sending a negative message to foreign investors about investing in Australia. The recent doubling of foreign investment fees has compounded these issues.

[11] Productivity Commission 2022, *The nuisance cost of tariffs*, Research paper, Canberra
[12] https://treasury.gov.au/consultation/c2021-223344
[13] https://webarchive.nla.gov.au/awa/20220427040755/https://ministers.pmc.gov.au/morton/2022/improved-safety-regulations-save-businesses-136-million-year

4.2.3.1 Foreign investment brings many spillover benefits with it

Foreign investment is more than just the capital needed to fund projects to allow businesses to grow, compete and expand. It delivers many other spillover benefits:

- It creates jobs and stimulates domestic investment.
- It promotes competition and improves the allocation of resources across the economy, while also stimulating research and development and innovation.
- It supports productivity growth in the companies receiving the investment, as well as across their supply chain. This occurs through the transfer of new knowledge, technology, management techniques and other workplace skills.
- It increases global linkages and opportunities through access to international supply chains.
- In turn, these benefits also help Australian businesses also compete overseas and enable their own investments abroad.

The magnitude of these spillover benefits will depend to a large degree on the integration of the foreign entity into the host economy and hence the extent of flow through of new knowledge and, importantly, the capacity of the host economy to absorb and apply it.

More broadly, increased foreign investment leads to rapid integration into the global economy, leading to a more open and flexible economy. Governments play a crucial role in providing the right incentive framework for ensuring that the benefits of foreign investment are maximised and the risks minimised. Primarily, this requires ensuring open and competitive markets across the economy and transparent regulatory and governance systems.

While foreign investment can bring many spillover benefits, it should not be a requirement for investment to proceed.

If a project is undertaken more efficiently than otherwise through foreign investment then there will still be a benefit from proceeding. For example, the local owner will generally capture some of this benefit in the sale price, with the proceeds available to be reinvested elsewhere.

The broader community can benefit as well. If foreign owners make higher profits because they are more efficient, they will pay higher taxes. If prices are set domestically, such as infrastructure or utilities, this efficiency can be realised through lower costs and prices for consumers.

In addition, it is important to not lose sight of the overall benefits higher investment provides through higher productivity and, in turn, wages. It can also improve the allocation of resources by freeing up local resources for more efficient uses.

Actions

- Accelerate reforms to the FIRB regime that will streamline administrative processes and simplify compliance. This will send a clear signal to foreign investors that Australia is open for business and make it easier to attract capital while balancing legitimate national security considerations.
- The BCA's submission to the consultation on 2022 Foreign Investment Reforms and *Releasing the handbrakes on growth* paper outline further proposals to improve the FIRB regime.

4.3 Managing the climate transition

The recent passing of the climate bill(s) into law is a 'water shed' moment for Australia and hopefully the beginning of a new era of durable and stable climate policy that will see us through to achieving a net zero economy by 2050.

Given the history of climate politics and policy in Australia, we found ourselves working with a sector-by-sector approach to reducing emissions across the economy – one that has evolved over two decades involving multiple levels of government and a suite of different policy mechanisms and agencies. Emission reduction efforts in the national electricity market is the leading example of this approach.

As argued in a recent BCA report, *Achieving a net zero economy,*[14] better coordination of existing climate policies and agencies is the best way to move forward and make progress towards decarbonisation — including reforming the Safeguard Mechanism to reduce emissions in the industrial sector.

Guiding principles for designing the new scheme

The goal of a domestic climate policy framework is to achieve a net zero emissions economy by 2050 in an orderly and economically prosperous way — that is, equitably, effectively and efficiently

1. *transitional equity* — all sources of emissions are exposed to a carbon investment signal in some form and vulnerable (often regional) communities are not adversely impacted by, and ideally benefit from, these investment signals;
2. *environmental effectiveness* — domestic emissions reductions result in scientifically robust abatement outcomes from a global perspective, including by minimising, and ideally avoiding carbon leakage from Australia;
3. *economic efficiency* — lower cost abatement opportunities are always preferred to higher cost alternatives, and the allocation of investment in decarbonisation across different sectors over time reflects this by moving up the national abatement supply curve; and
4. *policy durability and market stability* — the three criteria above are only achievable with a durable policy framework to provide the market stability necessary to attract and lock in substantial and timely investment in decarbonisation.

For further details please see BCA's submission on the Safeguard Mechanism Reforms consultation paper.[15]

5. From learning to growth

5.1 A responsive skills system, with support for lifelong learning

Much of the focus in our education system is on the skills Australians develop in their first 20 to 30 years. However, in an economy looking to adapt to change and develop new industries, it is critical that systems and incentives are also in place for people to develop new skills throughout their careers. The days of relying on an increasingly dusty certificate or degree over a 40 to-50 year career are long gone. Australians need to be able to refresh and update their skills over their lifetime, and they need a better set of options for acquiring new skills that match and track industry needs. In this context, the BCA welcomes the Productivity Commission's recommendation to support lifelong learning.

- On average, around one-in-five tasks in Australian jobs are expected to substantially change each decade, resulting in a need for continual upskilling and reskilling to keep pace.[16] In response, by 2040 Australians will need to increase their average time spent on education and training by one-third, including a doubling of the share of learning they undertake after the age of 21.

To keep pace, the training system needs to strike a better balance between regulation and responsiveness to industry. Reforms underway to streamline VET qualifications and improve industry engagement will help with this and it is critical that momentum on these is not lost. A key change here is to move past a narrow focus on qualifications that align with traditional occupations, and to think instead about the skills standards and competencies that cut across qualifications, occupations and industries. This flexible approach will allow the training system to facilitate greater labour mobility and recognition of prior learning and make it easier to integrate short courses and skillsets that meet the needs of individuals looking to upskill or reskill, as well as their employers.

To remain up to date in the 21st century and drive forward lifelong learning, we need to increase delivery and integration of these short, stackable training options, including industry-delivered micro-credentials, consistent with the new National Micro-credentials Framework. This kind of education and training is particularly suited to mid-career Australians and parents looking after young children who are more likely to have existing qualifications and working or caring responsibilities that make it difficult to engage in full-time or long-term study.

[14] https://www.bca.com.au/achieving_a_net_zero_economy
[15] https://www.bca.com.au/submission_on_safeguard_mechanism_reforms
[16] AlphaBeta. 2018. *Future Skills.*

5.1.1 Better recognition of education and skills accrued

For short courses and micro-credentials to have their full impact, it is critical that they can be properly recognised, recorded and rewarded for the capabilities they signify. As it stands, skills and training undertaken outside formal qualifications often go unrecognised. That is why the Business Council supports development of an interoperable skills sharing system to recognise education and skills accrued over a lifetime and collate formal qualifications along with non-accredited training and micro-credentials. This kind of system would link together the various initiatives being developed by industry and state and federal. It can also better account for and reward non-formal work-related training, which had been on the decline leading into the pandemic, particularly for small and medium-sized businesses.

Action

- Develop a portable skills sharing system that allows Australians to build and share a portfolio of education and skills accrued over a lifetime, and collate formal qualifications along with non-accredited training and micro-credentials.
  - This system could be based around the yet-to-be-established National Credentials Platform and Digital Identity Framework, and connect with state government initiatives, including Learner Profiles (NSW and South Australia) and Education Wallets (NSW).
  - This model could be further considered through the Employment White Paper and developed through the National Cabinet Skills Committee.

5.1.2 Lifetime Skills Account

With the right settings in place, Australia can strengthen its post-secondary education and training system so it is set up to facilitate lifelong learning and support Australia's future economy. The goal should be to expand the learning and career options available to Australians and provide more choice and control in the skills and education pathways they take. The Business Council has long called for the introduction of a Lifetime Skills Account approach (similar to the SkillsFuture Credit system used in Singapore).

A Lifetime Skills Account would empower Australians to update their skills and retrain for new and better jobs. This should ultimately be available for all Australians, but a first step would be to pilot the model and get the settings right before scaling it up. Initial cohorts could include parents of young children returning to the workforce; aged, disability or childcare staff looking to upskill; and employees of industries facing disruption, including through the transition to renewables. The Productivity Commission has backed this cohort-specific pilot approach for older Australians (see Productivity Commission (2021) *National Agreement for Skills and Workforce Development Review*). The Productivity Review is an opportunity to consult on this and other measures to develop a comprehensive Lifelong Learning Strategy, with a call for Jobs and Skills Australia to develop a pilot model that could be scaled up over time.

Actions

- Consider ways to better support lifelong learning in Australia, including a Lifetime Skills Account approach that offers financial support for Australians aged 30+ to upskill and reskill.
- Consult on, and develop, a comprehensive Lifelong Learning Strategy, including options for a piloted Lifetime Skills Account model that could be targeted at specific cohorts initially, and then scaled up over time.

6. A more productive labour market

6.1 A modern and productive workplace relations system

The BCA welcomes the approach to the workplace relations system reflected in the interim report.[17] The current economic outlook is increasingly important to consider when addressing workplace relations reform. Australia cannot afford a major upheaval of the system that could risk increased unemployment and strike action at a time of increasing economic uncertainty.

[17] https://www.pc.gov.au/inquiries/current/productivity/interim6-labour/productivity-interim6-labour.pdf

The key drivers of productivity – investment and innovation – are the way to sustainably drive real wages growth and raise the living standards of Australians. Fundamental to achieving these outcomes is an improved workplace relations system which translates productivity gains into real wages growth and improves the incentives to work. It is not one that creates uncertainty for business and deters investment.

Improving enterprise bargaining is the primary goal, because overwhelmingly it is at the enterprise level that innovation happens. A one-size fits all approach does not enable that to occur as it stifles creativity and fails to reflect the uniqueness of each workplace, such as the type of business, regional considerations or international competition.

6.1.1 The need for a modern bargaining system

As the interim report notes, institutional and regulatory arrangements must evolve to remain fit-for-purpose to address current and future challenges. However, the current bargaining system is characterised by processes that are often protracted and convoluted and no longer provides the opportunities it once did to produce meaningful productivity-enhancing outcomes.

6.1.1.1 Fixing the Better Off Overall Test (BOOT)

Reforming the BOOT is critical to removing the current limitations on bargaining. The fall in enterprise agreements, along with the reduction in real wages growth, has coincided with the tightening and technical interpretation of the BOOT.

Whilst intended to protect the rights and entitlements of workers, it has gone far beyond this, to the point where workers are losing benefits because employers are now unwilling to engage in the process and therefore leaving workers on lower paid awards. It has made the system too complex; it takes too long and has enabled hypothetical and technical cases to override the genuine better outcomes for workers, including when the workers have been fully supportive of the agreements.

The Fair Work Act should be amended to restore the BOOT to its original design. The intent of the BOOT should not change, only the way it is applied. These amendments should reflect the following principles:

- Agreements can depart from award terms (but not the National Employment Standards) to the extent that the parties agree. Agreements should again be able to be full substitutes for awards, as when enterprise bargaining was first introduced and as intended when the *Fair Work Act* commenced in 2009.
- Allow for trade-offs between terms, as originally intended, and previously allowed for. The BOOT should not be applied on a 'line by line' basis.
- Allow for both quantitative and qualitative benefits to be taken into account (e.g. employees having the ability to choose their rosters).
- The judgement of the parties as to what is 'better off overall' should be respected, as expressed by the agreement reached by the bargaining representatives and the employee vote.
- Removing hypotheticals - amend the Act to provide that the BOOT is applied having regard to arrangements in place at the test time, and those expressly foreseeable by the parties.

6.2 Simplifying bargaining processes

The Act should be further amended to remove the current technicalities and blockages that contributed to the decline of the system. Simplifying the bargaining processes will encourage more people to commence bargaining. The following reforms should be implemented as a matter of urgency:

- Amend the Act to ensure that the obligations on an employer to explain the agreement to employees are indeed reasonable (as the Act had intended).
- Employers should only be required to explain legislation and awards to the extent an agreement will alter their effect compared to their current arrangements, bearing in mind that most employees voting on new agreements will be on an existing agreement, rather than the award.
- Reasonable steps to ensure employees have access to the terms of an agreement should not require an employer to provide information that is already available to employees, such as information that is publicly accessible.
- Enable employers and bargaining representatives to jointly explain the agreement if they wish.

- Simplify or remove the additional obligation to explain the ‘effect’ of the agreement.
- Where a bargaining representative that is a registered organisation supports the approval of the agreement, the Commission should be able to adopt the approach that it was adequately explained, where there is no evidence to the contrary.
- Amend the Act to clarify which casual employees are required to be included in the vote to approve the agreement, to fix the uncertainty from the *Kmart* decisions.

6.2.1 The need for Award simplification

Many awards continue to be overly complex and confusing for both employers and workers. As noted in the report, this increases both compliance costs and the scope for non-compliance. When combined with the rigid approach to the BOOT, it has also been a key driver in the decline of enterprise bargaining, as more employers opt not to engage in the bargaining system. Award simplification must be a priority in improving the system.

The BCA encourages the Government to make this an immediate action item. There should be an initial focus on the key awards in priority sectors to facilitate bargaining such as retail, hospitality or fast food. These are also the awards of most concern to smaller businesses.

The focus should be on removing the complexity in each of the awards, as opposed to previous attempts to combine awards into a smaller overall number. This will make the task more achievable and address one of the key limitations on bargaining. It will also assist workers who find it extremely difficult to understand the detail of the awards. They will be able to be more clearly understand their wages and conditions and be in a better position to engage in bargaining.

6.2.2 The risks of multi-employer bargaining

The BCA endorses the comments in the Report that an expansion of multi-employer bargaining, if not designed appropriately, will lead to diminished productivity benefits and reduce the ability for individual businesses to innovate and improve their terms and conditions.

Any expansion of multi-employer bargaining must be carefully undertaken to avoid the very significant risks of adverse consequences. At the very least, any such reforms should reflect the following principles:

The reforms to multi-employer bargaining should address the specific reasons for the lack of usage of these streams and be consistent with the following principles:

- Businesses that already engage in single-enterprise bargaining should continue to do so and will not be covered by any new multi-employer agreements unless they choose to be.
- Multi-employer bargaining should be voluntary and on an ’opt-in‘ basis for any business (other than as currently allowed for under the ’low-paid‘ stream). The existing prohibitions against coercion in this regard should be strengthened to protect businesses.
- The issue of low-paid workers in government-funded sectors may require its own specific solutions. However, these sectors are very distinct from the commercial private sector and any amendments in the ’low-paid‘ stream should not be a precedent for any other sectors.
- The existing prohibitions on industrial action in support of multi-employer agreements must be retained.

There is a significant distinction between the concepts of ’multi-employer‘ agreements and ’sector-wide‘ agreements. We do not support sector-wide agreements in the private sector. The system should not allow for ’supply chain‘ bargaining, in which a business can be forced into bargaining for its suppliers or contractors. Nor should it allow for ’pattern bargaining‘ or ‘industry-wide bargaining’ where an agreement is reached with one employer which has the capacity to pay, but that is now required of others who may have a very different capacity. Requiring businesses which are competitors being forced to bargain together would undermine the key principles of how a business operates and would ultimately lead to “lowest-common denominator” outcomes. Businesses would no longer be able to provide higher wages by being more efficient or innovative than their competitors, nor would they be able to compete for talent by offering higher wages to employees than their competitors.

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