

Australian Industry Group

Gender Undervaluation
- *Children's Services Award 2010*

Supplementary Reply Submission
(AM2024/23)

15 December 2024



AM2024/23

**GENDER UNDERVALUATION – CHILDREN'S SERVICES AWARD
2010**

	Section	Page
1.	Introduction	3
2.	<i>The Wage Justice for Early Childhood Education and Care Workers (Special Account) Bill 2024 (Cth)</i>	5
3.	The Commission's Questions (Question 6)	15

1. INTRODUCTION

1. This submission of the Australian Industry Group (**Ai Group**) supplements the reply submission filed by Ai Group in this proceeding on 27 November 2024 (**Reply Submission**).
2. At the time of filing the Reply Submission, the *Wage Justice for Early Childhood Education and Care Workers (Special Account) Bill 2024* (**Bill**) had been passed by Parliament (on 26 November 2024), however a copy of the Bill as passed was not available. Accordingly, we were not in a position to make detailed submissions regarding the implications the Bill has for this proceeding or the interrelationship between the operation of the Early Childhood Education and Care (**ECEC**) Worker Retention Payment Program (**Program** or **Payment**) and any increases afforded as a consequence of this matter.
3. A copy of the Bill as passed is now available. Accordingly, Ai Group seeks to make this further submission regarding the Bill and the Program, noting their significance to the Fair Work Commission's (**Commission**) assessment of the unions' claims.
4. We also respond to the reply submission of the Commonwealth dated 27 November 2024 (**Commonwealth Reply Submission**), which provided additional detail regarding the Program directed at clarifying the interaction between the Program and any increase to wages in the *Children's Services Award 2010* (**CS Award** or **Award**) through this proceeding.¹
5. Chapter 2 of this submission sets out our position in relation to these matters. Briefly stated, Ai Group submits that it is imperative the Commission has regard to:
 - (a) Funding under the Program for wage increases being neither automatic, universal nor ongoing. A significant administrative and cost burden is imposed on employers in connection with applying and maintaining

¹ Commonwealth Reply Submission at [3].

eligibility for the Program (including but not limited to the requirement to make a compliant workplace instrument(s) and fee increase limits), together with the fact that many employers and employees who fall within the coverage of the CS Award are not eligible for the Program. Further, the funding will cease on 30 November 2026;

- (b) Any increases to the CS Award that may flow from the Annual Wage Review (**AWR**) decisions in 2025 and 2026, or that may be awarded in this proceeding that exceed a total of 15 per cent, will not be funded by the Program;
 - (c) Employers currently also face significant uncertainty as to whether the on-costs incurred by them as a consequence of participating in the Program, will be covered by the funding; and
 - (d) Owing to the interaction between the Program and any increases to the rates in the CS Award that arise from this proceeding, and the requirement to have a '*workplace instrument*' to apply for the Payment, employers will face added burden and complexity associated with the interaction between the higher rates in the CS Award and their workplace instrument, and ongoing administration (or potential termination) of what have become redundant workplace instruments.
6. Separate to the above, our Reply Submission did not include a response to the other parties' submissions in relation to the Commission's Question 6. Chapter 3 of this submission now contains our response in relation to Question 6.
7. As foreshadowed in our correspondence to the Commission of 27 November 2024, Ai Group respectfully seeks the Commission's leave to file and rely upon this further submission in reply.

2. THE BILL

8. In our Reply Submission, we noted that the submissions of the Australian Council of Trade Unions (**ACTU**) dated 11 October 2024 (**ACTU Submission**) and the United Workers Union (**UWU**) (undated) (**UWU Submission**) are incorrect and misleading with respect to the availability and extent of Commonwealth funding in respect of any increases to rates of pay for child carers that may flow from this proceeding, in a number of respects.

(a) *Firstly*, both the ACTU Submission and UWU Submission fail to state that a funding commitment has only been provided (in the form of the Program) for two years.²

(b) *Secondly*, the ACTU Submission and UWU Submission ignore various limitations on the operation of the Program, including that it:

(i) Is not available to all employers to whom the CS Award applies;

(ii) Requires employers to adhere to a cap on service fee increases; and

(iii) Requires employers to implement an enforceable workplace instrument that gives employees a right to receive certain levels of remuneration.³

9. We also observed that the UWU proposes increases to the minimum rates of pay prescribed by the CS Award for many classification levels that are of a greater quantum than the funding to be made available through the Program. Specifically:

(a) The increases proposed for Children's Services Employees Levels 1 – 5 largely exceed 15% and are as high as 23%; and

² Reply Submission at [52](a). See discussion of the Program in UWU Submission at [106] – [109].

³ Reply Submission at [52](b).

(b) The increases proposed for Support Services Employees are in the order of 23%.⁴

10. For the reasons set out below, we maintain our position in relation to the ACTU and UWU Submissions, having regard to the Bill as passed and the ECEC Worker Retention Payment Grant Opportunity Guidelines, as updated on 22 November 2024 (**Updated Guidelines**).⁵

The Costs & Regulatory Burden of Accessing the Payment

11. Funding under the Program for wage increases is neither automatic, universal nor ongoing.

12. Employers who are eligible for the Program, must make an application online to be considered for the Payment. The Bill prohibits any person or body who has not applied for the grant from receiving the Payment.⁶

13. The relevant '*ECEC Worker Retention Payment Grant Application Form*' is detailed and runs for some 18 pages, requiring employers to gather and provide information on a range of areas of their business, including:

(a) Each of its services (noting some providers may have hundreds of services) (such as Australian Company Number, Australian Business Number, Provider and Service Customer Reference Numbers, organisational details and Child Care Subsidy (**CCS**) service names for each service as listed in the CSS system);

(b) For each service in the application, total expenditure on wages and on-costs for the 2023-24 financial year;

⁴ Reply Submission at [52](c). See UWU Submission at Annexure A.

⁵ Attachment A to the Reply Submission.

⁶ Section 10(4) of the Bill.

- (c) The total number of eligible workers across the services, including a breakdown of contact workers, non-contact workers and current staff vacancies; and
 - (d) If applying for a historical leave liability payment, a breakdown of long service leave, annual leave and personal/carers leave liabilities.⁷
14. An additional requirement to be able to complete the application is for the employer to implement a *'workplace instrument/s'* that contains an obligation for the employer to pay eligible ECEC workers an additional 10 per cent of the applicable rate for the employee's classification under the CS Award, and an additional 5 per cent of the applicable award rate for the employee's classification from 1 December 2025.⁸ Accordingly, and as stated in the Commonwealth Reply Submission, employers who have or will apply for the Payment need to undertake the task of making an enterprise agreement, individual flexibility arrangement (**IFA**), state industrial instrument or other compliant workplace instrument.⁹
15. The Updated Guidelines impose a new requirement on employers to also provide information to all eligible ECEC workers regarding the types of compliant workplace instrument.¹⁰
16. The effect of the interaction rules between the Payment and any increases to the CS Award rates that may arise from this proceeding is that:

...should gender-based work value increases to the *Children's Services Award 2010* match the ECEC Worker Retention Payment amount, the updated *Children's Services Award 2010* could function as a compliant workplace instrument for the purpose of funding eligibility.¹¹

17. The Commonwealth Reply Submission confirms:

⁷ See [ECEC Worker Retention Payment Grant Application Form Application](#) (accessed 9 December 2024).

⁸ Updated Guidelines at page 8.

⁹ Commonwealth Reply Submission at [11].

¹⁰ Updated Guidelines at page 8.

¹¹ Updated Guidelines at page 9.

Should wages in the CS Award be increased in line with or above the rates of pay otherwise required for a compliant workplace instrument, the CS Award would become a compliant workplace instrument for the purpose of the grant. (Note: as the Teachers Award is not being considered through the Priority Review, providers would still be required to engage eligible ECEC workers covered by this award through an alternative compliant workplace instrument).¹²

18. Whilst on first blush, such an outcome would appear to ease the compliance burden on employers, this is likely to be outweighed by the fact that:
 - (a) Many employers are likely to have made a workplace instrument prior to any increases to the CS Award commencing (noting the Payment may be made from 2 December 2024, and applications have been able to be made for several months); and
 - (b) For those employers, there will be added burden and complexity associated with the interaction between the higher rates in the CS Award and their workplace instrument (in the case of enterprise agreements, having regard to s.206 of the Act), and ongoing administration (or potential termination) of what have become redundant workplace instruments.
19. Employers who receive the Payment are subject to monitoring and reporting requirements. The Updated Guidelines contain new advice that *'[p]roviders may also be asked to report or provide information from time to time to confirm they continue to meet the grant conditions'*.¹³
20. Evidently from the above, employers who wish to avail themselves of the Program to support pay increases for their eligible ECEC workers face significant administrative and cost burdens associated with placing themselves in a position to receive the Payment and to remain compliant with the Program's requirements.
21. In particular, the requirement to implement a workplace instrument will place a significant burden on many employers and indeed in some cases, may operate as a barrier to some accessing the Program. At the very least, it will result in

¹² Commonwealth Reply Submission at 12.2.

¹³ Updated Guidelines at 11.

employers incurring various additional costs (including in the course of obtaining legal and / or other professional advice), which cannot be recovered through the Program.¹⁴

22. For many, there will also be a need to make changes to payroll systems and practices. The complexity of this will be magnified by what appears to be an expectation of the Government that wage increases need to be factored into entitlements beyond just the base rates of pay.

Eligible Employers & Employees

23. The Program is not universally available to all employers who engage workers under the CS Award. Grant funding can only be obtained by eligible providers¹⁵ to support a wage increase for the provider's '*eligible ECEC workers*'.¹⁶
24. As the Commonwealth Reply Submission confirms, the Payment is available only for ECEC workers employed in centre-based day care (**CBDC**) (which is typically provided in centres approved by regulators to provide early childhood education and care¹⁷) or in an outside school hours care (**OSHC**) setting.¹⁸
25. Notably, whilst the coverage of the CS Award also extends to in-home care and family based child care (amongst other things), employers of employees who work in these services are not entitled to participate in the Program. Preschools and kindergartens are also not eligible.¹⁹
26. A further condition for employers to be eligible for the Payment, is the requirement that they agree to an '*annual fee growth percentage cap*'.²⁰

¹⁴ Updated Guidelines at page 11.

¹⁵ Dealt with at Part 4.1 of the Updated Guidelines.

¹⁶ See Updated Guidelines at page 5.

¹⁷ See: [Approved care types - Department of Education, Australian Government](#) (Accessed 9 December 2024).

¹⁸ Commonwealth Reply Submission at [6] and [9].

¹⁹ See: [How to apply for the worker retention payment - Department of Education, Australian Government](#) (Accessed 9 December 2024).

²⁰ Commonwealth Reply Submission at [8].

27. The Updated Guidelines stipulate that for each service a provider includes on its application, the provider must:

... not increase their Service fees by more than:

- 4.4 per cent in the 12 months from 8 August 2024 to 7 August 2025, 4.2 per cent from 8 August 2025 to 7 August 2026, and for each subsequent period, by more than the amount equivalent to the specified growth rate based on the Childcare Services Cost Index developed by the Australian Bureau of Statistics (ABS); or
- in relation to either time period specified above, such other fee growth percentage caps as may be determined by the Department (see Section 9.1 for further detail) (Fee Constraint Condition).²¹

28. The implementation of the above constraints will result in the imposition of a significant obstacle for employers if they are saddled with increases that are not funded by the Program or otherwise funded by government. Clearly, it will preclude employers from recovering additional costs.

Funding is Time-Limited

29. Finally, as the Commonwealth Reply Submission makes clear, the Commonwealth will provide funding for the Payment only until 30 November 2026.²² No further funding commitments have been made. Indeed, the Payment has been described by the Commonwealth as an *'interim measure while [this proceeding] is being finalised and while the Commonwealth considers the Australian Competition Consumer Commission and Productivity Commission reports to chart a course for universal ECEC'*.²³ The Explanatory Memorandum to the Bill goes on to state that the Government *'will consider longer-term funding arrangements as part of its response to the'* reports handed down by the Australian Competition Consumer Commission and Productivity Commission; however, it does not go on to explain when any such funding arrangements will be determined.²⁴

²¹ Updated Guidelines at page 7.

²² Commonwealth Reply Submission at [5].

²³ Commonwealth Reply Submission at [14]. See also [Explanatory Memorandum](#) to the Bill at page 3.

²⁴ Explanatory Memorandum to the Bill at page 3.

On-Costs

30. The Bill permits the Secretary to, on behalf of the Commonwealth, make a grant of financial assistance to an approved provider by way of '*the reimbursement, or partial reimbursement of costs or expenses*' (emphasis added) in relation to the remuneration of workers engaged by the provider.²⁵
31. The Guidelines make state that the Payment can be applied to both the direct costs of paying to eligible ECEC workers the additional amount they are entitled to receive under the Schedule to the Guidelines, together with '*eligible on costs*'. The Commonwealth Reply Submission clarifies that all funding received from the Program must go towards either increased wages or eligible on-costs for workers.²⁶
32. '*Eligible on costs*' include superannuation contributions, employee entitlements, leave loading, workers' compensation insurance and payroll tax.²⁷ The Commonwealth will fund a minimum of 20 per cent of eligible on-costs.²⁸
33. It follows that an employer who receives the Payment but has on-costs that exceed 20 per cent, may be required to self-fund those amounts (insofar as the Payment serves as only partial, and not full, reimbursement of costs and expenses associated with the remuneration increase; and subject to any funding review process that may be available²⁹).
34. Accordingly, it cannot be assumed that all employers who are receiving the Payment will have their employment costs fully covered. Some may be required to absorb additional on-costs, where they exceed 20 per cent.

²⁵ Section 10(1) & (2) of the Bill.

²⁶ Commonwealth Reply Submission at [6].

²⁷ Updated Guidelines at page 10.

²⁸ See: [Early childhood wages - Department of Education, Australian Government](#) (Accessed 10 December 2024).

²⁹ See: [Early childhood wages - Department of Education, Australian Government](#) (Accessed 10 December 2024).

Interaction between the ECEC Worker Retention Payment and Increases to Minimum Wages

35. For present purposes, there are two potential types of increase to the wage rates in the CS Award that may occur during the period in which the Program is operating.
36. The first type of increase may arise from the AWR conducted by the Commission. Importantly, the Updated Guidelines make it clear that employers must maintain the required pay rate differential (of 10 per cent initially, and 15 per cent from 1 December 2025) if the wage rates prescribed by the CS Award are increased as a consequence of the AWR process.³⁰ Accordingly, employers must absorb the cost of the AWR increase (in the context of the annual fee growth percentage cap) and the Payment is not applied to this cost.
37. The second potential type of increase may arise from this proceeding. Both the Updated Guidelines and the Commonwealth Reply Submission provide additional detail regarding the Program, directed at clarifying the interaction between the Payment and any increase to wages in the CS Award through this proceeding.³¹
38. Relevantly, the Updated Guidelines state: (emphasis added)

Impact of Gender Undervaluation Proceedings

The Fair Work Commission is undertaking a process to examine whether an adjustment to the *Children's Services Award 2010* is required on work value grounds. Should this process lift the minimum hourly rate payable for a classification under the *Children's Services Award 2010* above the minimum hourly rates stipulated for that classification at Schedule A, for workers to whom the *Children's Services Award 2010* applies, the minimum hourly rate payable for a classification in Schedule A will be replaced by the minimum hourly rates payable for that classification in accordance with the *Children's Services Award 2010*.

The ECEC Worker Retention Payment will absorb any increases to the *Children's Services Award 2010* resulting from the gender undervaluation proceedings determined by the Fair Work Commission. This means that the above award requirement (under

³⁰ Updated Guidelines at Part 4.3.

³¹ Commonwealth Reply Submission at [3].

Section 4.3), will be reduced by the quantum of any changes to the *Children's Services Award 2010* determined through this process.³²

39. As the Commonwealth Reply Submission explains:

Should the wages in the CS Award be increased by less than the wage increase supported by the Payment, the above award requirement would be reduced by an amount equivalent to any increases to the award through the proceedings. For example, in January 2025, if the wages in the CS Award increased by 6 per cent, employers would still be required to pay eligible employees 4 per cent above that increase, so the rate paid in January 2025 is 10 per cent above the applicable award rates as at 2 December 2024.³³

40. Further: (emphasis added)

The Payment is fixed and would not fund increases to the CS Award which exceed the amounts set out in paragraph [11], above. Consideration of any additional funding for wage increases above these levels would be in accordance with the processes and timing set out in the Commonwealth's submissions of 27 September 2024.³⁴

41. It is imperative for the Commission to be cognisant of both the cost burden of the AWR on employers, as well as any increase above 15 per cent in this proceeding being unfunded, when considering by how much and when rates in the CS Award may be increased.
42. At the conclusion of the Program, on 30 November 2026, employers will no longer be constrained as to the amount by which their fees can be increased. Nor is there any commitment from the Commonwealth to continue the Payment beyond this date. Accordingly, for those employers who are commercially able to do so, service fees may increase dramatically on and from that time. The October Submission and Reply Submission addressed the potential detrimental effects to both women's workforce participation and the gender pay gap that may follow should fee increases lift child care costs beyond the financial reach of households.
43. We note however that as we outlined in the October Submission, OSHC providers are likely to be commercially constrained in their ability to recover costs

³² Updated Guidelines at page 9.

³³ Commonwealth Reply Submission at [12.1].

³⁴ Commonwealth Reply Submission at [13].

in this manner.³⁵ This is likely to result in various other negative consequences for those providers, who may face the prospect of having to absorb the additional costs.

³⁵ October Submission at [80] – [93].

3. THE COMMISSION'S QUESTIONS (QUESTION 6)

44. Question 6 is as follows:

(6) To the extent that any adjustment to the existing classification structure in any of the awards is required, what are appropriate terms (including classification descriptors and minimum wage rates) for a new or modified classification structure?

45. Two parties participating in this proceeding, the ACA and ELAA, have proposed modifications to the classification structure in the CS Award. We respond to each of the parties' proposals below.

ACA Proposals

46. The submission of ACA dated 10 October 2024 (**ACA Submission**) advances two alternative proposals.

47. The **first proposal** is for the Commission to delete the pay points referenced to time served (such as Level 3.2 and 3.3 etc). Ai Group would not oppose this proposal.

48. The **second proposal**, expressed as an alternative to the first proposal, is for the Commission to recognise a Level 4 employee as a Certificate III qualified employee '*who has at least four years post-qualification experience*'.

49. Ai Group does not support this proposal. It would allow a Certificate III qualified employee to progress to Level 4 without holding a Diploma or equivalent. This would, in effect, permit a Certificate III qualified employee to be '*appointed as the person in charge of a group of children in the age range from birth to 12 years*'.³⁶ Moreover, the evidence in this proceeding does not establish that an employee with four years' post-qualification experience '*carries with it an enhancement in work value through the on-the-job acquisition of additional skills, experience, responsibilities and judgement*'.³⁷

³⁶ Clause B.1.6 of the CS Award.

³⁷ ACA Submission at [8.8](a).

The ELAA's Proposals

50. The ELAA advances eleven proposed changes to the classification structure in the CS Award.
51. In broad terms, Ai Group does not support the ELAA's proposed changes. Before turning to deal with each proposal, we note that the ECEC sector is presently grappling with implementing the Payment. Preparation for implementation of the Program has occurred within a short timeframe. This has somewhat limited the ability of the sector to fully comprehend the potential impact of the proposed changes to the classification structure. Further, in the context of the Payment, any changes that would lead to additional complexity for providers in administering employees' pay would increase the regulatory burden significantly. This is because the Program requires employers to maintain a rate of pay for each of their eligible ECEC workers, calculated as a percentage of the employee's rate of pay for their existing classification under the CS Award.
52. The ELAA has not specified a quantum for any wage increases that would flow from its proposed changes to the classification structure and has submitted that this should be '*referred*' to the Commission. To the extent that the ELAA's proposals would lead to increased minimum rates in the CS Award, we would not support them.
53. The October Submission contains a detailed analysis of the existing cost burdens on employers in the OSHC sector and the constraints on their ability to take steps to reduce the impact of these burdens (e.g. by increasing fees and / or decreasing the size of their workforce). We continue to rely on those submissions in this context.
54. Further, it is as yet uncertain how any increases to minimum rates awarded as part of this proceeding would be funded. In the context of caps on the extent to which employers are permitted to increase their fees above a set percentage in the context of the Payment, the potential of significant additional costs which are not funded by the Australian Government is particularly concerning.

55. We turn now to consider the various proposals of the ELAA, in turn.
56. The **first proposal** is to increase the wage rates for CSE Level 1 and CSE Level 2, on work value grounds.
57. The ELAA has not proposed a quantum for its proposed increased wage rates for CSE Level 1 and CSE Level 2 classifications. For the reasons set out in paragraphs [52] - [54] above, Ai Group opposes this proposal.
58. Further, the ELAA has not set out in detail why work value reasons would justify any increases to the minimum rates for CSE Level 1 and 2 classifications. Nor has it established that the relevant skills of these classification levels are '*invisible*'. In this regard we refer to paragraphs [60] – [62] of the October Submission in relation to the extent to which so-called '*invisible*' skills are in fact already reflected in the CSE classifications in the CS Award.
59. The **second proposal** is to limit the application of the CSE Level 2 classification to:
- (i) Employees actively working towards a classification, and
 - (ii) Employees engaged in a formal training arrangement with their employer.
60. Ai Group does not support this proposal. Currently the CSE Level 2 classification applies where an employee has completed 12 months' service at Level 1 or a relevant Certificate II qualification, or in the employer's opinion, has sufficient knowledge and experience to perform work as a CSE Level 2 employee.
61. This can be contrasted with the proposal for the classification to apply where employees are '*actively working towards*' a classification. Making this assessment in relation to an employee will require ongoing engagement and management by employers, which is presently not required. This would increase the regulatory burden.

62. The **third proposal** is to remove the following words from the classification descriptor for CSE Level 3:

or, alternatively, this employee will possess, in the opinion of the employer, sufficient knowledge or experience to perform the duties at this level.

63. Not all states in Australia require OSHC educators to hold a qualification. Retaining the above language would continue to facilitate flexibility for employers in the context of different State and Territory requirements in this regard.

64. The **fourth proposal** involves moving Level 3.4 (Diploma) from the Level 3 Certificate III classification to a revised Level 4 classification for a Diploma level employee (AQF 5) who possesses the qualification and demonstrates these advanced skills, however, is not responsible for leading a team.

65. To the extent that the fourth proposal would lead to an increased rate of pay for a Level 3.4 employee, Ai Group does not support this proposal for the reasons set out at paragraphs [52] - [54] above. If Level 3.4 were to be separated from the remaining Level 3 classifications as a result of these proceedings, this should be limited to a functional change only (for ease of administration).

66. We address the ELAA's **fifth, sixth and seventh proposals** jointly. Those proposals are as follows:

(a) The **fifth proposal** is to elevate the Diploma room leader classification (who is responsible for leading a team) to a modified descriptor of CSE Level 5 (for a room leader with a requisite qualification) and CSE Level 5A (for an employee performing the role of room leader without the requisite qualification).

(b) The **sixth proposal** is to elevate the CSE Level 5 classification (who is responsible for leading a team) to a modified descriptor of CSE Level 6 (with a requisite qualification) and CSE Level 6A (an employee performing the role of a CSE Level 6 without the requisite qualification).

- (c) The **seventh proposal** is to elevate the classification of employees who are responsible for leading a team to a new CSE Level 7 (where the employee holds the requisite qualification, and which is based on a modified CSE Level 6 descriptor) and new CSE Level 7A (where the employee is performing the role of a CSE Level 7 without a requisite qualification).
67. To the extent that pay increases would flow as a result of ELAA's proposals to reclassify particular roles to a higher classification level, we do not support them for the reasons set out at paragraphs [52] - [54] above.
68. We further observe that the proposed amended classification structure may be difficult to apply in the context of an organisational structure that includes a head office with an oversight role. We would not support any inadvertent reduction in the applicability of the classification structure to providers that may have such a structure.
69. The ELAA's **eighth to eleventh proposals** deal with proposed amendments to the Director pay levels in the CS Award:
- (a) The **eighth proposal** involves amendments to the Director pay levels (Director Level 1, Director Level 2 and Director Level 3), and introduces a new Director Level 4.
- (b) The **ninth proposal** seeks to adjust the pay-points for a qualified co-ordinator managing a stand-alone OSHC centre to pay-points 7.1 to 7.3 (up to 59 children) and 7.4 to 7.6 (69 or more children).
- (c) The **tenth proposal** seeks a new Director Level 4, with the introduction of additional pay-points 7.10 to 7.12 for services that are licensed for more than 100 approved places.
- (d) The **eleventh proposal** is to, as a result of the tenth proposal, adjust the pay level of Director Level 3 to cover a Centre Director appointed to manage a service with 60 to 99 approved places (to pay-points 7.7 to 7.9).

70. To the extent to that these proposals would lead to wage increases, Ai Group opposes them and refers to our submissions at [52] - [54] above.

Divergent Education Submission

71. For completeness; Ai Group opposes the proposal advanced in the submission of Divergent Education dated 3 September 2024 (**Divergent Education Submission**) for the inclusion in the CS Award of '*a preamble ... acknowledging the historical gender undervaluation of childcare work and committing to an ongoing review and adjustment of wage rates to ensure fair and equitable remuneration for all classifications under the award*'.
72. The Divergent Education Submission fails to particularise how such a variation would be necessary to meet either the modern awards objective or the minimum wages objective. Moreover, the unnecessary inclusion of the preamble would not be consistent with a simple and easy to understand modern award; nor would any commitment for the rates of pay and classifications in the CS Award to be under '*ongoing review and adjustment*' be conducive to a stable and sustainable modern award system.
73. Insofar as the Divergent Education Submission submits, at a high-level, that the Commission introduce a '*clearer defined classification structure ... that aligns with employment progression and leadership roles*', it does not advance any specific proposal so as to allow for any detailed response. Ai Group reserves its position to respond to any specific proposals that may be advanced by Divergent Education in this proceeding.