II. Idiosyncratic but Effective? – Australia's COVID-19 Social Protection

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1. Introduction

Australia's social protection response to COVID-19 was typically idiosyncratic. The low replacement rates and tight means testing under its pre-COVID social assistance model of income support proved ill-suited to compensate for loss of wages across the income spectrum;[1] there was no standing machinery to cushion business downturns or shutdowns; and below poverty line social security payment rates were too low for those already outside the labour market.[2] All three features reflected its historic design as a minimalist short-term safety net behind reliance on social protection delivered by participation in work rather than reliance on welfare.[3] Federal division of responsibility between the national and state/territory level of government[4] and neoliberal policy settings compounded that state of unpreparedness. Special ad hoc measures were required to be crafted to meet the emergency.

Under the Australian Constitution the national government is responsible for quarantine and biosecurity, as well as for income security (social security), taxation and economic management. However, a hastily constituted COVID-19 coordinating body, comprising heads of all federal levels of government (grandly called a 'national cabinet'[5]) agreed that states and

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1 Carney, Social Security Law and Policy, Sydney, 2006; Ramia, Governing Social Protection in the Long Term, Cham, Switzerland, 2020.

2 Carney, Economic Hardship Payments in Emergencies, in Bennett/Freckelton (ed.), Pandemics, Public Health Emergencies and Government Powers, Sydney, 2021.

3 Carney, Where Now Australia's Welfare State, Diritto Pubblico Comparato ed Europeo [Journal of Comparative and European Public Law], 2013, 1353-1370.

4 Lecours et al., Explaining Intergovernmental Conflict in the COVID-19 Crisis: The United States, Canada, and Australia, Publius: The Journal of Federalism, 2021, PMCID: PMC8344494.

5 The national government lost an argument that it was true 'sub-committee' of federal Cabinet and thus shielded from freedom of information requests, because

territories should assume responsibility for hotel quarantine of inbound arrivals to Australia.[6] Powers over general management of health emergencies are the exclusive province of the states and territories. This includes closing state and territory borders, stay-at-home or other restricted movement orders, curfews or restriction of numbers of people in premises, and shutdown of businesses and public venues. The cumulative 262 days of lockdown over six periods in the second largest state of Victoria was the longest in the world, surpassing that of Buenos Aires.

Over the first 18 months of the COVID-19 pandemic, an 'elimination' target was successfully pursued. This was achieved through very strong public health measures by both the national government (closing inward or outward travel other than by special permission) and state/territory governments (closure of borders between states, extended periods of restrictive lockdowns of movement of people or operation of businesses[7]). However, by August 2021 the Delta variant defeated further pursuit of zero transmission targets for the two most populous states of New South Wales ('NSW') and Victoria. So they opted for suppression until vaccination rates reached stipulated higher levels.[8] Even at this late stage, the remaining jurisdictions remained wedded to policies of zero transmission. This was despite national cabinet agreeing to transition to a 'live with COVID' strategy once vaccination of people over 16 reached levels of 70 (start of easing) and 80 per cent (when measures short of lockdowns were anticipated as sufficing to avoid overburdening hospitals or an excessive incidence of morbidity/mortality).

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its membership was not drawn exclusively from the elected representatives of the federal Parliament: Re Patrick and Secretary, Department of Prime Minister and Cabinet (Freedom of Information) [2021] AATA 2719 (White J).

6 This was not the first time that quarantine responsibility has been negotiated in this way: Moloney/Moloney, Australian Quarantine Policy: From centralization to coordination with mid-Pandemic COVID-19 shifts, Public Administration Review, 2020, 671-682.

7 Victoria locked down six times, NSW twice (and once for part of Sydney), with the longest single period running in excess of 100 days in both cases (cumulatively over 200 in total), with regional areas sometimes under lesser restrictions or for shorter periods: generally, Wikipedia, COVID-19 pandemic in Australia (viewed 3/9/2021).

8 For a forensically detailed scientific assessment of the management of the various waves of the pandemic: McLaws, Pandemics Will Happen: How Have We Minimised and Managed COVID-19?, in Bennett/Freckelton (ed.), Pandemics, Public Health Emergencies and Government Powers: Perspectives on Australian Law Sydney, 2021.

The national government was slow to recognise the magnitude of economic response required to meet the COVID-19 pandemic. It initially rejected for a few weeks in late February 2020 opposition calls for wage subsidies, higher levels of income support payments, and underpinning of business turnover. When such national measures were introduced soon afterwards, they were rationalised as designed to embody a policy mantra of being 'temporary, targeted and proportionate'.[9] As it transpired, all measures were temporary (if later extended) and all included a fair amount of targeting. All except the 2020 tranche of support paid to businesses to retain stood-down workers were proportionate ('JobKeeper' support payments were not recouped from businesses which did not suffer the required profit downturn or which even increased profitability).

Measures for citizens reliant on social security ceased to be proportionate in early 2021 when the 2020 'Coronavirus Supplement' ended, returning rates to their previous ungenerous levels, though greater proportionality was restored from mid-2021 for those living in hard lockdown 'hotspot' areas during a subsequent wave of infections. Proportionality was also returned to business support in 2021 as payments made direct to stood-down workers replaced indiscriminate payroll supplementation of business operators under the 2020 JobKeeper measure. So a more fulsome statement of the policy design mantra for COVID-19 social protection measures would add that they were also 'ad hoc' and relatively crude in character.

The only permanent social protection legacy was a pitiable increase in basic rates of working age social security payments (adding AUD $25 a week) and a slight easing of the 'free of income test disregard' for other income in order to provide greater reward for combining social security with small levels of casual or part-time earnings.

2. Job Retention

An array of income support measures were unfurled in the first few months of 2020 once the gravity of the COVID-19 pandemic was realised. As of August 2020 twelve of 156 COVID-19 initiatives from all levels of government were income support measures, of which five were from the

9 Budget 2021, Factsheet: Australia's Successful Response to COVID-19 (May 2021).

national government,[10] even though one of these was revenue neutral (allowing people to draw down monies otherwise preserved for their retirement[11]).

a) Protection for Existing Employees; the 2020 JobKeeper Wage Subsidy

A wage subsidy called 'JobKeeper' was the initial means of protection of stood-down workers, but this tapered down from September 2020 and ceased altogether at the end of March 2021.

From its introduction on 30 March 2020 until 24 September of that year, JobKeeper paid businesses and not-for-profits AUD$1,500 per fortnight (pf) for each qualifying employee on their payroll at 30 March if they anticipated experiencing a stipulated decline in turnover (30% if under a billion; 50% if greater). Employees lacking permanent residence status did not qualify, and part-time employees qualified only if employed continuously for 12 months. In September 2020 JobKeeper was extended to 28 March 2021[12] but at a lesser rate that then also tapered away, and was split into two categories. The reduced rate through to 3 January 2021 was $1,200 pf for employees working 20 or more hours and $750 pf for those on fewer hours. This stepped down to $1,000 and $650 respectively after that date.[13] Proof of an *actual* rather than anticipated decline in turnover was required for the first time. JobKeeper ceased altogether at the end of March 2021, before the onset of the second wave of infection.

JobKeeper was effective in providing economic stimulus, preserving ties between employees and their employers (less so for temporary workers), and in putting a floor under business losses from liquidity constraints (but not new businesses lacking a baseline turnover from the previous

10 Friel et al., Australian COVID-19 Policy Responses: Good for health equity or a missed opportunity?, Centre for Health Governance, 2020. These were legislated by the Coronavirus Economic Response Package Omnibus Act 2020 (Cth), introduced to Parliament on 23 March 2020.

11 The measure allowed drawdown of up to $10,000 of superannuation savings in each of 2019-20 and 2020-21 Coronavirus Economic Response Package Omnibus Act 2020 (Cth), Schedule 10.

12 Coronavirus Economic Response Package (Jobkeeper Payments) Amendment Act 2020 (Cth).

13 Friel et al., Australian COVID-19 Policy Responses: Good for health equity or a missed opportunity?, Centre for Health Governance, 2020, p. 14.

year[14]). Reserve Bank research estimated that one in five of all recipients of JobKeeper between April and July 2020, or 700,000 people, would have lost their employment had it not been for the subsidy.[15] Yet, JobKeeper also exacerbated existing inequalities. Loss of waged income at the outset of the pandemic was disproportionately felt by women, young hospitality workers and casual employees. '[M]ost of Australia's 1.1 million temporary visa holders and 1 million short-term casual workers were ineligible for JobKeeper payments, while another 2.1 million multiple job holders had limited eligibility.'[16]

JobKeeper was also wastefully inefficient. No legal requirement was made for businesses to refund payments if forecast revenue downturn thresholds failed to eventuate, or profitability actually increased. Approximately a million businesses and not-for-profits were receiving JobKeeper in mid-2020. Of these, 365,477 did not experience the required degree of downturn in turnover, and 157,650 saw turnover increase; yet there was no basis for recouping the AUD $4.6 billion in subsidies paid to these ineligible businesses.[17] Indeed $370 million was paid to approximately 20,000 businesses whose turnover tripled, and $320 million to approximately 15,000 whose turnover doubled.[18] Over the first six months while the payment was based on an estimate and recoupment was not available, Treasury found that AUD $27 billion was paid to businesses that ultimately did not experience the anticipated downturn. However its analysis concluded

14 Re Cessnock Holden Central Pty Ltd and Commissioner of Taxation (Taxation) [2021] AATA 2576 (Olding SM). This was despite the tax office having advised the applicant that they were qualified.

15 Bishop/Day, How Many Jobs Did JobKeeper Keep?, Reserve Bank of Australia, 2020.

16 Coram et al., Community Service Sector Resilience and Responsiveness during the COVID-19 Pandemic: The Australian experience, Australian Journal of Social Issues, 2022, 559-578, p. 561.

17 Conifer, $4.6bn in JobKeeper Went to Businesses that Increased their Turnover at the Height of the COVID-19 Pandemic ABC News Thursday 22 July 2021; for a partial costing: Commonwealth Parliamentary Budget Office, Costing for Adam Bandt MP, 22 April 2021. Louis Vuitton for instance received $6 million despite increased turnover: Wright, Louis Vuitton puts $6 Million of JobKeeper in its Handbag, Sydney Morning Herald, Friday, 3 September 2021.

18 Conifer, JobKeeper went to Thousands of Companies whose Turnover Tripled at the Height of the COVID-19 Pandemic in 2020 ABC News Thursday, 2 September 2021.

that the scheme served broader purposes of preserving jobs, the viability of small businesses and provision of economic stimulus.[19]

Between the end of JobKeeper in March 2021 and late July 2021 there was no support available to stood-down workers in the small number of shutdowns experienced during a benign 'Indian summer' of low COVID infections. However, June 2021 witnessed large outbreaks of the virulent Delta variant, with lengthy shutdowns in the two most populous states of NSW and Victoria. This forced government to develop replacements for JobKeeper and the COVID Supplement.

b) The 2021 Revised Models of Support for Those With and Without Work

The 2020 levels of support provided for social security recipients by the COVID Supplement proved short-lived, as too did JobKeeper.

Despite analysis indicating that a permanent rate increase of $270 pf was needed,[20] in April 2021 government increased the base rate of working age social security benefits by a very modest $50 pf, coupled with an increase in the 'free of income test' amount able to be earned without affecting the rate, raised from its pre-COVID $106 pf to $150 pf (only half the $300 pf allowed during the life of the COVID Supplement).[21]

The inadequacy of these permanent changes to rates was exposed in 2021 when further extended lockdowns led to further job stand-downs. An extended lockdown in the second most populous state of Victoria in early June saw calls for revival of JobKeeper and the Coronavirus Supplement. Due to the poor targeting and windfall gains retained by some businesses under JobKeeper, government instead switched to a model of direct payment to stood-down workers. This was achieved by broadening eligibility to an already existing short term 'disaster' payment previously catering for serious disruption due to localised emergencies due to floods or wildfires (bushfires).[22]

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19 Treasury, Insights from the first six months of JobKeeper, Australian Department of Treasury, 2021.

20 Whiteford, When the Coronavirus Supplement Stops, JobSeeker Needs to Increase by $185 a Week, (viewed 10/4/2022).

21 Social Services Legislation Amendment (Strengthening Income Support) Act 2021 (Cth).

22 Carney, Economic Hardship Payments in Emergencies, in Bennett/Freckelton (ed.), Pandemics, Public Health Emergencies and Government Powers, Sydney, 2021; COVID-19 Disaster Payment (Funding Arrangements) Act 2021 (Cth).

The new payment was initially set at $500 a week for those normally working 20 hrs a week, but within a matter of a few days was lifted to $600 (on 13 July 2021) and then to $750 (on 28 July), as the economic hardship of the NSW lockdown began to bite. For those previously working fewer hours, the initial rate was $325pw, then $375 (mid-July) and ultimately $450. The fortnightly payment was only made for lockdowns of more than 7 days, payable to adult permanent residents or visa holders with rights to employment, and who lived or worked in geographic 'hotspots' formally declared by the national government. Apart from the soon abandoned need to regularly reclaim the payment, and to not be in receipt of any other social security payment or have access to other entitlements such as pandemic leave, it initially was also subject to conditions such as not having more than $10,000 of available savings (later abolished except for the first week).

The payment was later eased and rendered more routine from late July 2021 onwards, so that its main conditions largely replicated JobKeeper. But the payment still differed in two very important ways in that it went directly to stood-down workers rather than via their employers and was confined to those in declared areas rather than being nation-wide. JobKeeper's other important policy objective of maintaining worker/business *connections* shifted to a new scheme called JobSaver – a jointly-funded initiative of the federal and state governments (see Part 3(c)). Both the co-funding of JobSaver and the restriction of COVID disaster payments to declared hotspots reflected the national government's determination to have the option of bringing economic pressure to bear on state or territory governments thought to 'inappropriately' be imposing lockdowns or closing their borders.

COVID disaster payments were of no help for people already receiving social security. In 2020 their payments had been boosted by the near doubling of rates from the COVID Supplement, but this had tapered away and ended altogether in March 2021 (see Part 4(a)). To partially address loss of spending power for social security recipients no longer able to supplement income from casual work, from late July 2021 recipients who lost 8 or more hours of casual work a week qualified for an additional payment of $200 a week, but subject to meeting the geographic hotspot and other conditions for the disaster payment.[23] Loss of fewer hours of employment

23 Prime Minister of Australia, Covid-19 Disaster Payment Boosted, Media Statement 28 July 2021; Centrelink, Who Can Get It? (viewed 1/9/2021).

or loss of work outside declared hotspots did not qualify for any additional payment.

As rates of vaccination of the adult population in late September 2021 approached nationally agreed targets of 70% for partial easing and 80% for more extensive re-opening to more normal life (with lockdowns expected to be rare and localised), government announced a phased ending of disaster payments. At 70% aggregate vaccination in a State or territory, payments were again required to be re-claimed weekly. At 80% a two-week tapering away of existing payments was triggered (for those who normally worked 20 hours or more, to $450 in week 1 instead of $750, then the $350 unemployment rate in week 2; for those losing 8 or more hours of casual work, $100 in place of a $200 supplement of income support payments, then zero in week 2), with no future grants even in the event of subsequent lockdowns.[24] The emergence of the Omicron variant in late November 2021 did not lead to any social protection changes, merely a precautionary two week closure of recently reopened international borders.

In the smaller COVID-free jurisdictions of WA, Queensland, Tasmania and South Australia, some of whom were reluctant to open borders until rates reached 90% of the eligible adult population, the sudden ending of the higher rates of disaster payments (reverting to lower unemployment rates), served to exert some pressure to reopen earlier than preferred (though in fact this was resisted). The sudden reversion to the Jobseeker unemployment payment for those still without work had the unfortunate effect of necessitating drawing on savings for living expenses for a time to meet its harsh ‘available funds’ (liquid assets) test.

3. Supporting the Economy

Economic stimulus measures were introduced soon after COVID-19 impacted, involving a combination of monetary and fiscal policy measures.

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24 Wong, Australian Government to Phase Out COVID-19 Disaster Payments Austaxpolicy: The Tax and Transfer Policy Blog, Friday, 1 October 2021; Martin, ‘Covid Disaster Payments to End when Vaccination Rates Hit 80%, Josh Frydenberg says’, Guardian Australia Wednesday, 29 September 2021b. Due to differential rates of vaccination, the 80% targets were reached in mid-October in NSW; mid-November in Victoria; and mid-December in Queensland.

a) Monetary Policy

Monetary policy levers were immediately adjusted by the central bank, the Reserve Bank ('RBA'). The official interest rate was cut to 0.5 per cent on 3 March 2020, followed almost immediately to 0.25 per cent (on 19 March). Finally, on 3 November 2020 the rate was cut further to 0.1 per cent (where it remains at the time of writing), along with a substantial AUD $100 billion injection of stimulus through quantitative easing (buying government bonds).

These monetary policy settings remained unchanged into 2021, as quantitative easing was continued for the first three quarters, though with a flexible target in place of $100 billion in the third quarter.[25] In September 2021 the RBA indicated that quantitative easing would continue beyond November into February 2022, but scale down from AUD $5 billion to 4 billion a week.[26] Because the total spent was more than double the bonds on issue, quantitative easing essentially fully funded all government COVID-19 support.

b) Fiscal Policy

All fiscal policy levers were rapidly invoked by government to provide economic stimulus.

Direct economic support measures introduced in 2020 included the previously mentioned Coronavirus Supplement payment, which nearly doubled welfare payments, and the JobKeeper wage subsidies for stood-down workers. Not having a contributory system of social security, the measures to cushion business in general and small-business and self-employed in particular were narrow in compass, as now explained. The October 2020 Budget added a poorly utilised $75 billion subsidy to employers for engaging new employees under age 35.[27] Over calendar 2020, government stimulus and social protection measures accounted for an additional AUD $507

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25 Gluyas, Economists Warn that 'Flexible' QE Comes at a Cost, Financial Review 7 June 2021.

26 Wright, RBA Pushes on with Plans to Wind Back QE amid 'Temporary' Delta Setback, Sydney Morning Herald, Tuesday, 7 September 2021.

27 Economic Recovery Package (JobMaker Hiring Credit) Amendment Act 2020 (Cth).

billion, over half of which was for direct economic support.[28] Two 'sugar hit' $750 lump sum stimulus payments were made to all social security recipients at the end of March and in July 2020.[29] This was followed by two further payments of $250 in late December 2020 and another early in 2021.[30] Stimulus measures also included AUD $25.1 billion over 2021-22 from bringing forward previously legislated middle and upper income tax cuts, originally due to operate from 2022,[31] and introduction of a raft of business tax and other stimulus measures.

The economic stimulus measures introduced in March 2020 also included an instant business asset write-off for depreciating assets and any related expenditure of AUD $30,000 to $150,000 made prior to the end of the financial year;[32] accelerated deductions for investment in new plant and other depreciating assets;[33] a boost to business cash flow by bringing forward tax withholding payments;[34] various assistance measures for specific sectors, including aviation industry apprentices and child care;[35] and assistance to severely affected regions, industries or communities.[36]

The May 2021 Budget for fiscal 2021-22 maintained for another 12 months the 'income tax offset' from the previous year (delivering an estimated AUD $7.8 billion to around 10 million low- to middle-income taxpayers[37]) and continued the 2020 temporary 'full expensing' and 'loss carry-back' dispensation for businesses with less than 5 billion turnover, projected to deliver AUD $20.7 billion over the four years of Budget forward estimates.[38] Among other measures, targeted support was continued

28 Budget 2020-21, Budget Paper No. 1: Budget Strategy and Outlook, Australian Treasury, p 1-1; the May 2021 Budget tallied a then AUD311 billion of expenditure on health and direct economic support: Budget 2021-22, Budget Paper No. 1: Budget Strategy and Outlook, Australian Treasury, p 13.

29 Coronavirus Economic Response Package Omnibus Act 2020 (Cth), Schedule 4.

30 Social Services and Other Legislation Amendment (Coronavirus and Other Measures) Act 2020 (Cth).

31 Budget 2021-22, Budget Paper No. 1: Budget Strategy and Outlook, Australian Treasury, 13; Carney, Australia 2019: Staying the "same old/same old" course?, Max Planck Institute for Social Law and Social Policy, 2020, part [2.5].

32 Coronavirus Economic Response Package Omnibus Act 2020 (Cth), Sch 1.

33 Coronavirus Economic Response Package Omnibus Act 2020 (Cth), Sch 2.

34 Coronavirus Economic Response Package Omnibus Act 2020 (Cth), Sch 3.

35 Coronavirus Economic Response Package Omnibus Act 2020 (Cth), Schs 7, 9.

36 Coronavirus Economic Response Package Omnibus Act 2020 (Cth), Sch 19.

37 Budget 2021-22, Budget Paper No. 1: Budget Strategy and Outlook, Australian Treasury, p. 13.

38 Budget 2021-22, Budget Paper No. 1: Budget Strategy and Outlook, Australian Treasury, p. 14.

for industries such as aviation and tourism (adding $1.2 billion to the $2.7 billion in the previous year) and $15 billion was added to an existing 10 year $110 billion pipeline of major infrastructure investment.[39]

c) 2021 'Second Wave' Responses

In 2021, business support shifted to become a *joint* responsibility of the national and the relevant state/territory levels of government, while as already discussed the national government also remained steadfast in refusing to reinstate JobKeeper due to its actual and perceived defects.

The extended lockdowns in Victoria and especially NSW ultimately led to the announcement on 13 July 2021 of a JobSaver scheme. Its twin policy objectives were preservation of enterprises from collapse and retention of employer-employee links with a view to speedier resumption of business and employment post-lockdown. Companies with an annual turnover of up to $50 million (later lifted to $250 million at the end of July) who experienced at least a 30% reduction in turnover, received a cash flow boost of between $1500 and $10,000 (later $100,000) a week, capped at 40% of payroll. Sole traders received $1,000 a week. These business support payments were conditional on employers not dismissing any existing employee on their books at 13 July 2021.

On 28 July 2021, when it became clear the NSW lockdown would be lengthy, the 50:50 federal/state funding of business was made a standing response for any such future lockdowns, including the one introduced in Victoria a few weeks after NSW. However, the federal government later ended its half of any funding of such business support packages as soon as any jurisdiction reached 80% vaccination of the eligible adult population,[40] adding further to the pressure on the smaller states holding out against lifting public health restrictions and internal border closures with other states before reaching their preferred vaccination targets of 90% of the eligible adult population (a level reached in mid-December in Queensland but not scheduled to be reached until February 2022 in the final 'hard border lockdown' state of Western Australia).

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39 Budget 2021-22, Budget Paper No. 1: Budget Strategy and Outlook, Australian Treasury, pp. 14, 18.

40 Martin, Final Business Package Worth Billions but Covid Assistance to End as States Hit 80% Vaccination Rate Guardian Australia Thursday, 30 September 2021. The NSW state government continued its funding of what became a halved value of support to businesses between mid-October until the end of November.

4. Social Protection

Social protection during COVID-19 for those not already in the workforce was largely subsumed within measures for job protection in Australia, other than in 2020 when discernibly separate social security measures were enacted. Protection of people in residential and commercial tenancy markets (a state and territory responsibility), was another important aspect of social protection during the COVID-19 pandemic. Maintaining the viability of the federally funded but mainly for-profit child care providers during shutdowns, and equity of access to child care services, were yet another.

a) Protection for Those Not in Work; the 2020 'Supplement' and Eased Conditions Model

In 2020, social protection for social security recipients took the form of an across-the-board supplementary payment. But in 2021 this measure was replaced by the new and more surgically targeted disaster payment model already discussed.

The original COVID Supplement for working age recipients of payments such as Jobseeker for the unemployed was initially set at AUD $550 pf between 27 April and 24 September 2020,[41] before stepping down to $250 pf until the end of 2020,[42] and then $150 pf, before ending altogether in March 2021.[43] The supplement initially lifted the 'replacement rate' of income for a low income worker to around 70% of previous earnings (closer to the OECD average replacement level), but even the September 25 2020 step-down quickly dropped it back to rank third last of 37 OECD countries.[44]

41 Coronavirus Economic Response Package Omnibus Act 2020 (Cth), Schedule 11.
42 Social Security (Coronavirus Economic Response—2020 Measures No. 14) Determination 2020.
43 Social Services and Other Legislation Amendment (Extension of Coronavirus Support) Act 2020; Crowe, 'Jobseeker Supplement to be Extended Until End of March' Sydney Morning Herald Tuesday, 10 November, 2020.
44 Analysis by Peter Whiteford of the ANU Crawford School of Public Policy cited in Henriques-Gomes, 'Australia's Jobless Benefits will be Among Worst in OECD after Covid Supplement Cut', Tuesday 8 September 2020.

Income security recipients were also helped by changes suspending and then easing means testing[45] (including a means test normally denying eligibility for savings above a certain level until run down below that threshold), by more generous treatment of part-time earnings to augment benefits,[46] by suspension or easing of activity test obligations,[47] and by allowing nearly 400,000 unemployed to self-manage on-line rather than engage in face-to-face meetings with one of the for-profit and not-for-profit agencies delivering Jobactive reemployment services (privatised versions of a PEP).[48] Temporary widening of the scope of being 'unemployed' assisted those in the twilight zones between self-employment and unemployment,[49] while previously ineligible self-employed or sole traders also qualified for payment on showing that 'the person's business was suspended, or suffered a reduction in turnover, as a result of the adverse economic effects of the coronavirus known as COVID-19'.[50]

45 For example the asset test ceiling removing payability of Parenting Payment once the figure was exceeded was suspended from the introduction of the initial tranche of COVID Supplement payment (see s 500Q(6)) but that protection was ended from 25 September 2020 in exercise of the power to vary an enactment by issue of a determination: see Social Security (Coronavirus Economic Response—2020 Measures No. 14) Determination 2020, Sch 1.

46 For instance the 'free area' of earnings for Jobseeker recipients was from 25 September 2020 lifted from \$106 to \$300 pf (but not for partner allowance or a single person who is a principal carer of a child) by substituting new language to that effect as point 1068-G12 in the relevant 'Rate Calculator': see Social Security (Coronavirus Economic Response—2020 Measures No. 14) Determination 2020, item 11 of Sch 1.

47 Non-payment 'waiting periods' prior to becoming entitled to payment of social security were suspended by Social Security (Coronavirus Economic Response—2020 Measures No. 7) Determination 2020, but then reinstated from 25 September 2020 pursuant to Part 1 of Schedule 2 of the Social Security (Coronavirus Economic Response—2020 Measures No. 14) Determination 2020. The 7 day ordinary waiting period was suspended by the Social Security (Ordinary Waiting Period Exemption) Instrument 2020.

48 Henriques-Gomes, 'Unemployment Shock': Will Workers Hardest Hit by the Pandemic be Left to Languish?', Guardian Australia Monday 14 September 2020, (viewed 10/4/2022).

49 The Ministerial determination extended qualification to anyone losing work 'as a result of the adverse economic effects of the coronavirus known as COVID-19': Social Security (Coronavirus Economic Response—2020 Measures No. 2) Determination 2020, Part 2.

50 Social Security (Coronavirus Economic Response—2020 Measures No. 2) Determination 2020, Part 2, item 5(i)(a), (b).

From early 2021, when lockdowns resumed, the previously discussed social security payment (disaster payment) was deployed as the principal measure of protection for stood-down workers, as well as a small number of social security recipients suffering a loss of an ability to supplement social security with casual earnings (see Part 2(b)).

b) Housing Security

Australia's housing market historically favoured owners over private renters (under one third of all occupants are renters, with less than 5% renting social housing). Already unaffordably high residential property prices accelerated further during COVID.

Mortgage relief protection in the form of up to a 6-month deferral of loan repayments was immediately engineered through low-cost government finance to banks. This was followed at the end of March 2020 by national agreement on a six-month moratorium on residential rental evictions (later legislated in all jurisdictions), government encouragement for landlords and tenants to negotiate acceptable repayments, and adoption of a code of conduct for commercial leases.[51] This necessarily patchy overlay temporarily strengthened the position of tenants compared to their weak position under the pre-existing 'mild' consumer protection model of the residential tenancy protection regime (ironically devised in the 1970s by the Poverty Inquiry[52]). The eviction moratoriums and other temporary protections were extended into the first quarter of 2021, save for Queensland, where they expired in September 2020. Queensland, NSW and the NT were the only jurisdictions not to impose a freeze on rent increases during the emergency period.[53] Eviction moratoriums and other protections were reinstated following the 2021 extended lockdowns in NSW,[54] but Victoria instead relied on its recently reformed tenancy laws.[55]

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51 Martin, Australian Residential Tenancies Law in the COVID-19 Pandemic: Considerations of housing and property rights, University of New South Wales Law Journal, 2021, pp. 197-226, p. 198.

52 Ibid, 202.

53 Ibid, 211.

54 Reintroduced for 60 days on 14 July 2021: Tenants Union of NSW, Covid-19 Guide.

55 Cook, Housing Groups Call for 'Ring of Steel' to Protect Struggling Renters, The Age, 30 July 2021.

Assessed across domains of protections against evictions, rent increases and variations, Martin rates Victoria, WA and Tasmania as the strongest set of housing security protections (in that order), with the weakest being the two territories, followed closely by NSW and Queensland.[56] However the post-emergency policy legacy of eviction and rent controls is notoriously fraught, with Martin finding for instance that 'data suggest that the reliance on negotiated and conciliated variations has been only weakly protective and, in a significant minority of cases, deferred rental obligations are mounting over the emergency period and may still put tenancies at risk afterwards.'[57]

c) Child Care Security

Ensuring ongoing access to child care for essential workers when otherwise under lockdown was a critical measure to retain a viable workforce for essential medical or community services and transport supply chains.

'Free childcare' between 6 April 2020 and end June 2020[58] and other fee relief for parents losing income during extended periods of lockdown during 2020 was the most generous phase of the special measures introduced to secure this goal.[59] Maintaining viability of the for-profit and not-for-profit providers, and enabling child care centres to retain their workforce was also crucial.

Industry support measures of various kinds continued to be provided for child care after the 'free' childcare measures ended. The August 2021 business support measures for instance covered fortnightly 'continuity payments' to providers of 25% (for child care) or 40% (out-of-hours care) of pre-lockdown revenue for services with a 50% reduction in fee revenue

56 Martin, Australian Residential Tenancies Law in the COVID-19 Pandemic: Considerations of housing and property rights, University of New South Wales Law Journal, 2021, 197-226.

57 Ibid, 222.

58 Child Care Subsidy Amendment (Coronavirus Response Measures No. 2) Minister's Rules 2020; Klapdor, 'COVID-19 Economic response—free child care' Parliamentary Library, Canberra, 6 April 2020.

59 There were three main phases of COVID-19 child care relief in 2020: a 'relief package' (6 April-12 July), transition payments (13 July-27 September) and a recovery package (28 September-31 January 2021). The original provider subsidy measures were extended to local government in July 2020. See: Family Assistance Legislation Amendment (Early Childhood Education and Care Coronavirus Response and Other Measures) Act 2021 (Cth).

in declared geographic hotspot areas (after 7 days if lockdowns limited attendance, or 28 days if not), subject to waiving fees for children not attending.[60] An amount of AUD $288 million was spent on these measures.[61]

5. Conclusion

By comparison with other developed economies, Australia's COVID-19 measures rate well in terms of minimising economic recession (just one 7% growth contraction in the June quarter 2020, the first in 30 years[62]), but then it always has done so over recent decades (being the only country to totally avoid recession during the 2008 Global Financial Crisis). Australia was also one of just four countries out of 120 assessed by the Washington-based International Budget Partnership as rating in the top tier for transparency and accountability for COVID-19 budget responses.[63] However the picture is not entirely a positive one. The trend line deterioration in intergenerational equity for young workers, for example, was exacerbated by COVID-19 because they disproportionately engaged in casual or impermanent employment.[64]

Despite that very deep recessionary quarter (the first for 30 years) the May 2021 Budget reported that the 2020 measures ultimately resulted in higher employment (recovering to hit record highs) and GDP growth for March 2021 than in March 2020.[65] The second wave lockdowns in 2021 did not generate the feared June quarter downturn (instead a 0.7 percent growth),[66] limiting the downturn to a 1.9 percent drop in the September quarter,[67] with the following quarter as yet unknown. That

60 Australian Department of Education Skills and Employment, 'COVID-19 Information for the Early Childhood Education and Care Sector' (accessed 24/8/2021).

61 MYEFO, Mid-Year Economic and Fiscal Outlook 2021-2022, Treasury, 2021, 8.

62 Budget 2020-21, Budget Paper No. 1: Budget Strategy and Outlook, Australian Treasury, p. 1-1.

63 Stewart/Wong, A COVID-19 Check for the Budget System, Austaxpolicy: Tax and Transfer Policy Blog, 6 July 2021.

64 Borland/Coelli, Is It 'Dog Days' for the Young in the Australian Labour Market?, Australian Economic Review, 2021, 421-444.

65 Budget 2021-22, Budget Paper No. 1: Budget Strategy and Outlook, Australian Treasury, p. 5.

66 ABS, Australian National Accounts: National Income, Expenditure and Product (June Quarter), Australian Bureau of Statistics, September 2021.

67 ABS, Australian National Accounts: National Income, Expenditure and Product (September Quarter), Australian Bureau of Statistics, December 2021.

happy outcome has much to do with mineral exports, especially to China, and resilient domestic economic fundamentals.

The social protection measures introduced in 2020 at the outset of the pandemic arguably created Australia's first – if very 'temporary' – genuine welfare state,[68] by boosting replacement levels of payments to more adequate levels, until the rug was pulled in the first quarter of 2021.[69] The job retention subsidy (JobKeeper) was the most controversial of the measures from the outset. It was politicised by initial government opposition to the need for such a measure, and when introduced failed to provide for more marginalised casual workers such as students and temporary visa holders (including migrant workers and backpackers engaged in short-term or multiple insecure contracts).[70] The initial design of a single flat rate payment for all, later split into two tiers of flat rate amounts depending on hours previously worked, was also criticised.[71] The most fundamental concern on the part of economists however centred on adverse labour market impacts (crowding and perverse incentives) or delays to economic recovery post-pandemic in the event of other than a very short-term subsidy.[72]

The advent of long lockdowns in mid-2021 due to rapid infections from the Delta variant of COVID put paid to government hopes of avoiding revisiting the 2020 measures. The 2021 replacement initiatives proved somewhat clunky, especially the delayed and somewhat patchy coverage by disaster payments for stood-down workers and the supplementary payments for those already on welfare, as government resisted the return of either JobKeeper or the Coronavirus Supplement. The business sector,[73]

68 See for example Spies-Butcher, The Temporary Welfare State: The political economy of job keeper, job seeker and 'snap back', Journal of Australian Political Economy, 2020, pp. 155-163.

69 Whiteford, When the Coronavirus Supplement Stops, JobSeeker needs to Increase by $185 a Week; Whiteford/Bradbury, The $50 Boost to JobSeeker Will Take Australia's Payment From the Lowest in the OECD to the Second-Lowest After Greece.

70 Cassells/Duncan, JobKeeper: The Efficacy of Australia's First Short-Time Wage Subsidy, Australian Journal of Labour Economics, 2020, 99-128, pp. 103-4, 107-8, 125.

71 Ibid. Instead the authors proposed a model that 'combines a proportionate wage subsidy with a graduated scale of entitlement depending on the degree of business turnover loss.': ibid, p. 125.

72 Walkowiak, JobKeeper: The Australian Short-Time Work Program, Australian Journal of Public Administration, 2021, 1046-1053.

73 Business NSW, Businesses Want JobKeeper Back (25 July 2021).

supported by the then NSW Treasurer (later Premier),[74] correctly criticised the replacement measures as being much less effective in preserving employer-employee ties, though the magnitude of this effect is not fully known.

The replacement measures were certainly less wasteful (no ability for subsidies ending up boosting business profits) and more surgically targeted (picking up stood-down workers of businesses suffering smaller downturns in profits), and were quicker to deliver support for those able to navigate the claim system. However the disaster payment catered for just 20 per cent of social security recipients in lockdown compared to universal coverage by the COVID Supplement,[75] and the arrangements posed access issues due to their greater complexity.[76] Analysis of anonymised bank account data showed that they also favoured men over women, even though women were disproportionately impacted by loss of employment during the 2021 lockdown.[77]

Assessing the impact and policy design of major building blocks of Australia's response to COVID-19 depends on the choice of evaluative lens. Success in countering the risk of a deep or sustained economic recession is very different from designing optimally effective and efficient social protection measures. Australia's success in avoiding any recession during the global financial crisis was attributed to acceptance of the advice of the then head of Treasury to 'go early, go hard and go households'. Quick, substantial economic stimulus can be favoured at the price of some 'wastage'.

The AUD $27 billion of JobKeeper wage subsidies paid to businesses not experiencing the expected level of downturn of turnover between March and September 2020 is a case in point. On a strict moral analysis the payments to those 'ineligible' businesses should be recouped as debts, but AUD $13.2 billion went to businesses whose turnover did still decline, 99% of which were 'small businesses' with less than $50 million turnover and an average of four employees (the recipients of $22.5 of the $27 billion in question). Treasury analysis suggests that the rapid injection of funds

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74 Karp, Coalition Rebuffs Request by NSW Treasurer to Bring Back Jobkeeper to Curb Sydney Covid Outbreak, The Guardian Australia Sunday 25 July 2021.

75 Davidson et al., COVID Income Support Analysis: Analysis of income support during COVID lockdowns in 2020 and 2021, ACOSS & UNSW Sydney Partnership, 2021, p. 8.

76 Stayner, Unions Concerned People are Struggling to Access COVID-19 Support Payments, SBS News 22 July 2021.

77 Wade/Gladstone, NSW Disaster Payment Recipients Top 1 Million as Men are Getting the Lion's Share, Sydney Morning Herald, Sunday, 12 September 2021.

without strict monitoring or clawback provisions kept businesses afloat while enabling some to transition to more profitable models of operation such as 'take away' food, while others were saved from expected declines because lockdowns eased and profitability rapidly returned.[78]

Analysis by the Melbourne Institute of Applied Economic and Social Research of JobKeeper's impact in saving the jobs of those temporarily laid off due to COVID-19, found that although temporary layoffs were widely used, recall of workers was low (around 100,000 of 300,000 stood down) while total employment in the initial economic recovery phase grew by 440,000 (covering one half of the initial losses). The conclusion drawn was that 'either that temporary layoffs were very long, or that many workers on temporary layoffs were never recalled.'[79] In short, JobKeeper rated well as economic stimulus but poorly on more orthodox economic efficiency or other distributional measures.

By standard social policy targeting analyses, JobKeeper and the COVID Supplement were effective, reaching 44% of the workforce and lowering the pre-pandemic poverty rate from 11.5 per cent (3 million) to 9.9 per cent (2.6 million) in mid-2020.[80] The measures catered for the 70 per cent rise over pre-pandemic levels in the number of people reliant on social security payments, a figure of reliance still 27 per cent higher than beforehand when the April 2021 less generous and less extensive disaster payment replacements ended in October 2021. Analysis reveals ongoing social inequality in lower income regions from the impact of COVID-19 on employment, so the structural legacy of the ad hoc social protection measures was negligible.[81]

As in European countries studied to date, Australia's measures can be characterised as economic stimulus by way of social compensation for

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78 Treasury, Insights from the First Six Months of JobKeeper, Australian Department of Treasury, 2021.

79 Borland/Hunt, Did The Australian JobKeeper Program Save Jobs by Subsidizing Temporary Layoffs?, Melbourne Institute: Applied Economic & Social Research: The University of Melbourne, 2021.

80 Davidson et al., COVID Income Support Analysis: Analysis of income support during COVID lockdowns in 2020 and 2021, ACOSS & UNSW Sydney Partnership, 2021, p. 11.

81 Affected regions include, outer north-west and south-east Melbourne, west and south-west Sydney, northern Adelaide, far North Queensland and regions between Brisbane and the NSW border: Davidson et al., COVID Income Support Analysis: Analysis of income support during COVID lockdowns in 2020 and 2021, ACOSS & UNSW Sydney Partnership, 2021, p. 8.

anticipated short-term recessionary disruption,[82] rather than renovation or enhancements to its rather idiosyncratic social assistance welfare state model. Citizens engaged in non-standard employment, such as the self-employed and casual employees were beneficiaries of widened eligibility under that social compensation assistance, but *non-citizen* temporary workers such as students and back-packers remained excluded,[83] casual workers soon saw assistance rolled back and none of the temporary changes resulted in any alteration of the architecture of social protection in the longer term.

82 Seemann et al., Protecting Livelihoods in the COVID-19 Crisis: A comparative analysis of European labour market and social policies, Global Social Policy, 2021, 550-568; Spasova et al., Social protection of non-standard workers and the self-employed during the pandemic, Institute, 2021.

83 Boucher, Immigration: Welfare Rights in a Temporary Immigration State, in McClelland Smyth/Marston (ed.), Social Policy in Australia: Understanding for Action, Melbourne, 2021; Carney/Boucher, Australian Social Law and Migrant Flux, ZIAS, 2022 forthcoming.