

**State Wage Case 2026
IRC Matter No. 2026/00231285
Local Government NSW Submissions**

10 August 2026

1. Local Government NSW (“LGNSW”) makes these submissions in response to the summons issued by the Industrial Relations Commission of NSW (the “Commission”) on its own motion pursuant to Chapter 2, Part 3 of the *Industrial Relations Act 1996* (NSW) (the “Act”).
2. LGNSW is a registered industrial organisation of employers pursuant to the provisions of section 294 of the Act and is separately registered as an organisation under the *Fair Work (Registered Organisations) Act 2009* (Cth).
3. LGNSW supports and represents general purpose councils, special purpose county councils and related local government entities in New South Wales by providing many specialist services including industrial relations, legal and policy advice, specialist publications, and industry purchasing discounts. Through its activities, LGNSW promotes and publicises the views of the local government sector in NSW.
4. On 4 June 2026, the Commission issued a summons to interested parties, including LGNSW, to show cause as to why the Commission should not adopt the Fair Work Commission’s Annual Wage Review Decision in respect of seven (“7”) awards and whether variations should be made to the Award Making Principles, including:
 - a) Whether the Commission ought to determine a paid rates adjustment for 2026–2027 in accordance with principle 6.3 of the Award Making Principles, and if so, what it should be; and
 - b) Whether, having regard to matters raised in *State Wage Case 2025 (No 2)* [2025] NSWIRComm 33 at [59]-[75] or otherwise, the Commission should vary the Award Making Principles, and if so, in what way.
5. These submissions address the two issues related to the Award Making Principles outlined above.

Paid Rates Adjustment for 2026-2027 – Principle 6.3 of the Award Making Principles

6. In the 2024 State Wage Case proceedings, when the Award Making Principles were comprehensively reviewed, LGNSW emphasised the distinct industrial character of the local government sector.

7. *Howell C* acknowledged in *Re Local Government (State) Award 2026* [2026] NSWIRComm 1049 at endnote 4 that it was “the industry’s successful history of award negotiations” that resulted in local government awards securing an exemption from the ‘paid rates adjustment’ mechanism established in Principle 6 of the 2024-2025 Award Making Principles.

8. It was in *State Wage Case 2024 (No. 3)* [2024] NSWIRComm 19 that the Full Bench determined at [98-99]:

“We accept that a principle allowing for an adjustment based on inflation should not be drafted in a manner that would remove incentives to reach consent positions on appropriate pay increases through bargaining...”

Finally, we accept the LGNSW’s submission that any new principle for such adjustments need not be extended to Local Government awards, given that industry’s successful history of award negotiations.”

9. Accordingly, LGNSW submits that no paid rates adjustment pursuant to Principle 6.3 in the current State Wage Case proceedings can (nor should) operate to vary or affect any local government awards, and the Commission’s determination in that regard should be understood as so confined to public sector paid rates awards.

Proposed Variation to the Award Making Principles - *State Wage Case 2025 (No 2)* [2025] NSWIRComm 33 at [59]-[75]

10. In *State Wage Case 2025 (No 2)* [2025] NSWIRComm 33 at [59]-[75], the Commission addressed a submission by the Health Services Union (the “HSU”) that Principles 9 to 14 of the Award Making Principles should be abolished and replaced with a simplified “Principle 9 – Other increases to remuneration.”

11. The HSU proposed replacing the existing Principles at 9 to 14 with a single, broadly worded principle allowing the Commission to grant award increases where an applicant demonstrates one of several specified grounds, including productivity improvements, gender-based undervaluation, work value reasons, or changes in the value of money. The HSU argued that the existing tests were developed during a period of stagflation and are now outdated and no longer fit for purpose.

12. The Commission declined to make the wholesale change proposed, primarily because no other party had engaged with the proposal sufficiently to assist the Commission in determining what form and substance a revised approach could take.

Primary position

13. LGNSW acknowledges that there is a neatness to the HSU's proposal. However, the HSU's proposal is opposed for the following reasons:
 - (a) A fundamental difficulty with the HSU's approach is that it proceeds on the assumption that Principles 9 to 14 of the Award Making Principles operate uniformly across all awards within the Commission's jurisdiction. That assumption is incorrect. For example, Principle 11 – Productivity and Efficiency, expressly excludes local government awards from its operation.
 - (b) Not much has changed since the Commission first considered the HSU's broadly worded proposal, in that, no other party has supported such a substantial change. Indeed, the HSU has not been an active party to this year's proceedings and is not itself actively promoting its 2025 proposal.
 - (c) The existing architecture of the Award Making Principles, reflects and preserves important distinctions between the public sector and the local government sector in NSW. These distinctions have developed over time and serve a legitimate function in maintaining the integrity of the arrangements that currently exist.
 - (d) The consolidation proposed by the HSU would collapse the above-mentioned distinctions into a single broadly worded principle that could create uncertainty and destabilise existing arrangements in the local government sector that have proven effective for more than three decades.
 - (e) Far from simplifying the Award Making Principles, such an approach risks creating significant ambiguity as to the extent to which the new consolidated principle would apply to local government awards, and whether the exclusions currently preserved under the existing Award Making Principles would survive the proposed consolidation.

- (f) LGNSW submits that the current Award Making Principles provide a degree of predictability and certainty for the local government sector in understanding which principles apply to its awards and which do not. A broad, openly worded principle of the kind proposed by the HSU carries with it a real risk that claims against local government awards could be advanced and determined under a framework that was not designed with the distinct characteristics of the local government sector in mind.
- (g) The local government sector operates under significant financial constraints, including rate-pegging and the absence of the revenue-raising capacity available to the State, and the existing Award Making Principles appropriately reflect the need for wage fixation to remain disciplined and grounded in proper merit.

Secondary position

14. In the alternative if the Commission is minded to amend the Award Making Principles to include the HSU's proposal, LGNSW submits that the following amendments ought to be made to the proposed Principle 9 (LGNSW's suggested edits are in red font):

"Principle 9 - Other increases to remuneration

- 9.1 Other than as allowed elsewhere in these Principles, an application for new awards or variations to existing awards providing for increases in remuneration, alterations to classification structures or other improvements to conditions will be arbitrated by a Full Bench of the Commission unless otherwise allocated by the President.
- 9.2 **Subject to subclauses 9.3 and 9.4, such applications ~~will~~ may be granted where an applicant demonstrates that:**
 - (1) productivity or efficiency improvements have occurred which justify an increase in remuneration or other changes to conditions;
 - (2) the current rates of pay and/or conditions undervalue the work on the basis of gender in that they do not properly reflect the value of the work, skill or responsibility required;
 - (3) the current rates of pay and/or conditions undervalue the work on the basis of other **unlawful** discriminatory grounds in that they do not properly reflect the value of the work, skill or responsibility required;
 - (4) the current rates of pay and/or conditions do not provide equal remuneration for work of equal or comparable value;

- (5) there are work value reasons justifying the change, including but not limited to identifiable changes in the nature of the work, skill and responsibility required or the conditions under which work is performed since the award was last assessed on a work value basis;
- (6) changes in the value of money justifying a change in rates of pay and conditions for public sector employees ~~which have not been addressed by the application of the Paid Rates Adjustment, justify the change;~~
- (7) some other special attribute or out-of-the-ordinary feature is present which warrants approval by the Commission.

9.3 For the avoidance of doubt, while the above matters are not exhaustive, they are intended to operate as restrictive considerations. The Commission ordinarily:

- (1) will not entertain claims based wholly or substantially on comparative wage justice, outside the rectification of discriminatory undervaluation;
- (2) will guard against contrived classifications and overclassification of jobs;
- (3) will not address discriminatory undervaluation by reducing existing wage rates and conditions for other employees;
- (4) will have regard to existing internal and external wage relativities, at least to the extent that the awards are directly related; and
- (5) will not countenance double-counting, although a cumulation of factors may be relied on."

9.4 Principles 9.2(1) and 9.2(6) do not apply to Local Government awards.

15. LGNSW submits that the word "may" be used in proposed Principle 9.2 (instead of "will") noting that pursuant to section 17 of the Act, it is always a matter of discretion as to whether the Commission varies an award. Relevantly, subsection 17(1) of the Act is expressed as follows:

"The Commission may vary or rescind an award."

16. LGNSW submits that the word "unlawful" be used in proposed Principle 9.2(3) to make clear that the principle is directed at discrimination that is prohibited by law, and not at measures which, though they distinguish between persons or classes of persons, are permitted by law. For example, an identified or targeted Aboriginal or Torres Strait

Islander position, established under section 14 of the *Anti-Discrimination Act 1977* (NSW) intended to redress historical disadvantage in employment.

17. LGNSW further submits that proposed Principle 9.2(6) be amended, as outlined in red font at [14] above, to align with the wording of the Award Making Principles as adopted by the Commission in *State Wage Case 2025 (No 3)* [2025] NSWIRComm 36. The formulation proposed by the HSU is unnecessarily complex, requiring an assessment of whether a change in the value of money has "not been addressed by the application of the Paid Rates Adjustment" before that change can justify a variation to rates of pay and conditions. This additional qualification is no longer appropriate and should be removed, consistent with the simplified test settled upon by the Commission in the 2025 State Wage Case proceedings.
18. Finally, LGNSW submits that an additional principle as outlined at 9.4 above be included to expressly preserve the exclusions that currently apply to local government awards in the Award Making Principles at Principles 9.2(5), 9.3, and 11.

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