INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

No. 2026/0231285

In the matter of a summons to show cause issued by the Industrial Relations Registrar on 4 June 2026

INDUSTRIAL RELATIONS SECRETARY'S SUBMISSIONS

Overview

1. By summons dated 4 June 2026 (**summons**), the Industrial Relations Secretary (**Secretary**) has been summonsed to address:

   1.1. whether the Annual Wage Review Decision of the Fair Work Commission in *Annual Wage Review 2026* [2026] FWCFB 3500 (**National decision**) should be adopted in respect of specified awards, and if so the date or dates on which each increase should take effect;

   1.2. whether the Industrial Relations Commission (**Commission**) ought to determine a paid rates adjustment for 2026-27 in accordance with principle 6.3 of the Award Making Principles, and if so what it should be; and

   1.3. whether the Commission should vary the Award Making Principles, and if so, in what way.

2. These submissions set out the Secretary's position on each of these matters.

Adoption of the National decision

3. The Secretary has an interest with respect to four of the awards specified in subparagraph (1) of the summons: the Kindergartens and Child Care Centres (State) Award (**Kindergartens Award**); the Health, Fitness and Indoor Sports Centres (State) Award (**HFICS Award**); the Transport Industry (State) Award (**TIS Award**); and the Entertainment and Broadcasting Industry – Live Theatre and Concert (State) Award (**EBI Award**) (together, **relevant minimum rates awards**).

4. The Secretary does not oppose the adoption of the National decision with respect to the relevant minimum rates awards for the purposes of s 50(1) of the *Industrial Relations Act 1996* (NSW) (**IR Act**).

5. The National decision should be given effect by increasing the rates of pay and pay-related allowances in each of the relevant minimum rates awards by 4.75 per cent. Those

increases should commence 12 months from the date of the last rate increase for each of the minimum rates awards, being:

5.1. for the Kindergartens Award, HFICS Award and TIS Award — 1 July 2026; and

5.2. for the EBI Award — 1 September 2026.

6. The Secretary filed consent applications to vary the relevant minimum rates awards to the effect set out above on 24 July 2026.

Making of a paid rates adjustment for 2026-27

7. The Secretary does not oppose the making of a paid rates adjustment for 2026-27 in the amount of 3 per cent. The Secretary opposes the making of any higher paid rates adjustment.

Awards eligible for a paid rates adjustment in 2026-27

8. As at the date of these submissions, seven awards may meet the criteria for a paid rates adjustment in principle 6.6 of the Award Making Principles[1] in 2026-27 in that their nominal term has expired or will expire on or before 30 June 2027, and the ordinary rates for all or most employees they cover took effect or will have taken effect more than 12 months ago:[2]

8.1. the Public Hospital Career Medical Officers (State) Award 2023 (**CMO Award**);

8.2. the Public Hospital Medical Officers (State) Award 2023 (**MO Award**);

8.3. the Public Hospital (Medical Superintendents) Award 2023 (**MS Award**);

8.4. the Crown Employees (Australian Music Examinations Board (NSW) Examiners, Assessors and Chief Examiners) Award 2024 (**AMEB Award**);

8.5. the Crown Employees (New South Wales Education Standards Authority - Education Officers) Salaries and Conditions Award 2024 (**NESA Award**);

8.6. the Crown Employees (Fire and Rescue NSW Permanent Firefighting Staff) Award 2024 (**Permanent Firefighters Award**); and

[1] *State Wage Case 2025 (No 3)* [2025] NSWIRComm 36, Annexure A.

[2] The NSW Ambulance Paramedics (State) Award 2023 has recently been replaced: *Re NSW Ambulance Paramedics (State) Award 2026* [2026] NSWIRComm 14. The Crown Employees (NSW Police Force (Nurses')) Award 2024 (**Police Nurses Award**) nominally expires on 30 June 2027, but a pay increase took effect on 1 July 2026 pursuant to cl 3 of that award, such that it will not be eligible for a paid rates increase in 2026-27. Given the small number of employees covered by the Police Nurses Award (8 FTE), this error in the instructions to NSW Treasury is immaterial.

8.7. the Crown Employees (NSW Fire and Rescue NSW Retained Firefighting Staff) Award 2024 (**Retained Firefighters Award**).

9. However, the Commission should proceed on the basis that none of the CMO Award, MO Award or MS Award will be the subject of any application to apply a paid rates adjustment because those awards have been the subject of a recent major arbitration in which the Commission's decision is reserved.

10. Relatively few employees (slightly less than 7,195 by headcount on the most recent data)[3] are covered by the five remaining awards (**2026-27 PRA awards**).[4] Many more employees are covered by awards that are likely to become eligible for a paid rates adjustment in 2027-28 (320,711 by headcount on the most recent data).[5]

Reasons why a 3 per cent paid rates adjustment should be determined

11. The Commission's starting point in determining any paid rates adjustment is to identify changes in the value of money in the 12-month period ending in June in the year of the State Wage Case.[6] The relevant year-ended inflation measures in June 2026 were:[7]

11.1. Australian CPI (headline) — 3.8 per cent;

11.2. trimmed mean inflation — 3.6 per cent; and

11.3. Sydney CPI (headline) — 4.0 per cent.

12. It should be noted that the Australian headline CPI inflation figure for the year to June 2026 is substantially lower than the forecast of 4.8 per cent for the June quarter 2026 that was taken into account in the National decision.[8] Trimmed mean inflation was also lower than the June quarter 2026 forecast taken into account in the National decision.[9] This is a strong reason why any paid rates adjustment should not reflect the National decision.

13. While each of the relevant year-ended inflation measures exceeds 3 per cent, a paid rates adjustment need not equate to the rate of inflation over the previous year: principle 6.5.

[3] The figure of 7,195 includes the 8 FTE of employees covered by the Police Nurses Award.
[4] Affidavit of Alexandra Heath affirmed 4 August 2026 (**Heath**), exhibit AH-1, [Tab 3] (**Heath Report**) at [5.2.1], [5.11].
[5] Heath Report at [5.2.2].
[6] *State Wage Case 2025 (No 2)* [2025] NSWIRComm 33 at [52].
[7] Heath Report at [2.15].
[8] [2026] FWCFB 3500 at [36], [41].
[9] [2026] FWCFB 3500 at [36] (3.8%).

The Commission should not determine a paid rates adjustment that exceeds 3 per cent for 2026-27 for the following reasons.

14. ***First***, a paid rates adjustment of 3 per cent would exceed the changes in real wages experienced by employees covered by the 2026-27 PRA awards over the period from the financial year 2024-25 to the financial year 2025-26.

15. Dr Alexandra Heath, Deputy Secretary for the Economic Strategy and Productivity Group within NSW Treasury, has calculated the changes in real wages over that period for two cohorts of those employees — Senior Firefighter (station based) covered by the Permanent Firefighters Award, and Senior Education Officer, Grade 2 covered by the NESA Award.[10] The remuneration increases received by a Senior Firefighter (station based) are representative of those received by employees covered by the Permanent Firefighters Award and Retained Firefighters Award in 2024-25 and 2025-26 and generally in preceding years.[11] The remuneration increases received by a Senior Education Officer, Grade 2 in 2024-25 and 2025-26 are representative of those received by employees covered by the other 2026-27 PRA awards in those years.[12]

16. On Dr Heath's analysis, the real remuneration of a Senior Firefighter (station based) increased from 2024-25 to 2025-26, whichever price measure is chosen and whether or not superannuation is included.[13] The real remuneration of a Senior Education Officer, Grade 2 increased from 2024-25 to 2025-26 using Dr Heath's preferred price measure, the NSW HFCE deflator, and including superannuation.[14] The Commission should be satisfied that the use of the NSW HFCE deflator and the inclusion of superannuation in the real wage calculation are appropriate for the reasons given by Dr Heath.[15] Even if a different price measure is chosen or superannuation is excluded (or both), the real remuneration decrease experienced by a Senior Education Officer, Grade 2 over the relevant period was less than one per cent.[16]

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[10] Heath Report at [4.1] ff.

[11] The Senior Firefighter (station based) classification received a 4.47 per cent increase on 20 February 2015 in comparison with all other classifications under the Permanent Award receiving a 2.5 per cent increase on that date.

[12] Summarised in columns P and Q of Heath, exhibit AH-2.

[13] Heath Report at [4.17]-[4.19], [4.27]-[4.29], Table 7.

[14] Heath Report at [4.17.1].

[15] Heath Report at [4.5]-[4.6], [4.7]-[4.12].

[16] Heath Report at [4.17]-[4.19], [4.27]-[4.29], Table 7.

17. Annual average inflation measures, as used by Dr Heath, provide a more accurate reflection of changes in the purchasing power of employees because they remove seasonal influences and the chance impact of any short-term transitory spikes in inflation.[17]

18. ***Secondly***, both cohorts analysed by Dr Heath have experienced meaningful real remuneration increases over the longer term (from 2011-12 to 2025-26), especially when superannuation is included.[18] It is relevant for the Commission to consider this longer-term position including because:

    18.1. it reflects the recognition by the Commission and the Fair Work Commission that what is desirable is generally to maintain the real value of wages over time or on a medium- to long-term basis, in line with the trend in national productivity growth;[19]

    18.2. it also reflects the danger identified by the Commission of giving too much weight to changes in inflation over a particular snapshot of time, which may give rise to anomalous results;[20] and

    18.3. the Commission can reasonably expect that the practical effect on an employee of higher inflation in a particular year will be influenced by the extent to which their remuneration has exceeded inflation (and therefore their purchasing power has been higher) in the medium- to longer-term. For example, an employee who has enjoyed remuneration increases exceeding inflation in earlier years will have had the opportunity to save or make investments which would diminish the practical effect of higher inflation in a later year.

19. ***Thirdly***, there are broader reasons for the Commission not to adopt an approach of "chasing" annual inflation with year-by-year paid rates adjustments. These include that:

    19.1. given low productivity growth in recent years, seeking to match wage growth with inflation growth when inflation has been above the RBA's target is likely to result

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[17] Heath Report at [4.13.2].
[18] Heath Report at [4.20]-[4.23], Table 7.
[19] See, eg, *Re State Wage Case 2024 (No 3)* [2024] NSWIRComm 19; (2024) 337 IR 111 at 138 [93]; *Re Annual Wage Review 2022-23* [2023] FWCFB 3500; (2023) 323 IR 332 at 407 [179]; *Re Annual Wage Review 2023-24* [2024] FWCFB 3500; (2024) 331 IR 248 at 314 [154]; referred to in *Re State Wage Case 2024 (No 4)* [2024] NSWIRComm 25; (2024) 337 IR 182 at 186-87 [16]-[20]; see also *Re Annual Wage Review 2025-26* [2026] FWCFB 3500 at [127].
[20] See, eg, *Fire Brigade Employees' Union v Industrial Relations Secretary (on behalf of Fire and Rescue NSW)* [2025] NSWIRComm 1063 at [82], [94].

in real wage growth exceeding productivity growth, which can add to inflationary pressures and thereby undermine real wages growth;[21]

19.2. seeking to match wage growth with inflation growth each year is also likely to lead to greater wage volatility, which reduces predictability for both employers and employees, and in turn may affect their capacity or confidence to make longer-term decisions;[22]

19.3. wage volatility in the context of public sector employees reduces the reliability of the Government's budget forecasts, which in turn increases fiscal risk;[23] and

19.4. an approach of matching wage increases with inflation year-by-year may reduce incentives to bargain for multi-year agreements, which would heighten the issues identified in [19.2] and [19.3] above, and could delay or limit the capacity of parties to implement reforms or cost savings that require a longer period to implement having regard to the Government's bargaining framework.[24]

20. ***Fourthly***, while a paid rates adjustment exceeding 3 per cent (up to 5 per cent) applied to the 2026-27 PRA awards would not have a material direct fiscal or economic impact because of the relatively small employee cohorts covered by those awards,[25] such an adjustment can be expected to have indirect effects that are more material.

21. *First*, the Commission can expect any paid rates adjustment to set a floor for claims made by unions in respect of employees covered by other paid rates awards. For example, suppose the Commission determines a paid rates adjustment of 4 per cent for 2026-27. Another paid rates award within its nominal term provides only for a 3 per cent rate increase for employees covered by that award with respect to the same period. In any bargaining or arbitration following the nominal expiry of that award, the union representing those employees will inevitably seek an increase equivalent to an additional 1 per cent of the 2026-27 rates to "catch up" with the cohorts who have had the benefit of the paid rates adjustment determined by the Commission. It would be very difficult for the employer to resist such a claim when the Commission has determined an increase of

[21] Heath Report at [6.3].
[22] Heath Report at [6.5]-[6.7].
[23] Affidavit of Elizabeth Livingstone affirmed 3 August 2026, exhibit EAL-1, [Tab 3] (**Livingstone Report**) at [7.1]-[7.3].
[24] Livingstone Report at [7.4].
[25] Livingstone Report at [4.9]-[4.12]; Heath Report at [5.12].

that magnitude to reflect a fair and reasonable increase on account of value of money considerations.

22. It follows that the Commission can reasonably expect any paid rates adjustment exceeding 3 per cent to flow through, not only to the awards eligible for a paid rates adjustment in a given year, but also, ultimately, to paid rates awards that become eligible for a paid rates adjustment in the future.

23. As a rule of thumb, a 1 per cent increase in the rates of every NSW General Government Sector employee covered by a paid rates award in 2027-28 would cost approximately $523 million in 2027-28 and approximately $1.635 billion to 2029-30.[26] Even limiting the flow-on or precedent effect to awards that would be eligible for a paid rates adjustment in 2027-28 (**2027-28 PRA awards**), the incremental cost of an additional 1 per cent increase (i.e. 4 per cent in total) would be approximately $1.092 billion to 2029-30, and the incremental cost of an additional 2 per cent increase (i.e. 5 per cent total) would be approximately $2.184 billion to 2029-30.[27] Incremental costs of these magnitudes, if debt-funded, would be expected to significantly increase the State's gross debt and interest expenses, which could:

    23.1. increase pressure on the State's return to a sustainable operating position, including a projected return to budget surplus, consistent with the State's fiscal objectives;[28]

    23.2. reduce the State's capacity to invest in infrastructure, expand essential services, and respond to future shocks such as natural disasters;[29] and

    23.3. negatively impact on the State's credit ratings.[30]

24. Pay increases of an additional 1 or 2 per cent (above an assumed 3 per cent increase) for employees covered by the 2027-28 PRA awards would also be expected to increase inflationary pressures, albeit by a relatively small amount.[31]

[26] Livingstone Report at [6.3].
[27] Livingstone Report at [5.3]-[5.10].
[28] Livingstone Report at [5.15].
[29] Livingstone Report at [5.16].
[30] Livingstone Report at [5.17]-[5.22].
[31] Heath Report at [5.13].

25. *Secondly*, a pay increase to the employees covered by the 2027-28 PRA awards that is not matched by productivity gains is likely to "spill over" to some degree to private sector wage growth, which would increase the inflationary effect of the pay increase.[32]

26. These indirect effects call for a prudent approach to setting any paid rates adjustment for 2026-27.

27. ***Fifthly***, prudence is also warranted having regard to risks and uncertainties in the state of the NSW economy and the fiscal position and outlook of the NSW Government, which are mandatory considerations under s 146(2) of the IR Act: see also principle 6.4(5).

28. As for the state of the economy:

    28.1. there are continuing inflationary pressures;[33]

    28.2. the labour market is tight;[34]

    28.3. productivity growth is weak, which constrains the economy's supply capacity;[35] and

    28.4. the economic outlook broadly is uncertain in light of ongoing global geopolitical uncertainty.[36]

29. The fiscal position and outlook of the NSW Government also remain challenging.[37] Large cash deficits are projected,[38] and although the State budget is presently expected to return to surplus in 2027-28, there are various risks and pressures which cause uncertainty in that outcome.[39] The State continues to face significant pressures on expenses, which gives rise to broader fiscal vulnerability.[40] S&P Global downgraded the State's credit rating in December 2020 and maintains a negative outlook on the long-term rating,[41] and employee costs have been identified as a source of risks to the State's credit ratings generally.[42] The State's fiscal strategy includes returning to a sustainable operating position, returning to a maintaining a sustainable debt position, and maintaining a AAA credit rating.[43]

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[32] Heath Report at [5.14]-[5.25].
[33] Heath Report at [2.2]-[2.17].
[34] Heath Report at [2.18]-[2.28].
[35] Heath Report at [2.29]-[2.32].
[36] Heath Report at [3.2]-[3.24].
[37] Livingstone Report at [2.1].
[38] Livingstone Report at [2.2].
[39] Livingstone Report at [2.15].
[40] Livingstone Report at [2.18].
[41] Livingstone Report at [2.26]-[2.28].
[42] Livingstone Report at [2.31].
[43] Livingstone Report at [3.10]-[3.12].

30. For these reasons, the Commission should be satisfied that a paid rates adjustment of 3 per cent is appropriate for 2026-27.

Varying the Award Making Principles

31. The Award Making Principles should not be varied, except that the commencement date (principle 17.1) should be varied to a date after the publication of this year's State Wage Case decision. To the extent that other parties seek a variation of the Award Making Principles, the Secretary will deal with those submissions in reply.

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