



FAIR WORK COMMISSION

ANNUAL WAGE REVIEW 2017

NSW GOVERNMENT SUBMISSION

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Introduction

1. The NSW Government makes this submission to assist the Panel in the Annual Wage Review 2016-17.
2. In this annual wage review, the Expert Panel is required to review the national minimum wage order and modern award minimum wages.¹ The Panel must then make a national minimum wage order, and may make one or more determinations varying modern awards to set, vary or revoke modern award minimum wages.²
3. In addition, the Panel must set special national minimum wages for all award/agreement free employees who are junior employees, employees to whom training arrangements apply, and employees with a disability, as well as setting the casual loading for award/agreement free employees.³
4. In arriving at its decision, the Panel must balance the economic, social and industrial considerations, relevantly provided for in the *Fair Work Act 2009* (Cth). These are:
 - the performance and competitiveness of the national economy, including productivity,
 - business competitiveness and viability, inflation and employment growth; and
 - promoting social inclusion through increased workforce participation; and
 - relative living standards and the needs of the low paid; and
 - the principle of equal remuneration for work of equal or comparable value; and
 - providing a comprehensive range of fair minimum wages to junior employees, employees to whom training arrangements apply and employees with a disability.⁴
5. In addition, the Panel is required to ensure that modern awards, together with the National Employment Standards, provide a fair and relevant minimum safety net of terms and conditions.⁵

¹ Fair Work Act 2009 s285(1)

² Fair Work Act 2009 s285(2)

³ Fair Work Act 2009 s294

⁴ Fair Work Act s284(1)

⁵ Fair Work Act s134, also ss3(a), (b), (f) and (g)

Submission

6. The NSW Government believes that the minimum wage is an important safety net for low income households. It also plays a significant role in establishing a benchmark for many other awards and enterprise bargaining agreements in NSW and Australia more broadly. This is particularly important in NSW where significant numbers of workers are reliant on awards.⁶
7. Any approach to setting minimum wages must be balanced and sensitive to economic and labour market conditions so as to ensure minimum wage increases do not have a negative effect on employment.
8. With growing momentum in 2015-16, the outlook for the NSW economy has firmed, with above-trend economic growth in New South Wales expected to continue over the next two years. Low interest rates, a record housing construction pipeline, solid population growth and a record infrastructure program will drive growth in the near term. Further into the future, more support for growth is expected from a lower exchange rate, non-mining business investment, interstate exports and household consumption.
9. However, greater than expected weakness in employment growth or a significant slowdown in the national property market would create risks to expected household consumption growth. Given that household consumption makes up 60 per cent of economic activity in New South Wales, any ongoing weakness would pose significant downside risks to economic growth.
10. Any adjustment to the minimum wage should have regard to the need to maintain current economic and labour market performance.
11. As we have done in earlier submissions, the NSW Government therefore submits that the Panel should take a cautious approach to setting the minimum wage.
12. In support of this submission, succeeding paragraphs provide relevant information regarding the performance of the NSW economy and the characteristics of award reliant employees, as well as comment regarding the promotion of social inclusion and the encouragement of collective bargaining.

Economic Outlook

13. The NSW economy performed strongly in 2015-16, growing by 3.5 per cent, well above its trend rate of 2½ per cent. In the same year employment expanded by a robust 3.8 per cent, workforce participation reached a record high of 64 per cent and the unemployment rate fell significantly.
14. The strong growth was significantly driven by low interest rates and strong population growth lifting property values, which supported above average growth in household consumption and dwelling investment. A lower exchange rate and increased demand from Asia have driven a surge in overseas exports of services, including tourism, education and financial services.
15. The current forecast, published in the NSW Half-Yearly Review (HYR), has NSW Gross State Product (GSP) growing by 3 per cent in 2016-17, and 2¾ in 2017-18. For State

⁶ ABS, Employee Earnings and Hours, May 2014, Cat.No.6306.0

Final Demand (SFD) growth of 3¹/₂ per cent is forecast for 2016-17, before a slight mild to 3 per cent in 2017-18. This outlook is unchanged from Budget.

16. Recent labour force results show that the NSW labour market performed strongly in 2015-16, with NSW employment growth outpacing the rest of Australia and the unemployment rate the lowest in the nation. Strong activity in labour intensive sectors such as construction, retail and tourism, coupled with modest wage growth, supported employment growth during this period.
17. However, recent results have shown a marked softening in the labour market, with employment growth flat through the year to November 2016. Despite this, forward indicators (such as job vacancies and hiring intentions) and expectations of strong domestic demand growth, point a strengthening in labour market conditions in 2017. The HYR forecast employment in New South Wales to grow below-trend, at a rate of 1¹/₄ per cent in 2016-17, ¹/₂ a percentage point lower than at the Budget, and 1¹/₂ per cent in 2017-18, unchanged since Budget.
18. A more detailed discussion of the performance of the NSW economy, as well as its future prospects, is at **Attachment A**.

Award Reliance

19. Award reliant employees are necessarily the focus of this review.
20. The most recently available ABS data indicates that there are 10 147 000 employees in Australia, of which 9 290 100 are non-managerial employees. 24.5% of non-managerial employees – 2 276 100 persons – are award reliant. This proportion of award reliant employees has increased from 20.4% in 2014⁷.
21. In NSW, approximately 3.3 million employees are situated in the national industrial relations system. Of these, 27.5 % are award reliant⁸.
22. NSW has the highest numbers of award reliant employees and the second highest on a proportionate basis⁹.
23. The majority of award reliant employees are women – 61.8% nationally, and the majority of female award reliant workers are part-time¹⁰.
24. Award reliance is particularly prevalent in the retail, health care and social assistance and accommodation and food services industries, where around a third or more of employees are award reliant¹¹.
25. Over one third of all award reliant employees are employed in small businesses (ie those that employ under 20 employees)¹².
26. Significant numbers of award reliant employees are casuals¹³.

⁷ ABS Employee Earnings and Hours 2016 Cat 6306.0

⁸ ABS Labour Force Survey January 2017 Cat 6202.0; ABS EEH 2016 Cat 6306.0; *Leadership Matters- State of the NSW Public Sector Report 2016* <https://www.psc.nsw.gov.au/reports---data/state-of-the-sector/state-of-the-sector-2016>

⁹ ABS EEH 2016 Cat 6306.0

¹⁰ Ibid

¹¹ Ibid

¹² Ibid

¹³ Ibid

Promoting Social Inclusion

27. The Panel is required to take account, in giving effect to the minimum wage objective, 'promoting social inclusion through increased workforce participation'¹⁴.
28. In its 2015-16 Review, the Panel said:
 '**[465]** Consistent with past decisions, we interpret this to mean increased employment'¹⁵
29. While higher minimum wages can provide incentives to workers not in the labour market to seek paid work, that needs to be balanced against potential negative impacts on the supply of jobs for low paid workers.
30. The NSW Government is investing \$73.2 billion on vital infrastructure across NSW over the next four years, supporting the construction of productivity enhancing assets to boost economic growth. Projects include passenger and freight infrastructure new roads and motorways, a Housing Acceleration Fund and hospital redevelopments.
31. The level of National Minimum wage and the magnitude of minimum award rates of pay will have a significant bearing on the success of these projects. A stable wage environment is critical.
32. It is therefore the view of the NSW Government that the maintenance of a safety net of fair minimum wages must reflect general economic conditions and the needs of business.
33. In the 2016 Review, the Panel observed that:
 '**[516]** Evidence on the duration of employment in low-paid work points to its role as an entry point into the labour market and a stepping stone for many into better paid work. But a substantial number of low-paid workers either remain in low-paid work for a number of years, or move between low-paid work and no work. We cannot be indifferent to the standard of living of low-paid workers just because many do not stay in that situation for long periods. Those employees who are reliant on the NMW and award wages are a relevant concern to the Panel in exercising its statutory obligations
34. The NSW Government has ensured that job performance remains strong with the lowest unemployment rate of any state in Australia (5.2%¹⁶).
35. Minimum wage jobs provide employment for low skilled workers, function as an important stepping-stone for new entrants into the labour market, particularly young people, and provide opportunities to develop employability skills that facilitate progression to higher paying jobs.
36. The NSW Government submits that the best way of promoting increased workforce participation is to ensure that the level at which minimum wages are set is appropriately balanced with the continuing provision of employment opportunities.
37. In addition, the NSW Government submits that the Panel should have regard to the role which the tax-transfer system could play in relation to the maintenance of an effective safety net for the low paid. As the Panel observed in the 2016 Review:
 '**[409]** We accept, as we have in the past, that the relative living standards of award-reliant employees are affected by the level of wages that they earn, the hours they work, tax-transfer payments and the circumstances of the households in which they live. We also accept that increases in minimum wages are a blunt instrument for

¹⁴ FW Act s284(1)(b)

¹⁵ [2016] FWCFB 3500, at [465]

¹⁶ ABS Labour Force February 2017, Cat 6202.0

addressing the needs of the low paid and other instruments are required to assist in the task of ensuring that every employed family, whatever their composition, has sufficient income to meet their material needs.¹⁷

38. Any decision to set minimum wages must appropriately take into account the role played by the tax-transfer system in supporting the living standards of low paid workers.
39. Minimum wages must not act as an impediment to affected workers securing and maintaining employment, or regaining employment once out of the workforce. Nor should a minimum floor be set such that it raises costs to a level that hinders an enterprise's competitiveness.

Encouraging Collective Bargaining

40. In the 2016 Review decision, the Panel observed that:

[540] In determining the increase in the NMW and modern award minimum wages in this Review we have taken into account the need to encourage collective bargaining. Given the complexity of the factors which may contribute to decision making about whether or not to bargain, we are unable to predict the precise impact of our decision on collective bargaining with any confidence. However, on the available evidence and the experience to date it is likely that the increase we have determined in this Review will impact upon the incentive to bargain in various sectors in different ways, but will not in aggregate, discourage collective bargaining.¹⁸

41. Agreement reliant employees significantly outnumber their award reliant counterparts, however it is noted that the proportion of employees whose pay is set by awards has risen (from 20.4% in 2014 to 24.5% in 2016), while that whose wages are set by collective agreements has correspondingly fallen (from 43.5% in 2014 to 38.9% in 2016)¹⁹.
42. Average weekly earnings for award reliant employees remain significantly less than those for collective bargaining reliant employees, however, the difference has been reduced.
43. The Department of Employment reports that the average annualised wage increase (AAWI) for federal enterprise agreements approved in the September quarter 2016 was 3.4 per cent, up from 3.0 per cent in the June quarter 2016 and 3.0 per cent in the September quarter 2015²⁰.
44. The Department notes that the rise in the September Quarter 2016 AAWI is primarily due to a 6.0 per cent AAWI for enterprise agreements approved in the September quarter 2016 in the construction industry. Without construction, the AAWI is 2.8 per cent for all other ANZSIC industry divisions combined, down from 2.9 per cent for the June quarter 2016²¹.
45. The significant gap that opened up between the Average Annual Wage Increase (AAWI) measure of bargained outcomes and the Wage Price Index (WPI) in 2013 has been sustained and has widened in the September quarter 2016.

¹⁷ [2016] FWCFB 3500 at [409], footnotes omitted

¹⁸ [2016] FWCFB 3500 at [540]

¹⁹ Per ABS Employee Earnings and Hours 2014 and 2016, Cat 6306.0

²⁰ Trends In Federal Enterprise Bargaining September 2016

https://docs.employment.gov.au/system/files/doc/other/trends_s16_0.pdf

²¹ Ibid

46. In any event, it is critical that a sustainable safety net of minimum wages is one that supports enterprise bargaining at NSW workplaces. In particular, the Panel should continue to set minimum wages at a level that maintains incentives for enterprise bargaining that rewards flexible and productive work practices.
47. The NSW Government submits that any unnecessary increase to minimum wages that does not reflect productivity improvements may limit the capacity of businesses to absorb such increases and consequently have a deleterious impact on employment growth.

Attachment A - The NSW Economy

Performance of the NSW Economy

The NSW economy performed strongly in 2015-16, growing by 3.5 per cent, well above its trend rate of 2½ per cent. In the same year employment expanded by a robust 3.8 per cent, workforce participation reached a record high of 64 per cent and the unemployment rate fell significantly.

The strong growth was significantly driven by low interest rates and strong population growth lifting property values, which supported above average growth in household consumption and dwelling investment. A lower exchange rate and increased demand from Asia have driven a surge in overseas exports of services, including tourism, education and financial services.

Public investment has also become an important driver of economic growth, helping lift construction activity in the State to record levels. Reflecting this investment boom, construction, financial services and rental, hiring and real estate services accounted for over 40 per cent of economic growth in 2015-16.

With growing momentum in 2015-16, the outlook for the NSW economy has firmed since the Budget, with above-trend economic growth in New South Wales expected to continue over the next two years. The current forecast, published in the NSW Half-Yearly Review (HYR), has NSW Gross State Product (GSP) growing by 3 per cent in 2016-17, and 2¾ in 2017-18. For State Final Demand (SFD) growth of 3½ per cent is forecast for 2016-17, before a slight mild to 3 per cent in 2017-18. This outlook is unchanged from Budget.

Recent labour force results show that the NSW labour market performed strongly in 2015-16, with NSW employment growth outpacing the rest of Australia and the unemployment rate the lowest in the nation. Strong activity in labour intensive sectors such as construction, retail and tourism, coupled with modest wage growth, supported employment growth during this period. Additionally, a strong 'encouraged worker effect' from the outperforming NSW labour market saw the participation rate reach historical highs.

However, recent results have shown a marked softening in the labour market, with employment growth flat through the year to November 2016. Despite this, forward indicators (such as job vacancies and hiring intentions) and expectations of strong domestic demand growth, point a strengthening in labour market conditions in 2017. The HYR forecast employment in New South Wales to grow below-trend, at a rate of 1¼ per cent in 2016-17, ½ a percentage point lower than at the Budget, and 1½ per cent in 2017-18, unchanged since Budget.

Population growth of 1½ per cent per annum is expected to continue over the next two years, supporting growth in consumption, dwelling investment and employment. The unemployment rate is expected to remain around its current level over the next two years, well below the national average.

	2015-16	2016-17		2017-18		2018-19 and 2019-20	
	Outcome	Budget Forecast	Revised Forecast	Budget Forecast	Revised Forecast	Budget Projection	Revised Projection
Real state final demand	4.2	3½	3½	3	3		
Real gross state product	3.5	3	3	2¾	2¾	2½	2½
Employment	3.8	1¾	1¾	1½	1½	1¼	1¼
Unemployment rate ^(b)	5.4	5¼	5	5	5		
Sydney Consumer Price Index ^(c)	1.5	1¾	2	2¼	2¼	2½	2½
- through the year to June quarter ^(c)	0.9	2	2	2¼	2¼		
Wage price index	2.1	2½	2¼	2¾	2½	3½	3½
Nominal gross state product	4.9	4¾	6¼	4¾	4¼		

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

(b) Year average, per cent.

(c) 2015-16 to 2017-18 include ¼ percentage point contribution from tobacco excise increases.

NSW SFD growth was above trend at 4.2 per cent in 2015-16, driven primarily by consumption and dwelling investment. The continuation of supportive conditions including low interest rates, a lower exchange rate, the State's record infrastructure investment program and solid population growth are also expected to see New South Wales continue to outperform the national economy over the next year. Economic growth is expected to remain above-trend in both 2016-17 and 2017-18, at 3 per cent and 2¾ per cent respectively.

Household consumption

The recent easing in household consumption growth is consistent with national trends, including slower asset price growth, a weaker labour market and subdued wages growth. Stronger consumption growth would have required the savings rate to fall further, for which consumers have shown little appetite given the recent global political and economic uncertainties. Nevertheless, the slowdown is expected to be temporary with growth expected to pick up over the remainder of 2016-17, supported by demand for furnishings for new dwellings, stronger household balance sheets and a strengthening labour market.

Dwelling investment

Strong dwelling approvals over recent months and further additions to the record NSW Government infrastructure program have lifted expectations for housing construction and public investment – with both now forecast to grow in 2017-18. Nevertheless, this growth is expected to be more moderate than the very strong contributions in 2016-17.

Public final demand

The State's strategy for infrastructure investment, funded by asset recycling, has become a key driver of economic growth, as it propels construction activity in New South Wales to record levels.

The unprecedented \$73.2 billion infrastructure investment planned over the forward estimates will continue to be a driver economic growth. Low interest rates, a lower exchange rate and solid population growth are also expected to see New South Wales

continue to outperform the national economy over the next year. Economic growth is expected to remain above-trend in both 2016-17 and 2017-18, at 3 per cent and 2¾ per cent respectively.

External sector

The NSW terms of trade have been revised higher compared to the Budget due to higher commodity prices. In particular, coal prices have risen significantly in response to temporary disruptions to global supply and cuts in Chinese production. These cuts have recently been reversed, and commodity prices are expected to moderate over the remainder of 2016-17 and 2017-18, but remain at higher levels than in 2015-16. As a result, the forecast for nominal economic growth has been revised up for 2016-17. This stronger income growth is not expected to have a material impact on real economic activity as mining firms are not expected to substantially increase production, investment or employment in response to these mostly temporary price movements.

Labour market

The outlook for the labour market remains positive. The unemployment rate has fallen by more than expected at the Budget and the recent slowdown in employment growth is expected to be temporary given anticipated above-trend economic growth and forward indicators of job vacancies and hiring intentions. Low inflation and continuing spare capacity in the labour market are expected to constrain wages growth in the near term.

Slower recent employment growth may reflect a degree of over-hiring in 2015-16, with firms turning their focus to improving productivity until growth in demand picks up. Reflecting this temporary slowdown, the employment growth forecast for 2016-17 has been revised down to 1¼ per cent (from 1¾ per cent at the Budget). For 2017-18, forecast employment growth remains unchanged from the Budget at 1½ per cent. The unemployment rate is expected to remain around its current low level of 5 per cent over the next two years, well below the national average.

Population

NSW population growth is expected to continue at an above-trend rate of 1½ per cent over the next two years, as the relative strength of the economy continues to draw labour into the State. There is a risk that high relative Sydney property prices, driven by low interest rates and an undersupply of dwellings due to high population growth and lower levels of supply between 2006 and 2012, could lead to stronger than expected interstate migration outflows and slow population growth in the near term. However, expected record housing completions over coming years should support affordability over time.

Inflation

Inflation pressures have been held in check by strong retail competition, spare capacity in the labour market, restrained wage growth and the soft global inflationary environment. However, the Sydney year average inflation forecast has been revised up by ¼ percentage point to 2 per cent for 2016-17. This is due to the recovery in commodity prices since early 2016 (particularly oil prices) and a stronger than expected September quarter outcome, which was primarily driven by temporary factors. The 2017-18 inflation forecast is in line with the Budget at 2¼ per cent, reflecting an unchanged outlook for underlying inflation pressures.

Wages

Recent softness in the labour market and low wage price index (WPI) growth means that, compared to the Budget, wage expectations have eased since Budget. Wage growth is forecast to pick up gradually as the labour market strengthens and inflation returns towards the RBA target band, although the rate of pick-up in WPI growth is estimated to be slower than forecast at Budget. The forecast for growth in the NSW WPI has therefore been lowered to 2¼ per cent for 2016-17 and 2½ per cent for 2017-18, both ¼ percentage point lower than Budget.

Australian Economic Outlook

The national economy grew by 2.7 per cent in 2015-16, stronger than the 2½ per cent expected at the Budget. Looking forward, Australian gross domestic product (GDP) is expected to grow by a below trend rate of 2½ per cent in 2016-17, before accelerating to 3 per cent in 2017-18. These forecasts are unchanged compared to the Budget.

The expected slowdown in GDP growth in 2016-17 reflects the recent weakness in household consumption growth and more modest, albeit still robust, growth in non-rural commodity exports. Mining investment is still expected to contract considerably and drag on economic growth in 2016-17, although less than in 2015-16.

In 2017-18, GDP growth is forecast to pick up to an above-trend rate of 3 per cent as household consumption growth improves, non-mining business investment recovers and the mining investment drag eases. These are expected to more than offset a cooling national housing market and a slowdown in public investment growth.

Liquefied natural gas (LNG) exports are expected to be a key driver of national GDP growth over the next two years, adding a little over ½ percentage point to economic growth. LNG exports are, however, expected to have relatively limited income and employment effects given the high capital intensity and foreign ownership in the sector.

The RBA has cut the cash rate twice in 2016 and has now judged the current monetary policy well placed to sustain growth in the economy and achieve the inflation target over time. Financial markets are not pricing in an interest rate hike until mid-2018.

World Economic Outlook

The outlook remains unchanged from October quarter projections. The International Monetary Fund (IMF) estimates that global growth was 3.1 percent in 2016-17 and expects it to improve modestly to 3.4 percent in 2017-18 and 3.6 percent in 2018-19. This remains unchanged from October projections.

Advanced economies are now projected to grow by 1.9 percent in 2017 and 2.0 percent in 2018, 0.1 and 0.2 percentage points above the October forecast, respectively. As noted, this forecast is particularly uncertain in light of potential changes in the policy stance of the United States under the incoming administration. These stable growth rates, however, mask divergent developments in different country groups. There has been a stronger-than-expected pickup in growth in advanced economies, due mostly to a reduced drag from inventories and some recovery in manufacturing output. In contrast, it is matched by an unexpected slowdown in some emerging market economies, mostly reflecting idiosyncratic factors. Forward-looking indicators such as purchasing managers' indices have remained strong in the fourth quarter in most areas.

China growth was a bit stronger than expected, supported by continued policy stimulus, revised up to 6.5 percent, 0.3 percentage points above the October forecast. However, continued reliance on policy stimulus measures, with rapid expansion of credit and slow progress in addressing corporate debt, especially in hardening the budget constraints of state-owned enterprises, raises the risk of a sharper slowdown or a disruptive adjustment.

Risks to the global outlook remain tilted to the downside. In many low-income economies, low commodity prices and expansionary policies have eroded fiscal buffers and in some cases led to a precarious economic situation, heightening their vulnerability to further external shocks.

Risks

Since the Budget some key downside risks have eased. Stronger iron ore prices and an improved outlook for Chinese, United Kingdom and United States growth have reduced the risk that external demand will drag on the NSW economy.

Greater than expected weakness in employment growth or a significant slowdown in the national property market would create risks to expected household consumption growth. Given that household consumption makes up 60 per cent of economic activity in New South Wales, any ongoing weakness would be a significant drag on economic growth.

While stronger conditions in the NSW housing market present an upside risk in the near term, a disorderly slowdown in the medium-term may lead to weaker than expected outcomes. Sydney, however, with its geographically dispersed apartment boom, does not face the same near-term risk of an apartment over-supply that is emerging in inner-city Melbourne and Brisbane. Further, with capacity pressures in dwelling construction remaining relatively subdued at this point in the NSW housing cycle, there is an upside risk of stronger than expected dwelling investment activity.

A key upside risk is an increase in public investment, particularly in 2017-18, as further infrastructure investment linked to recent asset transactions is given the go-ahead.