



FAIR WORK COMMISSION

ANNUAL WAGE REVIEW 2018

NSW GOVERNMENT SUBMISSION

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Introduction

1. The NSW Government makes this submission to assist the Expert Panel (the Panel) in the Annual Wage Review 2017-18.
2. In this annual wage review, the 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. Supportive conditions are expected to foster above-trend economic growth for New South Wales of 3 per cent in 2017-18, and 2¾ per cent in 2018-19. This outlook is underpinned by strengthening national and global economies, low interest rates, a lower Australian dollar, strong demand from Asia, above-trend population growth and a historically large pipeline of infrastructure and residential construction. However, the pace and timing of an improvement in wages growth remains uncertain, and downside risks have materialised in 2017-18. Wages growth has not yet responded to a strengthening labour market—suggesting greater than expected spare capacity, or a stronger than anticipated anchoring of low wage expectations. This phenomenon is across advanced economies. Strong employment growth over the next two years, however, may see a tightening in the national labour market and the emergence of wage pressures. Housing affordability constraints could see lower migration into New South Wales and a wedge open between national and State wage outcomes.
9. Any adjustment to the minimum wage should have regard to the need to maintain current economic and labour market performance.
10. The NSW economy has been successful in delivering positive labour market outcomes for the whole State. There has also been excellent progress in the three key areas of youth, female and regional employment trends. Youth employment⁷ is up 2.2 per cent through the year and the youth unemployment rate has fallen to 10.8 per cent, the lowest rate in 9 years and well below any other state in Australia. Female employment⁸ is up 4.0 per cent through the year. Regional employment⁹ is also strong, up 4.1 per cent. The strength in regional employment has helped to lower the regional unemployment rate to 5.4 per cent, only slightly above the record low of 5.3 per cent.

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

⁷ ABS, Labour Force, Australia, Detailed, January 2018, Cat.No.6291.0.55.001, twelve-month-moving-average

⁸ ABS, Labour force, January 2018, Cat.No.6202.0

⁹ ABS, Labour Force, Australia, Detailed, January 2018, Cat.No.6291.0.55.001, non-seasonally adjusted

11. Ensuring that this performance is maintained is of paramount importance, and the effects of the Panel's decision on these and other NSW labour markets, should, in the NSW Government's submission, ensure that these positive outcomes continue to be delivered.
12. As we have done in earlier submissions, the NSW Government submits that the Panel should take a cautious approach to setting the minimum wage on the basis that governments should seek to drive wages growth primarily through other available levers, such as lowering the tax burden, reducing red tape, and implementing other improvements to productivity which can contribute to increased wages.
13. The NSW Government has recently established the NSW Productivity Commission to examine ways to drive microeconomic reform and reduce burdensome regulation in NSW. Initiatives such as this are intended to identify the changes which can be introduced to help businesses to save on costs and have the opportunity to pass on higher wage increases to their employees.
14. 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

15. The NSW economy performed outperformed the nation in 2016-17, with gross state product growing at 2.9 per cent, well above its 2.5 per cent long-run trend. Over the last year investment, both public and private, has been the key driver of economic growth, contributing nearly double its historical average.
16. The continuing ramp-up in state led infrastructure projects, including NorthConnex, Sydney Metro and WestConnex, has seen engineering construction expand significantly. Housing construction has also grown strongly and is expected to remain at high levels as the record investment pipeline continues to support activity for at least the next two years. Businesses are also poised to push construction activity higher, in response to above-average capacity utilisation and strong business conditions, with broad based strength in non-residential building approvals.
17. Over the next two years, supportive conditions are expected to foster above-trend economic growth for New South Wales of 3 per cent in 2017-18, and 2¾ per cent in 2018-19, unchanged from the 2017-18 Budget. This outlook is underpinned by strengthening national and global economies, low interest rates, a lower Australian dollar, strong demand from Asia, above-trend population growth and a historically large pipeline of infrastructure and residential construction.
18. Labour market conditions in New South Wales are strong. Recently, full-time employment growth has been significant and workforce participation has increased. The unemployment rate has remained the lowest among the states. Despite this, ongoing spare labour capacity nationally and strong inward migration, will continue to constrain wages growth. Employment is now forecast to grow by 2½ per cent in 2017-18 (up from 1¾ per cent at the Budget), and 1¾ per cent in 2018-19.
19. Wages growth is forecast to gradually increase from 2018-19, in a lagged response to the take-up of national spare labour capacity. There are already pockets of strength in New South Wales, with wages in industries such as healthcare & social assistance and construction growing by more than 2.5 per cent
20. A more detailed discussion of the performance of the NSW economy, as well as its future prospects, is at **Attachment A**.

Award Reliance

21. Award reliant employees are necessarily the focus of this review.
22. 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 per cent of non-

managerial employees – 2 276 100 persons – are award reliant. This proportion of award reliant employees has increased from 20.4 per cent in 2014.¹⁰

23. In NSW, approximately 3.24 million employees are situated in the national industrial relations system. Of these, 28 per cent are award reliant.¹¹
24. NSW has the highest numbers of award reliant employees and the second highest on a proportionate basis.¹²
25. The majority of award reliant employees are women – 61.8 per cent nationally, and the majority of female award reliant workers are part-time.¹³
26. 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 reliant.¹⁴
27. Over one third of all award reliant employees are employed in small businesses (ie those that employ under 20 employees).¹⁵
28. Significant numbers of award reliant employees are casuals.¹⁶

Promoting Social Inclusion

29. The Panel is required to take account, in giving effect to the minimum wage objective, 'promoting social inclusion through increased workforce participation'.¹⁷

30. In its 2016-17 Review, the Panel said:

[584] ...We have greater confidence in our view that modest and regular wage increases do not result in disemployment effects. We are also of the view that minimum and award wage increases would likely lead to some positive, but probably small, effect on consumer demand and this needs to be taken into account.¹⁸

31. 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.

¹⁰ ABS Employee Earnings and Hours 2016 Cat 6306.0

¹¹ ABS Employee Earnings and Hours, Australia, May 2016 Cat 6306.0; ABS EEH 2016 Cat 6306.0

¹² ABS EEH 2016 Cat 6306.0

¹³ *Ibid*

¹⁴ *Ibid*

¹⁵ *Ibid*

¹⁶ *Ibid*

¹⁷ FW Act s284(1)(b)

¹⁸ [2017] FWCFB 3500, at [584]

32. The NSW Government is investing \$80.1 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.
33. 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.
34. 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.
35. The NSW Government has ensured that job performance remains strong with the lowest unemployment rate of any state in Australia (5.1 per cent¹⁹). New South Wales has experienced strong jobs growth over the last two and a half years. Since April 2015 employment has grown at an annual average rate of 2.3 per cent, well above the long-run average of 1.6 per cent. This has delivered an increase of 246,000 jobs, exceeding the Government's election commitment to deliver 150,000 jobs by 2019²⁰.
36. 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.
37. 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.
38. 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 2017 Review:
- [425] We accept that changes in the tax-transfer system, whether of benefit or detriment to low-paid households, are relevant to our consideration of relative living standards and the needs of low-paid employees. To the extent that identified changes to the tax-transfer system have adversely impacted low-paid employees, those changes have been taken into account pursuant to s.134(1)(a) and s.284(1)(c).²¹
39. 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.

¹⁹ ABS Labour Force January 2018, Cat 6202.0

²⁰ NSW Budget 2017-18 - Budget Papers, 2017-18 Half-Yearly Review www.budget.nsw.gov.au/nsw-budget-2017-18-budget-papers

²¹ [2017] FWCFB 3500 at [424]

40. 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

41. While 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 per cent in 2014 to 24.5 per cent in 2016), while that whose wages are set by collective agreements has correspondingly fallen (from 43.5 per cent in 2014 to 38.9 per cent in 2016).²²

42. In the 2017 Review, the Panel observed that:

[593] In general terms, there has been a decline in the number of employees reported as covered by collective agreements and an increase in the extent of reported award reliance between 2014 and 2016. We need to consider these developments in a broader context and to assess the implications for the level and adjustment of the NMW and modern award minimum wages. The submissions to the Review present competing contentions about these issues.²³

43. The most recent available data from the Department of Jobs and Small Business²⁴ suggests that the decline in the level of enterprise bargaining has continued. In the September 2017 quarter, 642 private sector agreements were approved, in contrast to a figure of 1653 for the September 2016 quarter. There have been less than 1000 such approvals in each 2017 quarter.

44. Further, the Department notes that for the 8,642 enterprise agreements current as at 30 September 2017 (that is, have not passed the nominal expiry date and not been terminated) that had a quantifiable wage increase, the AAWI was 2.9 per cent, which is down from 3.1 per cent in the June quarter 2017, and down from 3.2 per cent in the September quarter 2016.²⁵

45. Average weekly earnings for award reliant employees remain significantly less than those for collective bargaining reliant employees, however, due to the combined effects of increases in the NMW and the diminution of bargained wage outcomes, it is likely that the difference has been reduced.

46. In the 2017 decision, the Panel's conclusion was that:

²² Per ABS Employee Earnings and Hours 2014 and 2016, Cat 6306.0

²³ [2017] FWCFB 3500 at [593]

²⁴ Trends In Enterprise Bargaining September Quarter 2017

²⁵ Ibid

[636] 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. 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. However, we are not satisfied that the increase we have determined in this Review will *encourage* collective bargaining and this is a factor we have taken into account, and balanced against the other matters we are required to consider, in determining the outcome of this Review.

[637] In reaching this conclusion, we accept that minimum wage increases may influence bargained outcomes, depending upon the circumstances in each industry sector, including the degree to which the existing bargained or over-award rates exceed the minimum award rates.²⁶

47. The NSW Government submits that 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.
48. The concerns of the Panel enunciated in the 2017 Review (as per the immediately preceding quote) and the likelihood that they will be carried forward or amplified in the current Review, suggest that while a modest increase is warranted, a cautious approach to the current Review is required.
49. Such an increase should operate in tandem with action by Governments to drive wage growth such as tax cuts for businesses, reducing red tape and measures to increase productivity.

²⁶ [2017] FWCFB 3500 at [636 and 637]

Attachment A - The NSW Economy

Performance of the NSW Economy

The NSW economy performed outperformed the nation in 2016-17, with gross state product growing at 2.9 per cent, well above its 2.5 per cent long-run trend. Over the last year investment, both public and private, has been the key driver of economic growth, contributing nearly double its historical average.

The continuing ramp-up in state led infrastructure projects, including NorthConnex, Sydney Metro and WestConnex, has seen engineering construction expand significantly. Housing construction has also grown strongly and is expected to remain at high levels as the record investment pipeline continues to support activity for at least the next two years. Businesses are also poised to push construction activity higher, in response to above-average capacity utilisation and strong business conditions, with broad based strength in non-residential building approvals.

Labour market conditions in New South Wales are strong. Recently, full-time employment growth has been significant and workforce participation has increased. The unemployment rate has remained the lowest among the states. Despite this, ongoing spare labour capacity nationally and strong inward migration, will continue to constrain wages growth.

Over the next two years, supportive conditions are expected to foster above-trend economic growth for New South Wales of 3 per cent in 2017-18, and 2¾ per cent in 2018-19, unchanged from the 2017-18 Budget. This outlook is underpinned by strengthening national and global economies, low interest rates, a lower Australian dollar, strong demand from Asia, above-trend population growth and a historically large pipeline of infrastructure and residential construction.

	2016-17	2017-18		2018-19		2019-20		2020-21	
	Outcome	HYR Forecast	Budget Forecast	HYR Forecast	Budget Forecast	HYR Projections	Budget Projection	HYR Projections	Budget Projection
Real state final demand	3.6	3½	3½	2¾	2¾				
Real gross state product	2.9	3	3	2¾	2¾	2¾	2¾	2½	2½
Employment	0.9	2½	1¾	1¾	1¾	1½	1½	1¼	1¼
Unemployment rate ^(b)	5	4¾	5	4¾	5	4¾	4¾	4¾	4¾
Sydney consumer price index ^(c)	2	2¼	2¼	2¼	2¼	2¼	2½	2½	2½
Wage price index	2.1	2	2¼	2½	2½	2¾	2¾	3	3
Nominal gross state product	6.4	4¾	4¾	4¼	4½	4¾	4¾	4¾	4¾
Population ^(d)	1.6	1.6	1.6	1.4	1.6	1.4	1.5	1.4	1.4

^(a) Per cent change, annual average unless otherwise indicated

^(b) year average, per cent

^(c) Includes a ¼ percentage point contribution from tobacco excise increases

^(d) Per cent change through the year to 30 June. Forecasts are rounded to the nearest 0.1 percentage points.

Household consumption

Household consumption growth eased to 2.5 per cent in 2016-17, the slowest growth in four years. This is despite strong population and employment growth. Retail sales indicate this weak momentum has persisted into 2017-18, although price discounting has supported some growth in the volume of sales.

Record housing completions, above-trend population growth and strong full-time employment growth are expected to support household consumption, as is the forecast improvement in wages growth from 2018-19.

Dwelling investment

In 2016, Dwelling commencements reached a new record of 77,000 and have remained elevated through 2017, with much of this activity concentrated in high density projects. Since the Budget, the impact of macroprudential measures, cooling investor demand, slowing price growth and increasing construction costs are expected to weigh on residential construction activity.

From 2018-19 growth in dwelling investment is expected to decline, while activity remains at high levels. This is underpinned by the large pipeline of approved projects, and more positive trends in detached houses (concentrated in greenfield developments) and medium density projects. Furthermore, high levels of dwelling investment will continue to receive support from low interest rates, strong population growth, the accumulated undersupply and policy measures from both the State and Commonwealth Governments.

Public final demand

Public investment has contributed $\frac{1}{2}$ a percentage point a year to economic growth over the last two years – well above its historical average contribution of 0.1 percentage points. This is expected to continue over the next two years, underpinned by the State's \$80.1 billion four-year capital program, which has been upgraded since the Budget. This stronger outlook reflects new capital works, such as Parramatta Light Rail and the Princes Highway Albion Park Rail Bypass, along with the estimated impact of spending reserved funds in Restart NSW.

Labour market

The outlook for the NSW labour market has improved since the Budget. Conditions in the labour market have strengthened and forward indicators such as job vacancies and hiring intentions are showing strength. Employment is now forecast to grow by $2\frac{1}{2}$ per cent in 2017-18 (up from $1\frac{3}{4}$ per cent at the Budget), and $1\frac{3}{4}$ per cent in 2018-19.

State's unemployment rate is expected to remain around 4¾ per cent over the next two years, as strong employment growth will be balanced by high net immigration and an encouraged worker effect lifting workforce participation. An unemployment rate of 4¾ per cent is consistent with estimates of full employment for New South Wales.

Population

The State's population grew by 1.6 per cent in 2016-17, around ½ a percentage point above its long-run average. This has been underpinned by high inward migration (from other states and overseas) reflecting the relative strength of the NSW economy and labour market. While population growth is forecast to ease, it is expected to remain above-trend over the next four years. This will continue to boost demand for goods and services, but also restrain wages growth and limit further declines in the unemployment rate.

Inflation

The outlook for inflation has been revised down since the Budget reflecting weaker than forecast price and wage outcomes. It also incorporates a larger than anticipated reduction in inflation due to the re-weighting of the standard household basket, as measured by the Australian Bureau of Statistics *2016 Household Expenditure Survey*.

Despite strong price pressures from housing and utilities, inflation is forecast to increase only gradually due to modest wages growth and ongoing competitive pressures in the retail sector.

Wages

Wages growth is forecast to gradually increase from 2018-19, in a lagged response to the take-up of national spare labour capacity. The underutilisation rate—a broad measure of labour spare capacity that includes those that are unemployed and employed people who would like to work more hours—has recently improved, as national full-time employment growth has lifted. In addition, there are already pockets of strength in New South Wales, with wages in industries such as *healthcare & social assistance* and *construction* growing by more than 2.5 per cent.

Australian Economic Outlook

The national economy grew by a below-trend rate of 2 per cent in 2016-17 as household consumption growth weakened significantly and business investment was weighed down by a substantial decline in mining investment. The negative impact of weather events (including the effect of Cyclone Debbie on coal exports and heavy rain delaying construction activity) also weakened the 2016-17 outcome.

Some positive trends have, nevertheless, emerged. National employment is experiencing its longest period of uninterrupted monthly growth since the 1990s. This has lifted employment growth to 3 per cent through the year to October 2017. The key drivers have been construction and, with the introduction of the National Disability Insurance Scheme, healthcare & social assistance. Retail sales have recovered somewhat, with a recent increase in employment in pharmacy and homeware retail employment.

The outlook for the Australian economy remains broadly in line with Budget expectations, with growth expected to rise above-trend as the drag from falling mining investment dissipates and resource exports continue to ramp up. Gross domestic product (GDP) growth has been revised down slightly to 2½ per cent in 2017-18, reflecting weak momentum in household consumption and a slower than expected expansion in resource exports.

GDP growth is still expected to accelerate to 3 per cent in 2018-19, as this will be the first time in five years the economy will not suffer any mining investment drag (nor the spill-over effects on other sectors). Public demand and export growth, especially in liquefied natural gas, are expected to contribute strongly to growth in 2018-19.

World Economic Outlook

Global growth is on an upswing, with the International Monetary Fund (IMF) upgrading its global growth forecasts in its January 2018 update to 3.7 per cent in 2017 and 3.9 per cent in 2018 and 2019. This is the IMF's third upgrade to global growth forecasts since the start of 2017.

Australia's major trading partners are expected to grow by 4 per cent in 2017-18 before easing to 3¾ per cent in 2018-19. Australia continues to benefit from an expansionary policy mix in China, with ongoing infrastructure investment supporting demand for iron ore and coal. China is still expected to gradually transition towards a lower growth, but more sustainable, consumer-driven economy.

Increased global demand and supply disruptions have lifted commodity prices over the past year. These higher commodity prices led to a second wind for Australia's terms of trade. However, the terms of trade are expected to decline over the forecast period as additional supply comes online and growth in Chinese demand moderates. The Australian dollar is expected to weaken with the terms of trade, providing support to the export of services and manufactured goods.

Inflation and wage pressures remain subdued in many advanced economies, even in those economies near full employment. Nevertheless, a gradual shift towards more normal monetary policy globally has begun. The United States central bank is raising interest rates and unwinding its balance sheet, while a number of other central banks across advanced economies are expected to follow suit. Even so, interest rates are anticipated to rise only gradually, with monetary policy remaining accommodative for some time.

Risks

The risks to the economic outlook are largely the same as those at the Budget and remain concentrated around the housing market, wages growth and the pace of public investment.

Downside risks around housing construction remain – particularly in the high-density apartment market. While the large construction pipeline is expected to support activity, a decline in 2018-19 is now more likely than at the Budget. On the upside, strong population growth, improving income growth, sustained low interest rates and supportive policies could see relatively high levels of post-peak activity persist for years to come.

The pace and timing of an improvement in wages growth remains uncertain and downside risks have materialised in 2017-18. Wages growth has not yet responded to a strengthening labour market—suggesting greater than expected spare capacity, or a stronger than anticipated anchoring of low wage expectations. This phenomenon is across advanced economies. Strong employment growth over the next two years is, however, expected to see a tightening in the national labour market and the emergence of wage pressures. Housing affordability constraints could see lower migration into New South Wales and a wedge open between national and State wage outcomes.

Capital expenditure upside risks include the approval of new projects and the expansion or acceleration of existing projects. A downside risk is delays in construction, which can be caused by adverse weather. The Bureau of Meteorology has indicated a heightened risk of a La Niña event for 2017-18, which would signal higher than usual rainfall.