

Submission to the

**Full Bench of the Industrial
Relations Commission of
New South Wales**

in the

**State Wage Case 2009
Matter No. 326 of 2009**

on behalf of the

**New South Wales
Government**

8 May 2009

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Executive Summary

1. The New South Wales (NSW) Government is of the view that maintaining fair minimum wages is essential to achieve sound economic and social outcomes.
2. There are approximately 564,000 employees of unincorporated entities in the private sector of NSW who remain in the NSW industrial relations system. Of these between 190,000 and 250,000 are reliant on minimum award rates and would receive a direct benefit from any increase to minimum wages in NSW. This represents approximately 7.4 per cent of the NSW labour force.
3. This year the Industrial Relations Commission of New South Wales (the IRC) will be making its decision in a time of significant economic stress. The global economic crisis is having an impact upon all sectors of the Australian economy, with business revenue and investment falling and confidence across the economy declining. At the same time, the crisis is having an impact on the labour force through rising unemployment.
4. The detrimental effects of a contracting state economy are likely to be most pronounced for low paid workers. In the coming year it is expected that unemployment will continue to rise, with a higher incidence of redundancies and increased trends towards greater part-time employment and less full-time employment. In this type of environment therefore it is fair and reasonable to ensure that the low paid sector of the labour force does not bear a disproportionate share of the burden while the economy is contracting.
5. In addition, as reflected in the Federal Government's economic stimulus packages, minimum wage workers play an important role in maintaining economic activity through their spending decisions. There are therefore potential economic benefits in ensuring that real wages are maintained in these difficult economic times. .

6. At the same time, however, the NSW Government acknowledges that any decisions on wage growth need to be cognisant of the impact on NSW employers, and in turn, on job security. Wage costs usually represent a significant portion of business operating costs. Wage growth therefore needs to be considered in light of the broader economic conditions under which businesses are currently operating.
7. It is the view of the NSW Government that the IRC should make a decision that sets ‘fair and reasonable conditions of employment for employees’¹, including minimum wages. An appropriate decision will be one that balances employment security, particularly during the current economic crisis, with the desirability of maintaining the real incomes of award-reliant² workers.
8. The NSW Government submits that a 2.5 per cent increase to minimum wages in NSW is a responsible approach, striking the right balance between economic sustainability and the maintenance of real wages for award-reliant workers in NSW.
9. This submission presents detailed economic and statistical evidence to support this claim and is structured as follows:
10. Chapter 1, **Introduction**, summarises the argument for a 2.5 per cent increase to certain award rates of pay and considers the Unions NSW claim.
11. Chapter 2, **The economic environment** provides an overview of the current and future state of the NSW economy.
12. Chapter 3, **The cost of the claim** details the extent to which the claim will affect NSW workers and businesses, and the capacity of the economy to absorb it.

¹ See section 10 of the *NSW Industrial Relations Act 1996 (Industrial Relations Act)*.

² Defined as those workers where a particular award is the sole mechanism used to set pay and conditions at the workplace. Such workers are paid at the rate of pay specified in the award and are not paid more than that rate of pay.

13. Chapter 4, **The impact on employment** examines the negligible impact a responsible increase to minimum wages is likely to have on employment.
14. Chapter 5, **The needs of the low paid** examines income and expenditure characteristics of low paid workers and households, illustrating the need to maintain a decent minimum wage to avoid the establishment of a working poor.
15. Chapter 6, **The New South Wales Minimum Wage** discusses the NSW Government's position on the State Minimum Wage Order established at the 2008 State Wage Case.
16. Chapter 7, **Conclusion**, summarises the position of the NSW Government and asks the IRC to award a fair and reasonable 2.5 per cent increase to award rates of pay in the state jurisdiction.

Chapter 1: Introduction

The Unions NSW Claim

17. The matter before the Full Bench involves an application by Unions NSW to increase rates of pay and existing allowances which relate to work or conditions, including shift allowances expressed as monetary amounts, and service increments in certain awards, by 3.8 per cent in accordance with the State Wage Fixing Principles.
18. Table 1 represents the monetary weekly wage increases which would be realised under the *Metal Engineering and Associated Industries (State) Award* as a consequence of the 3.8 per cent claim submitted by Unions NSW and compares this with the increases that would occur under the NSW Government's proposed 2.5 per cent increase.

Table 1: Metal Engineering and Associated Industries (State) Award					
Classification	Current 2008 rates	Unions NSW 3.8 per cent increase		NSW Government 2.5 per cent increase	
		3.8 per cent increase	wages with 3.8 per cent increase	2.5 per cent increase	wages with 2.5 per cent increase
	\$	\$	\$	\$	\$
C14	552.70	21.00	573.70	13.81	566.52
C13	562.70	21.38	584.08	14.06	576.76
C12	586.10	22.27	608.37	14.65	600.75
C11	607.90	23.10	631.00	15.19	623.09
C10	642.90	24.43	667.33	16.07	658.97
C9	664.70	25.26	689.96	16.61	681.31
C8	686.30	26.08	712.38	17.15	703.45
C7	706.00	26.83	732.83	17.65	723.65
C6	749.30	28.47	777.77	18.73	768.03
C5	771.10	29.30	800.40	19.27	790.37
C4	792.20	30.10	822.30	19.80	812.00
C3	836.10	31.77	867.87	20.90	857.00
C2(a)	857.80	32.60	890.40	21.44	879.24
C2(b)	897.00	34.09	931.09	22.42	919.42
C1(a)	983.80	37.38	1021.18	24.60	1008.40
C1(b)	1,113.90	42.33	1156.23	27.84	1141.74

The New South Wales Government position

19. The NSW Government supports a 2.5 per cent increase across all classifications under applicable NSW awards. The effect of this proposed increase is also detailed in Table 1.
20. Prior to handing down its 2008 decision the IRC noted that flat dollar increases had been awarded consistently in the last ten State Wage Cases. These outcomes are reflected in Table 2.

Table 2: Quantum of wage increases awarded by IRC: 1998- 2008		
Year	Applicable Wage Level	IRC Granted
1998	<=\$550.00 >\$550.00 <\$700.00 >\$700.00	\$14.00 \$12.00 \$10.00
1999	<=\$510.00 >\$510.00	\$12.00 \$10.00
2000		\$15.00
2001	<=\$490.00 >\$490.00 <\$590.00 >\$590.00	\$13.00 \$15.00 \$17.00
2002		\$18.00
2003	<=\$731.80 >\$731.80	\$17.00 \$15.00
2004		\$19.00
2005		\$17.00
2006		\$20.00
2007		\$20.00
2008		4 per cent

Source: NSW Industrial Relations Commission decisions 1998-2008.

21. In the previous two State Wage Case decisions the IRC has raised concerns about the effect these flat dollar increases have upon award wage relativities. The NSW Government shares these concerns and considers the maintenance of wage relativities to be essential to the integrity of the award system.

22. Accordingly, the NSW Government is on this occasion recommending a percentage increase to minimum award wages in order to avoid further compression between award classifications.
23. The economic evidence suggests that the Labour Price Index for all private sector employees in NSW rose by 4.0 per cent between the December Quarter 2007 and December Quarter 2008. The proposed 2.5 per cent³ increase will help minimise wage inequality for those workers who have not received increases over the preceding twelve months in the bargaining stream of wage adjustments.
24. The 2.5 per cent increase proposed by the NSW Government will maintain the real value of all wage classifications, as can be seen in relation to the *Metal Engineering and Associated Industries (State) Award* noted within Table 1.

³ See ABS, Cat 6401.0, Consumer Price Index, Weighted Average of Eight Capital Cities to March Quarter 2009

Chapter 2: The Economic Environment

New South Wales Economy: Recent Developments

25. NSW economic output increased in 2007-08 with growth in Gross State Product (GSP) of 2.8 per cent, up from 1.9 per cent growth in 2006-07.
26. However, growth in the NSW economy will slow significantly in 2008-09 and 2009-10, reflecting the lagged effects of higher interest rates and the impact of the global economic crisis. Household consumption and business investment growth will be subdued, though the large interest rate cuts by the Reserve Bank (RBA), the Federal fiscal stimulus packages, and the State's large infrastructure program should provide support.
27. State Final Demand contracted by 0.3 per cent in the December quarter 2008 after rising 0.5 per cent in the September quarter. Growth in the December quarter was 0.4 percentage points below the national average reflecting the higher exposure that NSW has to the fall out in financial markets. In the December quarter, a modest rise in household consumption was offset by a contraction in spending on machinery and equipment, dwelling investment and non-residential construction. Through the year to the December quarter 2008, NSW State Final Demand grew by 1.2 per cent.
28. The NSW consumer has thus far been relatively resilient, despite the contraction in the global economy and rising unemployment. Household spending grew modestly in both the September and December quarters, with retail sales buoyed by interest rate cuts and the Federal Government's stimulus package.

29. Housing construction was hampered in the first half of 2008 by higher interest rates and has since been affected by the legacy of higher interest rates, weaker consumer and business sentiment and tighter bank lending standards. Housing construction will remain subdued in 2008-09, but in the medium term demand should be supported by recent stronger population growth, low rental vacancy rates and improving rental yields. Substantial RBA interest rate cuts since September 2008, falling house prices in some areas of the State and the First Home Owners Grant could help improve home affordability and investment.
30. Business investment in NSW strengthened in the first half of 2008 in response to tight capacity constraints and buoyant demand. After eight consecutive quarters of positive growth and record business investment in the September quarter 2008, business investment declined by 1.5 per cent in the December quarter. The Private New Capital Expenditure Survey, released in February 2009, suggests that business investment in NSW will contract in 2009-10 (the expected level of spending in 2009-10 is less in nominal terms than the expectation for spending in 2008-09).
31. In line with the New South Wales State Infrastructure Strategy, public sector spending growth contributed strongly to State Final Demand in 2008. Public sector investment rose by 15.2 per cent through the year to the December quarter 2008.
32. Net exports have performed relatively well in NSW despite the significant contraction in growth in the global economy. A recovery from the drought and a lower Australian dollar has boosted merchandise exports, which rose 8.2 per cent in the December quarter 2008. Through the year merchandise exports were up 6.3 per cent in NSW and imports fell by 2.1 per cent.

33. The NSW labour market has been affected by the sharp slowdown in the global and domestic economies and low levels of business confidence. Trend employment has been flat or declining since around mid-2008. Since coming off generational lows in early 2008, the unemployment rate has risen to 6.9 per cent in NSW (as at March 2009). In the short term, low levels of business confidence and the softer outlook for economic growth pose a significant risk to the outlook for employment in NSW and Australia.
34. The Sydney CPI increased 3.8 per cent in the 2008 calendar year. However, the overall increase masked a slowing through the year, with the Sydney CPI decreasing by 0.2 per cent in the December quarter 2008 as demand softened and commodity prices fell, followed by an increase of 0.1 per cent in the March quarter 2009. Between March 2008 and March 2009, the Sydney CPI rose by 2.4 per cent. Slower demand growth and economic activity may see the inflation rate, as measured by the Sydney CPI, remain low in the period ahead.
35. The NSW Labour Price Index grew by 3.8 per cent in 2007-08. National growth was stronger at 4.2 per cent for the same period reflecting stronger wages growth in both the public and private sectors.

Looking Forward

36. Since the 2008-09 Half Yearly Budget Review (released December 2008), indicators of economic activity in the global economy have revealed a very sharp and synchronised slowdown. Economic growth in the December quarter contracted sharply in most industrialised nations and the International Monetary Fund released forecasts in April 2009, which forecast the first global decline in output since the Second World War.

37. The view for 2009-10 is characterised by considerable uncertainty as global economic growth has contracted at such a rapid pace. Significant rate cuts from the RBA and the Federal Fiscal Stimulus packages should, however, offer support to the national and NSW economies in 2009-10.
38. The NSW Government is committed to minimising the impact of the economic downturn on workers, business and families. The Government held a Jobs Summit over on 26-27 February 2009 to engage with business and the community to develop actions to drive investment in infrastructure and jobs to support employment through the current downturn. The Government will spend a record \$56.9 billion on infrastructure over the next four years, and work with the Commonwealth to deliver the Federal Government's economic stimulus package. In combination with monetary and fiscal policies at the Federal level, these measures will support employment in NSW.
39. At the time of the 2008-09 Half Yearly Budget Review, NSW Treasury forecasts for major aggregates were:

Table 3: NSW Treasury forecasts for major aggregates

	Actual 2007-08 Outcome	Budget 2008-09 Forecast	Revised 2008-09 Forecast	2009-10 Forecast	Medium Term Projection
State final demand	4.4	2½	1½	1¾	
Gross state product	2.8	2	1¼	1½	3¼
Employment	2.4	1	½	½	1¼
Unemployment rate (year average, percent)	4.6	4¾	5¼	5¾	
Sydney CPI	4.3	3	3¾	3	2½
Wage price index	3.8	4	3¾	3½	3½

(a) Per cent change, year average, unless otherwise indicated

(b) Forecasts are unchanged relative to the November Mini-Budget

Note that the Sydney CPI forecasts in the above table are in through the year terms that is June quarter on June quarter.

40. These forecasts were made prior to the release of the 2008 December quarter National Accounts for Australia. In light of the December quarter data and recent global developments it is likely that the forecasts for both 2008-09 and 2009-10 will be revised lower in the 2009-10 Budget.
41. An update to economic forecasts will be released with the 2009-10 State Budget on 16 June 2009.

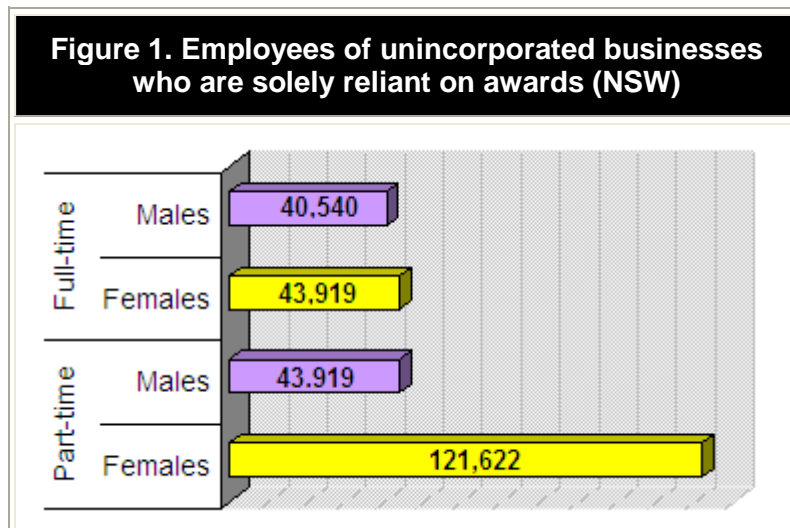
Chapter 3: Cost of the claim

42. The Federal Work Choices amendments in March 2006, resulted in the removal of the IRC's jurisdiction with respect to minimum wage setting for employees employed by constitutional corporations under state awards. These employees are now within the federal jurisdiction and are not affected by IRC decisions.
43. Any decision made in the 2009 State Wage Case by the IRC will thus only impact directly upon those employees who are award-reliant and work in unincorporated entities such as sole traders, partnerships and non-corporate trusts.

Employees who will benefit from an increase

44. The foundation in deriving the cost of the claim is to identify those employees in NSW who will directly benefit from a State Wage Case increase. To identify these employees, the most appropriate data source is the Australian Bureau of Statistics (ABS) survey of *Employee Earnings and Hours*, 2006 (Cat.No. 6306.0).
45. Previously, the Minister for Industrial Relations commissioned unpublished data from this ABS data set to better identify the employees of unincorporated entities in the private sector. This data continues to be relevant in the absence of more recent data and is used in this submission to provide an indication of the employees captured by the IRC wage decision.
46. According to this ABS data, approximately 564,000 or 16.7 per cent of employees in NSW are employed in unincorporated businesses in the private sector. Of these employees, approximately 250,000 or 7.4 per cent are award-reliant. The following Figure 1 sets out the numbers of award-reliant employees in NSW by gender and employment status.⁴

⁴ Australian Bureau of Statistics, *Employee Earnings and Hours*, May 2006, Cat. No. 6306.0, NSW unpublished data.



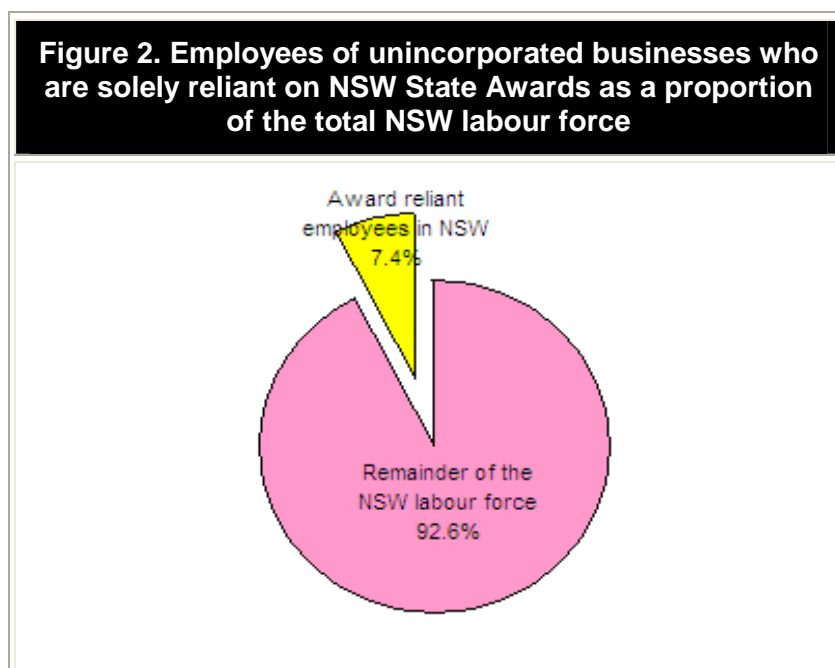
Source: ABS, *Employee Earnings & Hours*, May 2006, Cat. No. 6306.0, unpublished data & *Labour Force Survey*, March 2009, Cat.No.6202.0

47. Research undertaken by the Office of Industrial Relations estimates that approximately 24 per cent of award-reliant employees in NSW are employed under federal awards. This suggests that the actual number of employees who are reliant upon the State Wage Case for an increase in their weekly rates of pay is estimated to be between 190,000 and 250,000 employees.⁵
48. In addition to those employees detailed in Figure 1, there are a number of award-reliant employees who are employed by an entity that is classified as neither incorporated nor unincorporated, and are most likely to be public sector employees (public sector employees who will be affected by the 2009 State Wage Case are discussed at paragraphs 63 and 64).
49. It should also be noted that while the ABS *Employee Earnings and Hours* data does not differentiate between permanent and casual employment, other ABS data estimates that approximately 27 per cent of all employees are casual, having no access to leave entitlements.⁶

⁵ Working New South Wales Employer Survey, *Summary & Analysis of Results*, April 2002 and Australian Bureau of Statistics, *Employee Earnings and Hours*, May 2006, Cat. No. 6306.0, NSW unpublished data.

⁶ Australian Bureau of Statistics, *Employee Earnings, Benefits and Trade Union Membership*, August 2006, Cat. No. 6310.0.

50. Figure 2 illustrates the small proportion of the total NSW labour force that will derive a direct benefit from the 2009 State Wage Case.



Source: ABS, *Employee Earnings & Hours*, May 2006, Cat. No. 6306.0, and unpublished data.

Impact by gender

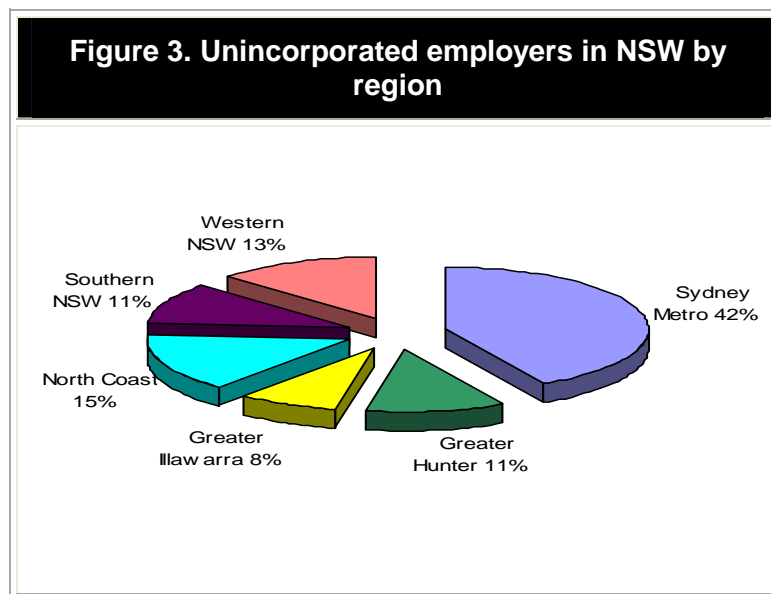
51. As can be seen from Figure 1, female employees comprise a high proportion of the total number of award-reliant employees employed by unincorporated entities in NSW, representing approximately two-thirds of the total number of award-reliant employees. It should particularly be noted that part-time female employees represent almost 50 per cent of the total number of award-reliant employees who will benefit from an increase to minimum wages.⁷
52. Male employees comprise a smaller, but still significant, proportion of award-reliant employees employed by unincorporated entities, representing 34 per cent of the total number of award-reliant employees, with part-time male employees representing 18 per cent of the total.⁸

⁷ Australian Bureau of Statistics, *Employee Earnings and Hours*, May 2006, Cat. No. 6306.0, NSW unpublished data.

⁸ Australian Bureau of Statistics, *Employee Earnings and Hours*, May 2006, Cat. No. 6306.0, NSW unpublished data.

Employers impacted by the claim

53. Internal research by the Office of Industrial Relations from unpublished data supplied by the Australian Business Register in 2009 indicates there are approximately 443,000 private sector employing entities based in NSW. Of these, 112,000,⁹ or approximately 25 per cent, are unincorporated and will either remain in the NSW industrial relations system, or move from the federal to the NSW industrial relations system when transitional awards cease to operate in March 2011.
54. Figure 3 shows that of all unincorporated employers in NSW, 58 per cent are in regional centres, with 42 per cent in the Sydney metropolitan area.



Source: Australian Taxation Office 2005, Unpublished Data: Australian Business Register

55. The industry breakdown of employers of unincorporated businesses in NSW is detailed in Table 4 and Figure 4 below.

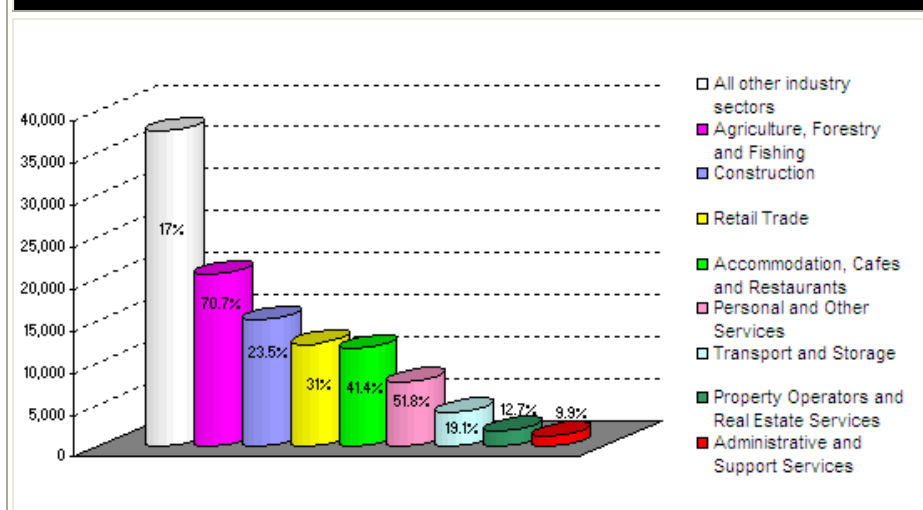
⁹ Australian Taxation Office, 2009, Unpublished Data: Australian Business Register. Note: Further analysis of ABR data has revealed a number of employing entities counted and recorded in previous submissions to the IRC are no longer trading.

Table 4: Unincorporated employing businesses, New South Wales

	Number of unincorporated employers	Unincorporated employers as percentage of all employers in industry	Percentage of all Unincorporated employers in NSW
Retail Trade	12,134	31.0	10.9
Agriculture Forestry and Fishing	20,387	70.7	18.3
Property Operators and Real Estate Services	1,855	12.7	1.7
Administrative and Support Services	1,283	9.9	1.2
Construction	14,942	23.5	13.4
Transport and Storage	4,082	19.1	3.7
Accommodation, Cafes and Restaurants	11,646	41.4	10.5
Personal and Other Services	7,662	51.8	6.9
All other industry sectors	37,356	17.0	33.5

Source: Australian Taxation Office 2005, Unpublished Data: Australian Business Register

Figure 4. NSW unincorporated employers as percentage of all employers in industry



Source: Australian Taxation Office 2005, Unpublished Data: Australian Business Register

Economic cost and labour price index

56. As noted earlier in this submission the number of employees who will be directly reliant upon the State Wage Case for an increase in their weekly rates of pay is estimated to be between 190,000 and 250,000 employees. On this basis, a 2.5 per cent increase for 220,000 full-time employees would add around \$183.8 million¹⁰ to the wages bill of private sector employers in NSW. The private sector wages bill in NSW in 2008-2009 was in the region of \$150 billion. It is therefore estimated that the proposed increase would further increase the total private sector wages bill by no more than 0.12 per cent.
57. However it must be noted that around two-thirds of workers who will benefit from the 2009 State Wage Case are not full-time employees and, accordingly, the economy-wide cost will be significantly lower. It is not possible to quantify the exact number of hours worked by these employees.
58. A majority of employees who will be affected by the 2009 State Wage Case work in industries where average wage growth is lagging behind overall wage growth in the total labour force.
59. The ABS *Labour Price Index* for all private sector employees in NSW rose by 4.0 per cent over the year to December 2008, the lowest amongst all the States and Territories after the Australian Capital Territory (compared to the national average of 4.3 per cent).¹¹

¹⁰ This calculation is based upon the 2.5 per cent increase proposed by the NSW Government equating to a \$16.07 weekly increase at the C10 level under the *Metal Engineering and Associated Industries (State) Award*. The NSW Government acknowledges that a percentage increase to award wages will necessarily be reflected differently in other awards and at different classifications within the Metals Award and accordingly the above figure is only provided as an estimate.

¹¹ ABS, *Labour Price Index*, December 2008 Cat. No.6345.0.

60. More specific national data in relation to particular industries shows some divergence in increases to the Labour Price Index for the year to December 2008. In particular, the industries that stand out include the award-reliant accommodation, cafes and restaurants and retail sectors, with increases of 2.7 per cent and 3.7 per cent respectively. In contrast, other areas such as mining and electricity, gas and water supply, show shifts in the Labour Price Index of 6.2 per cent and 5.2 per cent respectively.¹²
61. When wage growth is measured over a longer timeframe it is clear that over the 10 years to the September quarter 2008 average wages in the accommodation, cafes and restaurants and the retail sector have grown more slowly than the average across all industries.¹³
62. ABS data from 2006 indicates that the NSW State Wage Case affected only about 7.4 per cent of the total NSW labour force and had a minimal impact on the Labour Price Index¹⁴. Since the commencement of the Federal Work Choices legislation the numbers of employees within the state jurisdiction has remained largely unchanged. This suggests that, should the IRC choose to hand down a moderate increase to maintain the value of real wages at this year's State Wage Case, there will be a similarly negligible impact upon the Labour Price Index.

Cost of the claim for the New South Wales Government as an employer

63. The NSW Government is a major employer within the State, employing approximately 10 per cent of the total NSW labour force. For public servants, the Director of Public Employment is the representative employer for industrial purposes under the *Public Sector Employment and Management Act 2002*.

¹² Ibid

¹³ Average annual growth in the ten years to the September quarter 2008: accommodation, cafes and restaurants 2.8%; retail trade 3.1%; all industries and occupations 3.7% quoted from AFPC Economic and Social Indicators – Monitoring Report, July to December 2008.

¹⁴ ABS *Labour Price Index*, September 2006, Cat. No. 6345.0.

64. The Government's NSW Public Sector Wages Policy 2007 provides for an indexation of 2.5 per cent per annum, irrespective of whether inflation fluctuates above or below that figure. It allows for additional increases to be paid to employees where they can be funded from employee-related savings.
65. Almost all public sector employees are covered by agreements or awards which have traditionally provided regular wage and salary increases in excess of State Wage Case adjustments and such adjustments have not applied to those public sector employees.
66. Within the public sector there are approximately 1,500 trainees who undertake traineeships ranging from 12 months to 2 years. A number of these employees are subject to State Wage Case adjustments provided under the *Crown Employees (Public Service Training Wage) Award 2005*.
67. In addition to these employees, a small number of Government employees (less than 200 employees) are paid under common rule awards and also receive their pay increases through State Wage Case adjustments. In particular, the Department of Education / TAFE has some classifications that receive State Wage Case increases, such as school canteen staff and shop assistants, as do casual waiters and casual sales assistants employed by the Zoological Parks Board of NSW.
68. Past State Wage Case increases have had only a limited impact on public sector employment. It is anticipated that the cost impact of any State Wage Case decision on wages and salary levels in the NSW Government in 2009 will be marginal.
69. It is submitted that, following any decision of the IRC in the current State Wage Case, any increase awarded should be absorbed into current agreements and awards to the extent that these instruments provide for increases over and above the increase awarded in the State Wage Case.

Chapter 4: The impact on employment

70. There is ongoing debate concerning the relationship between wage adjustments and employment outcomes. Evidence and arguments on this issue have been a constant feature of past wage cases.
71. A large number of empirical studies have investigated a possible link between increases in minimum wages and unemployment and have not been able to conclusively support such a view.
72. As the Australian Fair Pay Commission noted in a recent report,¹⁵ it is difficult to determine whether changes in employment of low-skilled workers have been influenced by increases to minimum rates of pay. The NSW Government would submit that there are multiple factors that determine levels of employment for award-reliant workers, and increases to minimum wages should not be isolated as the overriding factor.
73. In past State Wage Cases the NSW Government's position has been to query any causal relationship between increases in minimum wages and unemployment. Instead it has advanced the view that there are multiple determinants of employment, and in that context, moderate, predictable increases in minimum wages are unlikely to adversely impact upon employment and will actually contribute to stability, harmony and decency in the workplace.

¹⁵ AFPC, *Economic and Social Indicators – Monitoring Report*, July to December 2007

74. Many of the empirical studies presented to both federal and state industrial tribunals have been based on increases in a single minimum wage. As wage adjustments in the NSW jurisdiction apply to a range of minimum rates at various levels throughout the award system, such studies are limited in their assistance to the IRC when making its deliberations. This limitation is exacerbated by the diversity of research findings. For example, the OECD has noted that empirical evidence concerning a negative impact of minimum wages on employment is mixed, with a number of studies finding an adverse impact is modest or non-existent.¹⁶
75. On the other hand, in its 2006 study¹⁷ the OECD noted that a well-designed minimum wage can actually contribute to broader strategies to encourage employment growth by guaranteeing that work is more beneficial than remaining on social benefits.¹⁸
76. In its 2008 State Wage Case decision, the IRC referred to its previous conclusions in 2006 and noted the OECD study:
- ...plainly indicates that there is scope for moderate minimum rate adjustments without significantly affecting employment growth in an adverse way (provided some tempering of the adjustment in wages is undertaken for particular groups such as teenage workers).¹⁹

¹⁶ OECD *Employment Outlook 2006*, Boosting Jobs and Income p. 86.

¹⁷ OECD *Employment Outlook 2006: Boosting Jobs and Incomes*

¹⁸ *Ibid* pp. 86-88.

¹⁹ State Wage Case 2008 NSWIRComm 122 para 246.

Figure 5. Unemployment rate, CPI increases and SWC increases from 2000 to 2008



Source: ABS *Consumer Price Index*, March 2009, Time Series Spreadsheets, Tables 3 & 4, CPI: Groups, Weighted Average of Eight Capital Cities, Cat. No. 6401.0; ABS *Labour Force*, March 2009, Time Series Spreadsheets, Table 2 (seasonally adjusted), Cat. No. 6202.0; and NSW Industrial Relations Commission decisions 2000-2008.

77. Figure 5 above shows that over the last eight years the IRC has generally handed down decisions that provide real wage increases for workers in the heavily award-reliant sectors of hospitality and retail. In the same period the rate of unemployment has steadily declined. At the same time, the NSW Government acknowledges that the Australian economy has enjoyed unprecedented growth during this period.

Increases to minimum wages in a contracting economy

78. During the recent period of uninterrupted economic growth the Australian experience proved that it is possible to have falling unemployment while experiencing wages growth.

79. It is however understandable that in times of economic uncertainty there will be points of view that employers facing weak or falling demand will have a lower capacity to meet the cost of increases in award rates of pay than they would at a time of economic growth and strong business confidence.
80. As the global economic crisis has deepened, unemployment has increased from its recent historic lows. It is likely that unemployment will continue to rise in the short term. In this context, employment security is a paramount concern for award-reliant workers. With the above considerations in mind, the NSW Government submits that a moderate increase in minimum award wages of 2.5 per cent strikes the right balance between maintaining real wages, while acknowledging the financial pressure currently borne by many employers. As Figure 5 illustrates, real growth in minimum award wages and positive employment outcomes can be entirely compatible.

Chapter 5: Low paid workers

Who are the low paid?

81. This chapter identifies which workers are low paid and examines the income and expenditure characteristics of low paid workers and households, emphasising the need to maintain a decent framework for minimum wages to avoid the development of a class of working poor.
82. Low paid employment is concentrated in the hospitality, retail and service based industries as shown below in Table 5.²⁰ These same industries also have the highest proportions of award-reliant employees as seen in Table 6.²¹

Table 5: Industry Location of Low Paid 2005		
Industry (Top 6)	Full-time employees (%)	All employees (%)
Agriculture	21	33
Hospitality	19	57
Retail	18	56
Construction	13	20
Cultural and Recreational Services	12	45
Health and Community Services	12	35
All industries	10	30

Table 6: Award reliant Industries, NSW 2006	
Industry	Totally award reliant employees (%)
Accommodation, Cafes and Restaurants	70.3
Health and Community Services	36.7
Retail Trade	31.6
Personal and Other Services	24.3
Property and Business Services	23.5
All Industries	22.9

²⁰ Buchanan, J 2006, *Low paid employment- a brief statistical profile*, Overheads prepared for press conference on LHMU- Uni of South Aust- ARC, Project on low paid service sector employment, Workplace Research Centre, University of Sydney.

²¹ ABS, *Employee Earnings and Hours*, May 2006, Cat. No. 6306.0, Method of Setting Pay, Industry, NSW.

83. Low pay is generally found in jobs of low social status and/or performed by workers with low labour market standing and bargaining power. The types of workers who are more likely to rely on minimum wages include women, indigenous, migrant, young, non-unionised workers, and workers with a disability.²² It is these groups of workers who will derive most benefit from the 2009 State Wage Case decision.

Needs of the low paid

84. Based on the ABS *Household Expenditure Survey 2006*, the mean gross household income per week for those in the lowest and second lowest income quintiles is \$752 and \$1091 respectively, compared to \$1212 for all households.²³

85. The average weekly expenditure of households in the lowest income quintile is \$438.94 and \$609.39 for households in the second lowest income quintile. By contrast, expenditure across all households is \$947.51, as seen in Table 7.²⁴

86. For households in the two lowest income quintiles, meeting the costs of food and non-alcoholic beverages, housing, and transport represents half of these households' total expenditure on all goods and services.

Table 7: Gross household income quintile, household expenditure per week, NSW 2003-2004						
Average weekly expenditure	Lowest household income quintile		Second lowest household income quintile		All households	
Current housing costs	\$78.61	17.9%	\$106.46	17.5%	\$162.86	17.2%
Food and non-alcoholic beverages	\$86.96	19.8%	\$115.75	19.0%	\$163.49	17.3%
Transport	\$59.40	13.5%	\$82.13	13.5%	\$143.44	15.1%
Total expenditure on goods and services	\$438.94		\$609.39		\$947.51	

Source: ABS, *Household Expenditure Survey, 2003-2004*, Cat. No. 6530.0

²² Masterman-Smith, H. and Pocock, B. 2008, *Living Low Paid: the Dark Side of Prosperous Australia*, pp. 6, 35, 38, 44, 72.

²³ Australian Bureau of Statistics, *Household Expenditure Survey, 2003-2004*, Cat. No. 6530.0, Table 3.

²⁴ Ibid.

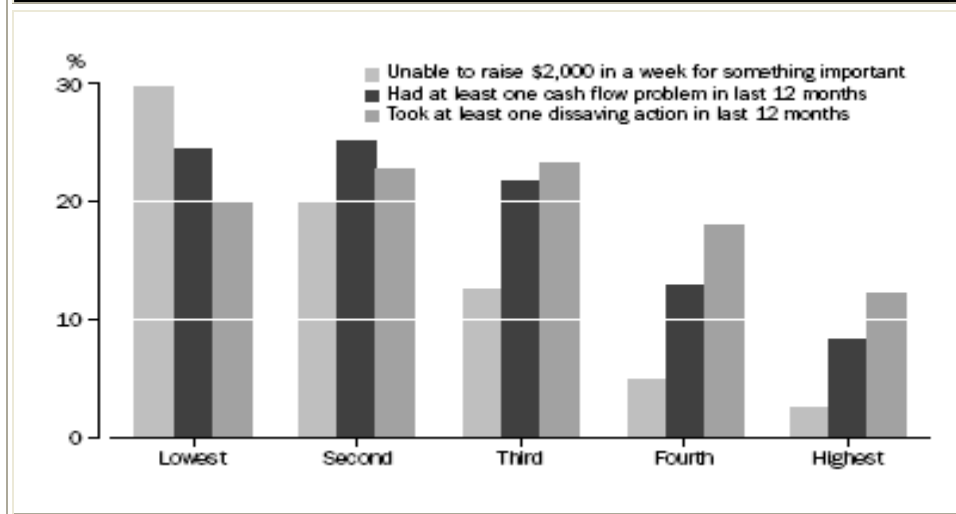
87. The costs of other essentials such as domestic fuel and power, and household services and operation also represent a significantly higher proportion of expenditure for households in the two lowest income quintiles than for all other households. When compared against income based on the minimum wage, currently \$552.70, after expenditure on these necessities there is little left over for those in the lowest income quintiles.
88. Of those in the lowest and second lowest household net worth quintiles, 94.2 per cent and 49.4 per cent respectively rent, compared to 29.4 per cent of all households.²⁵
89. In NSW the mean household net worth of the lowest quintile is \$24,681, compared to \$138,990 for the second lowest quintile, and \$564,879 for all households.²⁶
90. Further, as shown in Figure 6, according to the *ABS General Social Survey 2006* a comparison of the income characteristics of households experiencing financial stress shows that it was more difficult for those in the lowest income quintile to be able to raise money quickly for something important. Such households are also more likely to have experienced cash flow problems in the last twelve months and are more likely than people in the top income quintile to have spent more than their income in the past twelve months.²⁷

²⁵ ABS, *Household Expenditure Survey, 2003-2004*, cat.6530.0, Table 8.

²⁶ Ibid.

²⁷ *ABS General Social Survey 2006, Cat. No. 4159.0.*

Figure 6. Selected Financial Stress Indicators, by equivalised household gross weekly income



Source: ABS General Social Survey 2006, Cat. No. 4159.0.

91. At a time when the economy is contracting it is important that the safety net for the low paid is maintained having regard to the general standard of living in the wider community.
92. A modest and responsible increase to minimum rates of pay which maintains the real value of wages will help these workers ameliorate the pressures low income workers face when meeting essential and emergency costs.

Wage dispersion and income inequality

93. Australians are paid wages which compare favourably with those in other advanced countries, but many Australians are low paid compared with other Australian workers.
94. Although the award system and annual safety net adjustments have moderated wage inequality, Table 8 show the minimum wage compared with Average Weekly Ordinary Time Earnings (AWOTE) for full-time employees has steadily declined.

Table 8: Minimum Wage and Average Weekly Ordinary Time Earnings

	Minimum Wage C14	AWOTE Full-Time Adults	Minimum Wage Compared with AWOTE
Year	Dollars	Dollars	Percentage
1996	349.40	671.60	52.0
1997	359.40	698.70	51.4
1998	373.40	728.30	51.3
1999	385.40	749.00	51.5
2000	400.40	785.30	51.0
2001	413.40	824.10	50.2
2002	431.40	868.90	49.6
2003	448.40	917.80	48.9
2004	467.40	952.80	49.1
2005	484.40	1007.40	48.1
2006	504.40	1026.30	49.0
2007	531.40	1108.50	47.9
2008	552.70	1165.30	47.4

Source: ABS, *Average Weekly Earnings*, Cat. No. 6302.0 and *Metal, Engineering and Associated Industries (State) Award*.

95. The NSW Government submits that without regular minimum wage adjustments which consider the minimum wage as a proportion of earnings generally, this inequity would be significantly exacerbated.

96. The concentration of certain types of workers in low paid industries and occupations is indicative of structural factors within the labour market. The NSW Government submits a reasonable increase in award rates of pay for these disadvantaged workers will help ameliorate their precarious labour market status.

Chapter 6: The New South Wales Minimum Wage

97. On 27 June 2008, as part of its 2008 State Wage Case decision the IRC concluded there was no jurisdictional impediment to the application by the Catholic Commission of Employment Relations (CCER) to establish a State Minimum Wage. At that time the IRC did not consider it appropriate to make a relevant award and instead made an Order to be operative for six months, which would apply to adult employees who are employed within the jurisdiction of the IRC, and whose employment is not subject to the terms of an industrial instrument. The IRC has since extended the Order and this matter is to be further considered at these proceedings.
98. It is difficult to definitively determine the numbers of employees who do not fall within the parameters of an industrial instrument in NSW. ABS data²⁸ shows that there are approximately 615,000²⁹ persons working in award free occupations in NSW which equates to approximately 17 per cent of the labour force. It is further estimated that 19 per cent of the total numbers of persons working in award free occupations, or approximately 115,000 persons, are receiving less than \$599 per week and consequently it would be possible for a large proportion of these persons to derive a benefit from the current State Minimum Wage Order.
99. The NSW Government reiterates its support for the CCER's broad policy aim concerning its 2008 application for a State Minimum Wage, but does not believe an Order as made by the IRC in last year's proceedings, is the best instrument to address CCER's concerns for this group of workers.

²⁸ ABS, *Census of Population and Housing*, Table 1, Selected occupations by individual income (weekly) for NSW.

²⁹ This figure should be treated with caution as it includes employees, independent contractors and owner managers.

100. While the NSW Government considers the protections of award free employees to be an appropriate matter to be regulated by the IRC it believes the establishment of conditions of employment for this group of workers is best achieved by way of the making of an award specifically intended to cover this group of workers.
101. If such an award is to be established for employees who are not currently subject to the terms of an industrial instrument then it should be made in accordance with the award making provisions within Chapter 2, Part 1 of the *Industrial Relations Act*.
102. Unlike an Order, an award for this group of workers would provide comprehensive protections, including, but not limited to, industrial matters such as ordinary hours of work, shift and penalty rates, overtime payments and sick leave.
103. As it would appear that none of the industrial stakeholders in these proceedings represents those who would be bound, whether as employees or employers, to an award for this group of workers, the NSW Government submits that the IRC make the award on its own initiative pursuant to s11(1)(a) of the *Industrial Relations Act*.
104. The NSW Government also reiterates the view during last year's proceedings that any issue concerning the enhanced protections for award free low paid adult employees should be considered in the context of current and ongoing discussions between NSW, the other States and Territories and the Commonwealth regarding the establishment of a harmonised system of industrial relations regulation.

Chapter 7: Conclusion

105. In the 2009 State Wage Case the NSW Government supports a 2.5 per cent increase to wages for award-reliant workers. This approach strikes the right balance between maintaining the value of real wages and recognising the ability of employers to meet higher wage costs in the current economic climate. In this context, balancing employment security and economic activity is paramount, and a measured, responsible increase to minimum award wages is a fair outcome for award-reliant workers and employers.
106. There is no doubt the global economic crisis is having an impact upon all sectors of the labour force, including the low paid.
107. Many workers employed on award wages are disproportionately affected by significant financial stress and even minor increases in the cost of living. It is desirable that these workers do not carry a disproportionate share of the risks and costs that undoubtedly confront the state economy.
108. The types of workers who will directly benefit from the 2009 State Wage Case decision are those who need it most. Unlike other sectors of the labour force in NSW, award-reliant workers have little or no bargaining power and consequently depend on wage increases delivered by the IRC to help them meet increases to the cost of living.
109. The NSW Government believes that maintaining a fair and just award safety net will deliver positive economic and social benefits for NSW.
110. If these arguments are accepted, the NSW Government submits the decision handed down by the IRC would be responsible, as it would balance economic considerations with the needs of low paid workers in line with the objects of the *Industrial Relations Act*.