



Industrial Relations Act 1979

**IN THE WESTERN AUSTRALIAN
INDUSTRIAL RELATIONS COMMISSION
No. 1 of 2016
ON THE COMMISSION'S OWN MOTION**

SUBMISSION OF THE MINISTER FOR COMMERCE

Re: 2016 STATE WAGE ORDER

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Introduction

1. In January 2016 the Western Australian Industrial Relations Commission (**the Commission**) issued Application 1 of 2016 on its own motion. The application seeks to make a State Wage Order pursuant to section 50A of the *Industrial Relations Act 1979* (**the IR Act**) to determine rates of pay for the purposes of the *Minimum Conditions of Employment Act 1993* (**the MCE Act**) and State awards.
2. This submission outlines the position of the Minister for Commerce (**the Minister**) on behalf of the Western Australian Government in regard to Application 1 of 2016.

The Minister's Position

3. In making the State Wage Order under section 50A of the IR Act, the Commission is required each year to consider a range of social and economic factors, including the needs and living standards of the low paid, the capacity of employers as a whole to bear the costs of increased wages, and the state of the economy of Western Australia (**WA**).
4. Economic conditions in WA have worsened over the past year, which has flowed through to a softer labour market. Leading indicators suggest that employment growth will remain subdued in the near term.
5. Given the current economic climate, the Minister supports the Commission taking a balanced approach to minimum and award wage setting which assists in meeting the needs of low paid workers while minimising the potential risks for employers and the business community.
6. The Minister submits that it is appropriate to adjust the State minimum wage in line with the Department of Treasury's (**Treasury**) most recently published figure for growth in the Perth Consumer Price Index (**CPI**) for 2015-16.
7. An adjustment to the minimum wage in line with CPI would maintain the real value of the State minimum wage, protecting the needs of the low paid. The Minister submits State adult award wages should also be increased by an equivalent flat dollar amount.
8. Treasury's most recent forecast for CPI growth in Perth in 2015-16 is 1.5 per cent, as published in the Government Mid-Year Financial Projections Statement 2015-16.
9. The Treasury forecast for CPI for 2015-16 may be revised in the 2016-17 State Budget, which is due to be released on 12 May 2016. The quantum of increase proposed by the Minister for the State minimum wage and award wages will be provided to the Commission in the Minister's submission in reply on 17 May 2016.
10. In past State Wage Case submissions and proceedings, there has been considerable debate about whether change in the CPI is the most appropriate measure of cost of living changes for employees covered by the State Wage Order.

11. It continues to be the Minister's position that CPI is the best indicator of the adjustment needed to maintain the real value of the minimum wage. The overall rate of CPI growth, weighted to reflect the purchasing patterns of a typical Perth household, is the most rigorous and accurate means available of tracking increases in the cost of living.
12. The Minister submits that the Commission should also provide appropriate proportionate increases to the State minimum wage and award rates of pay for junior employees, apprentices and trainees.
13. With specific regard to trainees, the Minister also submits that the State Wage Order should be amended to provide that trainees whose State award incorporates pay rates from the now obsolete federal National Training Wage Award are not to be paid less than the pay rates for award free trainees in the State Wage Order. More detail on this issue is provided later in the submission.

The Western Australian economy and labour market

14. Treasury has provided an Economic Outlook of the Western Australian economy, which is included at **Attachment A**. The Economic Outlook includes forecasts from the 2015-16 Mid-year Financial Projections Statement¹ released in December 2015, as well as the 2016-17 Federal Budget handed down on 3 May 2016. It outlines Treasury's assessment of the current state of the WA economy, the outlook for the economy between 2015-16 and 2018-19, and risks to that outlook.
15. The 2016-17 State Budget is due to be handed down on 12 May 2016. An updated version of the Economic Outlook will be provided in the Minister's submission in reply, which will include any revised forecasts in the State Budget.
16. Domestic economic conditions have continued to ease, mainly due to declines in business investment as the State's mining industry transitions from a construction to production phase. In addition, household consumption remains weak while growth in dwelling investment has moderated. Outside of the domestic economy, exports have risen strongly as large resource projects in the State ramp up production.
17. As the economy continues to move into the export driven phase, growth in Gross State Product is projected to ease from 3.5 per cent in 2014-15 to 1.5 per cent in 2015-16 – the slowest rate of growth since 1990-91.² This reflects weakness in the domestic economy (State Final Demand), which is expected to endure a prolonged period of subdued activity, contracting further in each year out to 2017-18, before returning to modest growth in 2018-19.

¹ Government of Western Australia (2015) *Government Mid-Year Financial Projections Statement 2015-16*.

² Statistics and forecasts otherwise unreferenced on this page are from Attachment A, Government of Western Australia (2016) *2016 State Wage Case – Economic Outlook*.

18. While a decline in business investment has been the primary reason for softer domestic conditions since 2012-13, growth in household spending (which accounts for around 45 per cent of State Final Demand) has also been subdued. Household consumption grew by 1.3 per cent in 2014-15 and is projected to grow by 1.5 per cent in 2015-16. This compares with a historical average growth rate of 4.1 per cent per annum.³
19. Dwelling investment, which also contributes to domestic demand, grew by 3.9 per cent in 2014-15, and while it is projected to continue growing in 2015-16, the pace of growth is expected to ease to 2.25 per cent in 2015-16 and contract by -3.75 per cent in 2016-17.
20. The 2015-16 Mid-year Financial Projections Statement forecast for growth in the Perth CPI in 2015-16 is 1.5 per cent, down from 1.8 per cent in 2014-15, primarily reflecting weak household spending (which is limiting retailers' capacity to raise prices), modest wage growth, moderating housing costs and a fall in automotive fuel prices.
21. The Perth CPI actually decreased by 0.6 per cent in the March Quarter 2016, while annual average growth rose by just 1.1 per cent in the year to March 2016 (0.7% in year-ended terms). This represents the lowest rate of annual average growth since 1998.⁴
22. The 2015-16 Mid-year Financial Projections Statement contains forecasts for a range of major economic indicators, which are outlined in Table 1 below. The growth forecasts highlight expectations of further softening domestic economic and labour market conditions.

Table 1: Economic forecasts – major economic aggregates, WA⁵

Indicator	2014-15 Actual (%)	2015-16 Mid-year revision (%)	2016-17 Forward Estimate (%)	2017-18 Forward Estimate (%)	2018-19 Forward Estimate (%)
Gross State Product	3.5	1.5	2.0	2.75	3.0
State Final Demand	-3.5	-2.25	-2.5	-0.5	1.25
Employment	1.5	1.25	1.25	1.5	1.5
Unemployment Rate	5.4	6.5	6.5	6.25	5.75
Wage Price Index	2.2	2.0	2.25	2.5	2.75
Consumer Price Index	1.8	1.5	2.0	2.5	2.5

³ Australian Bureau of Statistics (ABS) (2015) *Australian National Accounts: State Accounts, 2014-15*, Catalogue 5220.0, Table 6.

⁴ ABS (2016) *Consumer Price Index, Australia, March 2016*, Catalogue 6401.0, Time series spreadsheet Table 1.

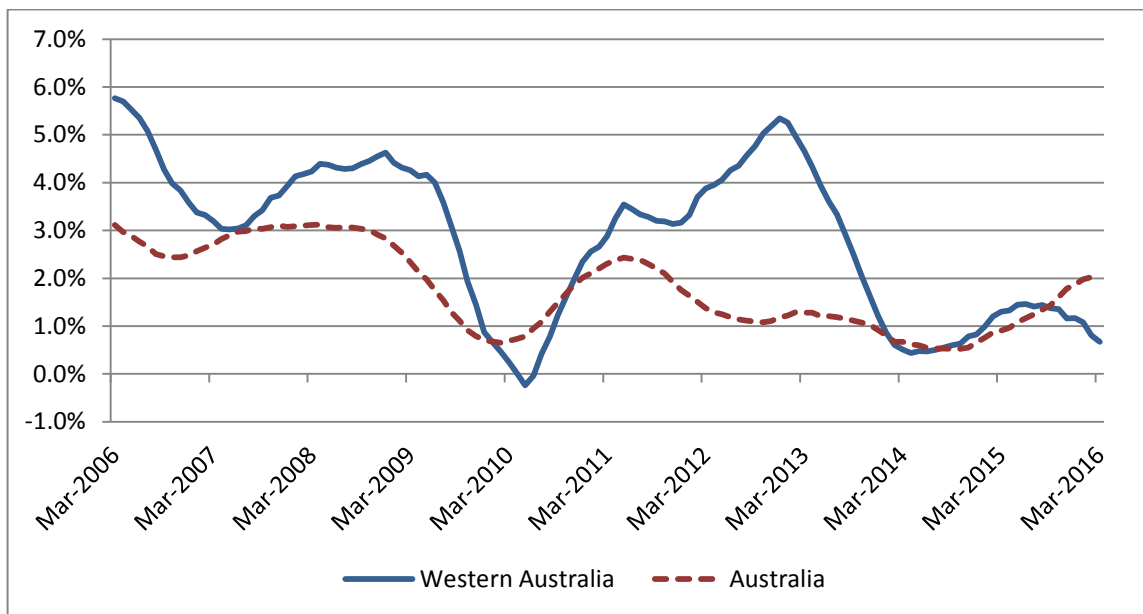
⁵ Government of Western Australia (2015) *2015-16 Government Mid-year Financial Projections Statement*, Chapter 1, p.5.

23. There are a number of potential risks that may hinder the State’s growth prospects over the near-term. Globally, these risks mainly relate to growth prospects in China, WA’s largest trading partner. Slower than expected growth in China could impact on demand for Western Australian exports and exacerbate projected declines in business investment and the softer conditions in the State’s labour market. A key domestic risk relates to the magnitude and timing of expected declines in business investment over the next few years. This has flow-on implications for the timing of exports, and the outlook for labour demand and population growth.
24. Treasury will supply a witness to provide further detail on the overall Western Australian economy as part of the State Wage Case proceedings. The Witness Statement for Mr David Christmas is at **Attachment B**.

Labour market conditions in Western Australia

25. Figure 1 illustrates that total employment in WA grew by 0.7 per cent over the year to March 2016, moderating from growth of 1.3 per cent over the year to March 2015. Growth remains well below the historical average rate of 2.6 per cent per annum.⁶

Figure 1: Annual average employment growth (total), WA and Australia, March 2006 to March 2016⁷



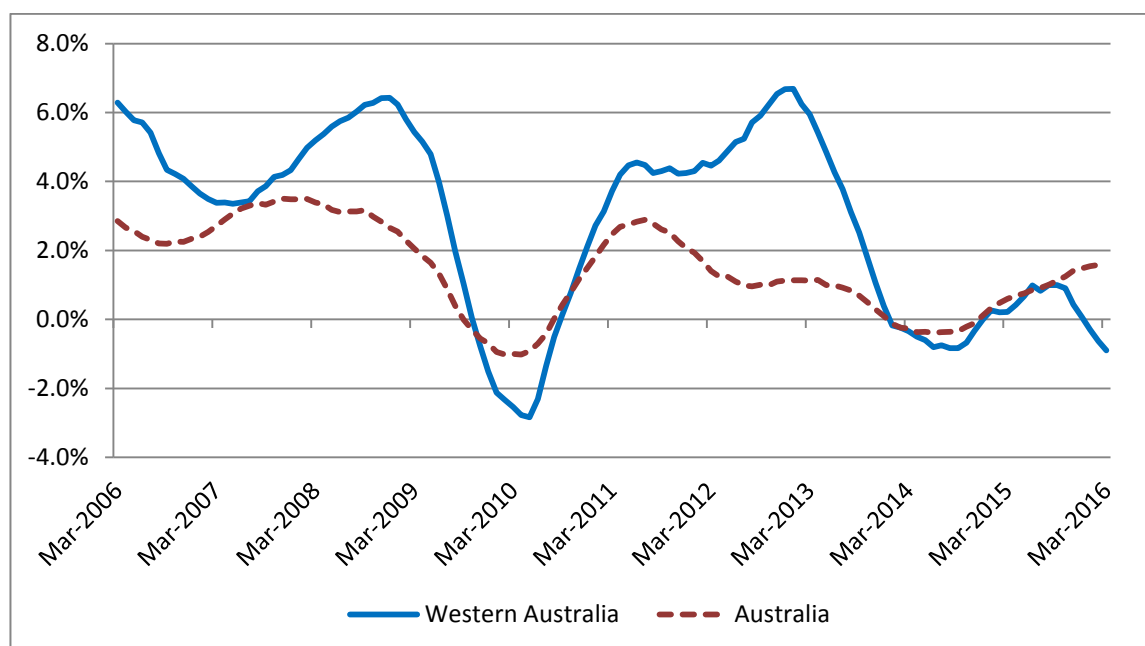
26. However, employment growth in the State over the year to March 2016 was fully underpinned by part time employment, which increased by 4.5 per cent. As shown in Figure 2, full time employment decreased by 0.9 per cent over the same period, indicating that underlying labour market conditions remain softer than headline growth suggests.⁸

⁶ ABS (2016) *Labour Force, Australia, March 2016*, Catalogue 6202.0, Time series, Table 8 (seasonally adjusted series), data expressed as an annual average for the last 10 years.

⁷ ABS (2016) *Labour Force, Australia, March 2016*, Catalogue 6202.0, Time series, Tables 1 & 8 (seasonally adjusted series). Data expressed as an annual average.

⁸ ABS (2016) *Labour Force, Australia, March 2016*, Catalogue 6202.0, Time series, Table 8 (seasonally adjusted series), data expressed as an annual average.

**Figure 2: Annual average employment growth (full time),
WA and Australia, March 2006 to March 2016⁹**



27. Treasury forecasts that employment growth will soften from 1.5 per cent in 2014-15 to 1.25 per cent per annum in 2015-16 and 2016-17 in line with weaker domestic economic conditions.¹⁰ This is consistent with job vacancy measures for WA, such as the Commonwealth Department of Employment’s Internet Vacancy Index, which shows a 19.3 per cent decline in online job vacancies in the year to March 2016.¹¹
28. The State’s unemployment rate has increased over the last year, reflecting a growing gap between job seekers and labour demand. WA’s unemployment rate is now at the same rate as the national average rising from an average of 5.3 per cent over the year to March 2015 to 6.0 per cent over the year to March 2016.¹²
29. WA’s current seasonally adjusted unemployment rate for March 2016 is 5.5 per cent, a decrease from 6.0 per cent in February.¹³ However, given that monthly labour force data is highly volatile, the March result should be treated with caution.

⁹ ABS (2016) *Labour Force, Australia, March 2016*, Catalogue 6202.0, Time series, Tables 1 & 8 (seasonally adjusted series), data expressed as an annual average.

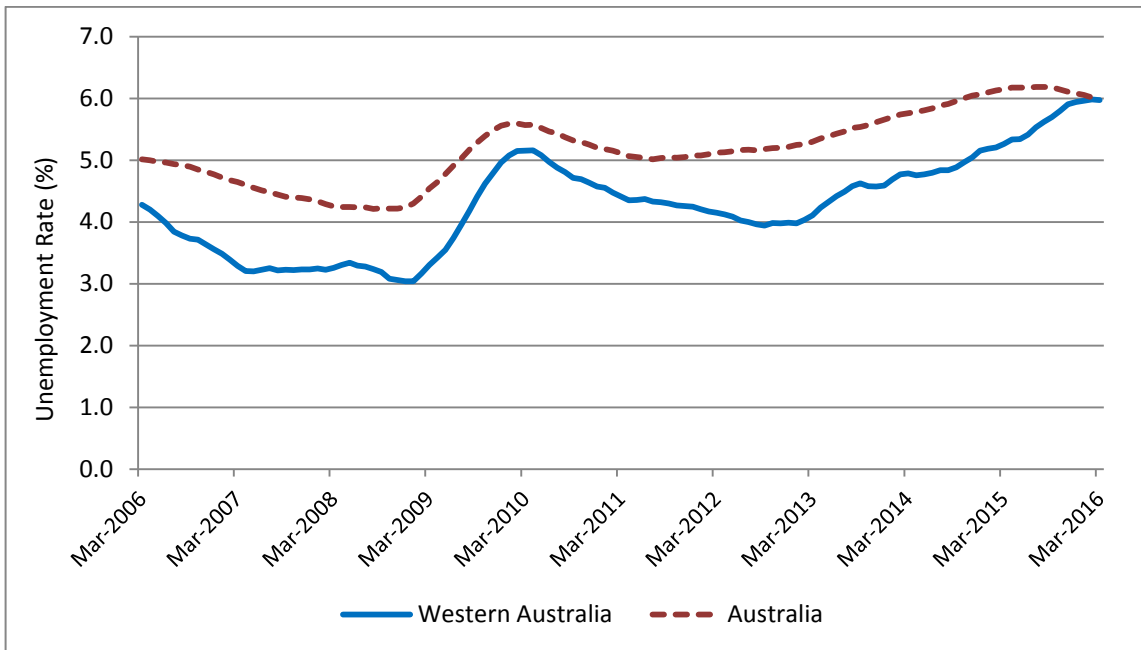
¹⁰ Government of Western Australia (2016) *2016 State Wage Case – Economic Outlook*, pg.2; and Government of Western Australia (2015) *2015-16 Government Mid-year Financial Projections Statement*, Chapter 1, p.5.

¹¹ Australian Government (2016) *Internet Vacancy Index (IVI), March 2016*, Department of Employment (<http://lmip.gov.au/default.aspx?LMIP/VacancyReport>), seasonally adjusted data.

¹² ABS (2016) *Labour Force, Australia, March 2016*, Catalogue 6202.0, Time series, Table 1 & 8 (seasonally adjusted series), data expressed as an annual average.

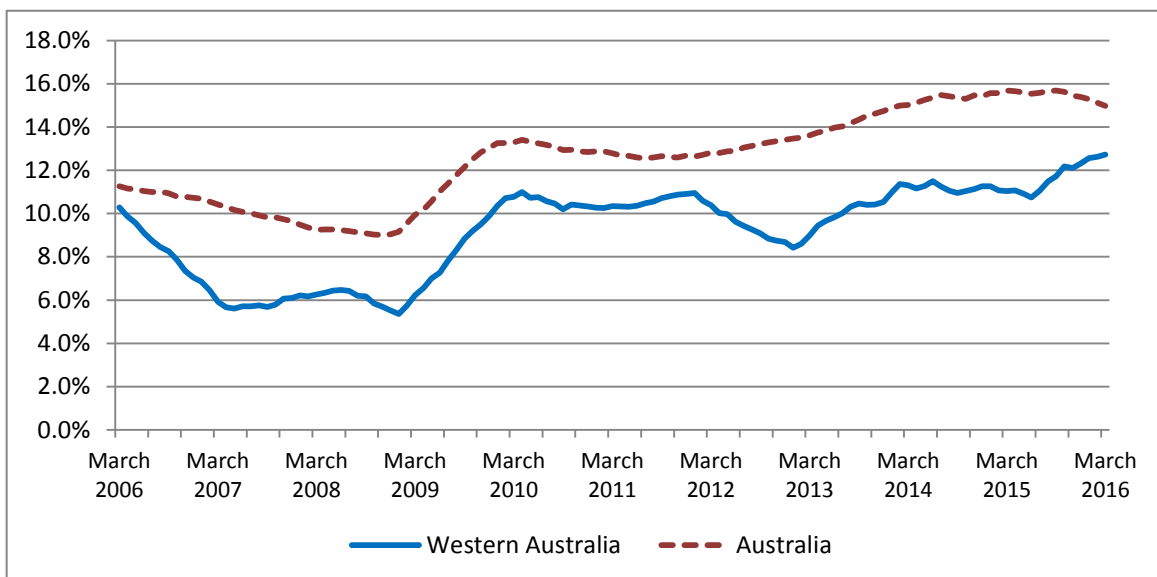
¹³ ABS (2016) *Labour Force, Australia, March 2016*, Catalogue 6202.0, Time series Table 8 (seasonally adjusted series).

Figure 3: Annual average unemployment rate, WA and Australia, March 2006 – March 2016¹⁴



30. Treasury expects WA’s unemployment rate to rise further to 6.5 per cent in 2015-16 and remain steady in 2016-17, as domestic economic conditions continue to soften.¹⁵
31. For certain sectors of the labour market, unemployment persists at higher rates than the State average. Figure 4 shows that the youth unemployment rate in WA picked up over the last year.

Figure 4: Annual average unemployment rate, 15 to 24 year olds looking for full time work, WA and Australia, March 2006 – March 2016



¹⁴ ABS (2016) *Labour Force, Australia, March 2016*, Catalogue 6202.0, Time series, Table 1 & 8 (seasonally adjusted series), data expressed as an annual average.

¹⁵ Government of Western Australia (2016) *2016 State Wage Case – Economic Outlook*, pg.2; and Government of Western Australia (2015) *2015-16 Government Mid-year Financial Projections Statement*, Chapter 1, p.5.

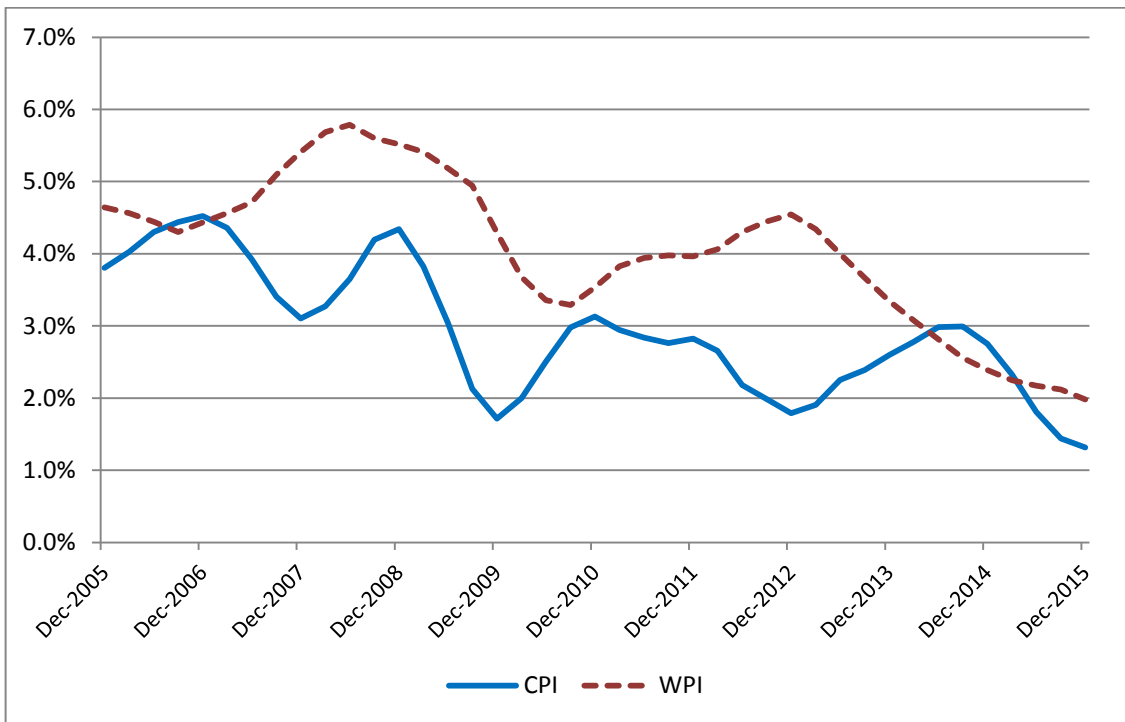
32. Award reliant sectors have traditionally provided a significant share of the job opportunities available to young people. Of those workers aged between 15 and 24 in Australia, almost half are employed in the Retail Trade and Accommodation and Food Services sectors (43 per cent).¹⁶ State level data is not available for youth employment by industry.

Trends in wages

33. Growth in the State’s Wage Price Index (WPI) in 2015 was just 2.0 per cent,¹⁷ the weakest recorded since the series commenced in 1998-99.

34. As shown in the graph below, growth in the State’s WPI has slowed considerably in the last three years. Growth in WPI was lower than CPI between June 2014 and March 2015, indicating a decline in real wages, and has not grown significantly in excess of CPI since then.

Figure 5: Annual average growth in the Wage Price Index (WPI) for WA and the Consumer Price Index (CPI) for Perth, to December 2015¹⁸



35. As Table 2 demonstrates, State data for WPI by industry confirms that wages growth has slowed over the last year in almost every industry for which data is available.

¹⁶ ABS (2016) *Labour Force, Australia, Detailed Quarterly, February 2016*, Catalogue 6291.0.55.003, Data Cube EQ12 (original data).

¹⁷ ABS (2016) *Wage Price Index, Australia, December 2015*, Catalogue 6345.0, Time series Table 2b (original data).

¹⁸ ABS (2016) *Wage Price Index, Australia, December 2015*, Catalogue 6345.0, Time series Table 2b (original data); and *Consumer Price Index, December 2015*, Catalogue 6401.0, Time series spreadsheet Table 1.

**Table 2: Wage Price Index, annual average increase by industry,
December quarters 2014 and 2015, WA¹⁹**

Industry	WPI Annual change to Dec Q 2014	WPI Annual change to Dec Q 2015
Administrative and support services	1.6%	0.3%
Construction	1.9%	0.9%
Professional, scientific and technical services	1.6%	1.4%
Accommodation and food services	3.0%	1.9%
Mining	2.0%	2.2%
Retail trade	2.8%	2.7%
Education and training	3.8%	2.8%
Manufacturing	3.2%	2.8%
Health care and social assistance	3.6%	3.0%
Public administration and safety	2.7%	3.3%
All industries	2.4%	2.0%

36. Treasury anticipates that wages growth in WA will remain subdued, with WPI forecast to grow by 2.0 per cent in 2015-16 and by 2.25 per cent in 2016-17 – well below the past decade average of 3.9 per cent per annum.²⁰ Growth in the WPI at the national level is also at its slowest pace on record, running at 2.2 per cent in annual average terms in 2015.²¹
37. While the WPI is generally considered to be the most useful indicator of trends in wage inflation,²² the ABS' Average Weekly Earnings series is used to provide an indication of the dollar amounts people earn and to calculate the gender pay gap.
38. The most recent Average Weekly Earnings data for November 2015 shows a slight decrease in the gap between male and female earnings at both the state and national levels.
39. Table 3 below shows that the gender pay gap in WA decreased from 25.6 per cent in November 2014 to 24.7 per cent in November 2015. Nationally, the gap decreased from 18.8 per cent to 17.4 per cent over the same period. In both cases, the narrowing of the gap reflects female average earnings having increased at a faster rate than earnings for males.

¹⁹ ABS (2016) *Wage Price Index, Australia, December 2015*, Catalogue 6345.0, unpublished data available on request. Data for some industries was not available for publication. These industries have been excluded from the table, but relevant data is included in the total where applicable.

²⁰ ABS (2016) *Wage Price Index, Australia, December 2015*, Catalogue 6345.0, Time series Table 2b (original data); and Government of Western Australia (2015) *Government Mid-Year Financial Projections Statement 2015-16*, Chapter 1, p.5.

²¹ ABS (2015) *Wage Price Index, Australia, December 2015*, Catalogue 6345.0, Time series Table 2b (original data).

²² ABS (2015) *Wage Price Index, Australia, June 2014*, Catalogue 6345.0, Feature Article, 'Average Weekly Earnings and Wage Price Index – What do they measure?'

**Table 3: Average weekly earnings and the gender pay gap (GPG),
WA and Australia, November 2014 and November 2015²³**

		Nov 2014	Nov 2015	Change over year
WA	Persons	\$1,673.10	\$1,708.70	2.1%
	Males	\$1,826.40	\$1,861.90	1.9%
	Females	\$1,358.30	\$1,401.50	3.2%
	GPG	25.6%	24.7%	-0.9 percentage points
Australia	Persons	\$1,477.00	\$1,500.50	1.6%
	Males	\$1,587.50	\$1,603.60	1.0%
	Females	\$1,289.80	\$1,324.60	2.7%
	GPG	18.8%	17.4%	-1.4 percentage points

Operating conditions for Western Australian businesses

40. There is little specific data available to assess the health of those businesses likely to be affected by the State Wage Order. However, there is evidence to suggest that Western Australian businesses have been affected by the softening domestic economy. For example, total industry income from sales of goods and services in WA has declined for seven consecutive quarters to December 2015, the first consecutive quarterly declines since 2009.²⁴
41. The Gross Operating Surplus plus Gross Mixed Income measure produced by the ABS also suggests some sectors are facing a more challenging trading environment.²⁵ While it is important to note that this data reveals little about the profitability or otherwise of individual businesses, the measure provides some insight into local conditions at the aggregate industry level.
42. As illustrated in Table 4, while a number of industries recorded an improvement in 2014-15, declines were recorded in more than half of all sectors, and there was a total decline across all industries of 13.8 per cent.

²³ ABS (2016) *Average Weekly Earnings, Australia, November 2015*, Catalogue 6302.0, Time series Table 2 and 12E (seasonally adjusted data).

²⁴ ABS (2015) *Business Indicators, Australia, December 2015*, catalogue 5676.0, Time series Table 7, current prices (trend). This series is not publicly available at individual industry level by State.

²⁵ ABS (2015) *Australian National Accounts: State Accounts, 2014-15*, Catalogue 5220.0, Time series spread sheet Table 6 (original data). The GOS+GMI measure is used as a proxy for profitability data at the State level. GOS is defined as the operating surplus accruing to all enterprises, except unincorporated enterprises, from their operations in Australia. It is the excess of gross output over the sum of intermediate consumption, compensation of employees, and taxes less subsidies on production and imports. It is calculated before deduction of consumption of fixed capital, dividends, interest, royalties and land rent, and direct taxes payable, but after deducting the inventory valuation adjustment. GMI is the surplus or deficit accruing from production by unincorporated enterprises. It includes elements of both compensation of employees (returns on labour inputs) and operating surplus (returns on capital inputs).

Table 4: Gross operating surplus (GOS) and gross mixed income (GMI) by industry, current prices, 2014 and 2015²⁶

Industry	GOS + GMI June 2014 (\$m)	GOS + GMI June 2015 (\$m)	Annual Increase (\$m)	Annual Increase (%)
Administrative and support services	347	404	57	16.4%
Arts and recreation services	474	528	54	11.4%
Other services	826	920	94	11.4%
Accommodation and food services	1,119	1,218	99	8.8%
Health care and social assistance	1,398	1,496	98	7.0%
Public administration and safety	1,176	1,235	59	5.0%
Electricity, gas, water and waste services	3,503	3,594	91	2.6%
Education and training	824	842	18	2.2%
Transport, postal and warehousing	5,363	5,404	41	0.8%
Manufacturing	4,617	4,607	-10	-0.2%
Financial and insurance services	6,061	5,972	-89	-1.5%
Information media and telecommunications	1,865	1,815	-50	-2.7%
Agriculture, forestry and fishing	4,911	4,626	-285	-5.8%
Wholesale trade	2,845	2,631	-214	-7.5%
Retail trade	3,180	2,938	-242	-7.6%
Construction	15,655	13,921	-1,734	-11.1%
Rental, hiring and real estate services	2,318	1,989	-329	-14.2%
Mining	67,769	49,978	-17,791	-26.3%
Professional, scientific and technical services	2,751	1,968	-783	-28.5%
Total all industries	143,566	123,714	-19,852	-13.8%

43. The criteria specified in section 50A(3) of the IR Act require the Commission to consider the capacity of employers as a whole to bear the cost of increased wages and the likely effect of its decision in the State Wage Case on the economy and employment levels. The current subdued operating environment and trends in the labour market in WA point to continuing pressure on employers in the state system.
44. As stated by the Commission in the Reasons for Decision for the 2015 State Wage Order, “the link between minimum wage increases and the level of employment is complex.”²⁷ However, the Minister’s position of a CPI increase to the minimum wage, and an equivalent flat dollar adjustment to award wages, provides an appropriately balanced approach to wage increases for employees while mitigating the potential risks for employers from a significant wage rise at the current time.

²⁶ ABS (2015) *Australian National Accounts: State Accounts, 2014-15*, Catalogue 5220.0, Time series spreadsheet, Table 6 (original data).

²⁷ Western Australian Industrial Relations Commission (2015) *2015 State Wage Order Pursuant to Section 50A of the Act*, Reasons for Decision, Consideration, paragraph 88.

Impact of the State Wage Order

45. Unfortunately, there is no definitive data on how many WA employees rely directly on the State Wage Case determinations. The Department of Commerce has estimated that between 22 and 36 per cent of WA employees are covered by the State industrial relations system.²⁸
46. The most recent 'Employee Earnings and Hours' (EEH) data from 2014 indicated that rates of pay for 13.8 per cent of Western Australian employees are determined by either a state or national modern award.²⁹
47. The 2014 data indicated that award reliance in WA increased by nearly two percentage points since the previous EEH survey in 2012, which found that 12.0 per cent of Western Australian employees were award reliant. The number of employees whose pay is determined by a collective agreement declined by almost 4 percentage points over the same period.³⁰
48. Table 5 illustrates proportions of employment by industry in both WA and Australia, and shows that those industries known to have a high degree of award reliance in the private sector such as Accommodation and Food Services and Retail Trade make up a significant portion of the State's workforce.
49. Research conducted at a national level in 2013 for the Fair Work Commission found that a significant number of employers in the national jurisdiction passed on Annual Wage Review increases to non-award-reliant employees.³¹ More than 50 per cent of private sector employers in the national jurisdiction used awards to set or guide pay setting decisions: 25 per cent paid at least one employee in accordance with an award, and a further 27 per cent reported using 'over-award' pay-setting arrangements, in which an award was used to guide pay decisions for at least one employee in some way.³²
50. Assuming similar pay setting decisions are made by State system employers, this research would indicate that the impact of the State Wage Order may extend beyond those employees paid strictly in accordance with an award to other employees in the Western Australian industrial relations jurisdiction.

²⁸ Department of Commerce (2013), *State Industrial Relations Coverage in WA: How many employees are covered?*; Available at: <http://www.commerce.wa.gov.au>

²⁹ ABS (2015) *Employee Earnings and Hours, Australia, May 2014*, Datacube 2, Table 5.

³⁰ ABS (2013) *Employee Earnings and Hours, Australia, May 2012*, Datacube 1, Table 5.

³¹ S. Wright and J. Buchanan (2013) *Award Reliance*, Fair Work Commission Research Report 6/2013, p.11. Study sample excluded unincorporated businesses in Western Australia.

³² *Ibid.*

**Table 5: Employment and award reliance by industry,
WA and Australia, February 2016**

Industry	WA: Proportion of total employment ³³	Australia: Proportion of total employment ³³	Australia: Proportion of employees paid by award ³⁴
Accommodation and food services	6.8%	7.0%	42.8%
Administrative and support services	3.1%	3.7%	37.3%
Retail trade	10.9%	10.8%	28.5%
Other services	4.6%	3.9%	25.1%
Health care and social assistance	11.6%	12.7%	22.3%
Rental, hiring and real estate services	1.8%	1.8%	22.1%
Arts and recreation services	2.0%	2.0%	22.0%
Manufacturing	5.3%	7.5%	15.7%
Construction	10.6%	8.8%	13.7%
Public administration and safety	6.0%	6.3%	12.8%
Wholesale trade	2.6%	2.9%	11.9%
Transport, postal and warehousing	5.8%	5.4%	10.9%
Professional, scientific and technical services	7.8%	8.5%	9.9%
Electricity, gas, water and waste services	0.9%	1.2%	6.9%
Information media and telecommunications	1.2%	1.7%	5.2%
Education and training	7.2%	7.6%	5.1%
Financial and insurance services	2.0%	3.6%	5.0%
Mining	7.6%	1.9%	0.8%
Agriculture, forestry and fishing	2.2%	2.8%	N/A
All industries	100.0%	100.0%	18.8%

Meeting the needs of the low paid

51. The Commission is required by section 50A of the IR Act to consider the needs of the low paid and their living standards, as well as the living standards generally prevailing in the community, and the Minister acknowledges the importance of maintaining an appropriate safety net for employees reliant on the minimum wage.
52. Maintenance of the real value of the State minimum wage is an important element in providing fair wages in the context of community standards. The Minister's position this year focuses on ensuring that the spending power of the minimum wage remains constant by supporting a CPI increase to the minimum wage and an equivalent flat dollar adjustment to adult award rates.

³³ ABS (2016) *Labour Force, Australia, Detailed Quarterly, February 2016*, catalogue 6291.0.55.003, Time series, Table 5 (original data).

³⁴ ABS (2015) *Employee Earnings and Hours, Australia, May 2014*, Datacube 2, Table 5.

53. A flat dollar adjustment to minimum and award wages would ensure that the greatest benefit of this year's State Wage Order is directed to the lowest paid. The Minister notes that the Commission has itself targeted those employees on the minimum wage or slightly above it in previous State Wage Case decisions.³⁵
54. However, it is difficult to determine which employees constitute the low paid group,³⁶ and what level of minimum wage would meet the variety of personal, family and household circumstances amongst low paid employees.³⁷
55. FWC research suggests that a majority of award reliant employees in the national industrial relations jurisdiction are employed at lower-paid classifications of awards, with a study conducted in 2013³⁸ finding that 75 per cent of adult award-reliant employees were paid at less than the (then) C10 base hourly rate of \$18.60,³⁹ and only 5 per cent were employed at classification rates at or above \$22.00 per hour.
56. If it is assumed that award reliance in the State industrial relations system is similarly concentrated at lower-paid award classifications, it is appropriate that the focus of the State Wage Case be on the minimum wage and lower award classifications.
57. The Minister acknowledges that a flat dollar increase will result in a slight decline in the real value of some award rates above the minimum. However, this is not inconsistent with wage trends in the broader labour market, whereby employees in some industries have received increases below CPI. It is the Minister's view that a greater degree of wage restraint is necessary to support employment in the current economic environment.

Promoting bargaining

58. Section 50A of the IR Act also requires the Commission to consider when making the State Wage Order the need to protect employees who may be unable to reach an industrial agreement.
59. The minimum safety net for low paid employees should allow scope for employers and employees to negotiate agreements which lead to productivity improvements. A CPI based adjustment should protect the needs of the low paid while not impacting on the willingness of employers and employees to undertake bargaining.

³⁵ Western Australian Industrial Relations Commission (2014) *State Wage Order Decision*, 2014 WAIRC 00471 at [103]; and (2013) *State Wage Order Decision*, 2013 WAIRC 00347 at [86].

³⁶ Lee & Sobeck (2012) *Low-wage work: a global perspective*, International Labour Review, Vol. 151(3), p.143.

³⁷ See for example R. Anker (2011) *Estimating a living wage: A methodological review*. Conditions of Work and Employment Programme Series No. 29. Geneva, ILO, pg.9 and Pech (2011) *Relative living standards and needs of low-paid employees: definitions and measurement*, Research Report 2/2011, Fair Work Australia pp.63-64.

³⁸ S. Wright and J. Buchanan (2013) *Award Reliance*, Fair Work Commission Research Report 6/2013, p.67. Study sample excluded unincorporated businesses in Western Australia.

³⁹ The entry level classification for trades qualified employees in the *Manufacturing and Associated Industries and Occupations Award 2010*, rounded up from the actual C10 rate of \$18.58 per hour.

Skills development

60. The Commission is required under Section 50A to consider the need to encourage ongoing skills development when making the State Wage Order. This section provides key data on commencements of apprenticeships and traineeships for 2015 and previous years, including information on the proportion of each type of training arrangement undertaken by employees over the age of 21.⁴⁰ Data on the total number of apprentices and trainees in training is also presented. This data has been provided by the Department of Training and Workforce Development (DTWD).

Apprenticeship data

61. As shown in Table 6 below, the total number of apprenticeship commencements in Western Australia in 2015 was 7,812. This figure is lower than the total for 2014, when there were 8,705 apprenticeship commencements. Since the peak in commencement numbers experienced in 2010, apprenticeship commencements have decreased by 24.6 per cent overall.

**Table 6: Apprenticeships commenced in WA,
January 2007 to December 2015⁴¹**

Year	Under 21 years	21 years & over	Total	% 21 years & over
2007	7,026	2,377	9,403	25.3%
2008	6,581	2,198	8,779	25.0%
2009	5,294	1,817	7,111	25.6%
2010	7,647	2,708	10,355	26.2%
2011	6,907	2,925	9,832	29.7%
2012	6,456	3,220	9,676	33.3%
2013	5,928	2,784	8,712	32.0%
2014	5,759	2,946	8,705	33.8%
2015	5,127	2,685	7,812	34.4%

62. Commencements data by industry indicates that apprenticeship commencements across all major industries have experienced a decrease in 2015 compared to 2014, with a 15.3 per cent decrease in Automotive trades, a decrease of 11.9 per cent in the Metals, Manufacturing and Services trades, a 13.1 per cent decrease in Building and Construction trades and a minimal decrease of 3.5 per cent in the Electrical trades.
63. The total number of apprentices in training across the State declined by 3.4 per cent over the last year. As at 31 December 2015, Western Australia had 17,251 apprentices in training, down from 17,861 as at 31 December 2014.

⁴⁰ Data is for apprentices and trainees in both the State and national industrial relations systems; it is not possible to ascertain what proportion of these employees are subject to the State jurisdiction.

⁴¹ Department of Training and Workforce Development, Data Request No. TRS3126, 16 March 2016.

Traineeship data

64. As shown in Table 7 below, the number of traineeship commencements in 2015 was 19,054, representing an 8.1 per cent decrease compared to the 20,742 commencements in 2014. Since the recent peak in traineeship commencements in 2012, commencements have reduced overall by 27.2 per cent.

**Table 7: Traineeships commenced in WA,
January 2007 to December 2015⁴²**

Year	Under 21 years	21 years & over	Total	% 21 years & over
2007	6,030	8,412	14,442	58.2%
2008	6,441	10,478	16,919	61.9%
2009	5,213	11,885	17,098	69.5%
2010	6,112	13,074	19,186	68.1%
2011	6,220	13,525	19,745	68.5%
2012	6,756	19,419	26,175	74.2%
2013	5,062	17,698	22,760	77.8%
2014	5,134	15,608	20,742	75.2%
2015	4,263	14,791	19,054	77.6%

65. Commencements data by trade category indicates that traineeship commencement in the Community Services, Health and Education group decreased by 28.7 per cent in 2015 compared to 2014, and the Finance, Property and Business Services group decreased by 11.5 per cent over the same period. However there was an increase in the number of Process Manufacturing commencements (6.8 per cent).⁴³
66. As with apprentices, the total number of employees currently in traineeships in WA decreased from 22,502 as at 31 December 2014 to 21,664 as at 31 December 2015.

Total commencements and numbers in training

67. The total number of apprentices and trainees currently in training in WA fell by 3.6 per cent over the year to December 2015, while the overall numbers of commencements decreased by 8.9 per cent over the same period.

⁴² Department of Training and Workforce Development, Data Request No. TRS3126, 16 March 2016.

⁴³ Ibid.

68. The State level decreases in the numbers in training appear to be significantly lower than those experienced nationally. While not directly comparable to the DTWD data for the year to December 2015, data compiled by the National Centre for Vocational Education Research indicates that as at 30 September 2015, the total number of apprentices and trainees in training across Australia had decreased by 13.7 per cent compared to the same time the previous year.⁴⁴ In the 12 months ending 30 September 2015, commencements nationally decreased by 19.3 per cent compared with the 12 months ending 30 September 2014.⁴⁵
69. There are a range of drivers that are likely to be impacting upon the numbers of apprenticeship and traineeship commencements. For example, the combination of economic uncertainty, subdued labour market conditions and factors such as resource construction workers 'returning' to non-resource construction roles may influence employer hiring intentions. Furthermore, the impact of the half year cohort that entered school in 2002 is likely to have resulted in fewer students entering the Vocational Education and Training sector, which together with the expected fall in the growth rate of the youth (15 to 24) population have all contributed to a drop in new apprenticeships and traineeships during 2015.
70. Within this context, the Minister urges the Commission to consider the potential impact of any minimum wage increase on the willingness of employers to engage staff in training arrangements.

Industry/skill level list

71. Each year the Minister provides the Commission with an Industry/Skill Level list for traineeships to assist the Commission with preparation of the State Wage Order. This list is a component of the framework for the establishment of minimum wages for award-free trainees, and is included as an appendix to the State Wage Order. The list is provided to the Minister by DTWD.
72. Each traineeship undertaken in WA is allocated an Industry/Skill Level based on the Training Package to which it belongs and the applicable Australian Qualification Framework (AQF) certificate level. The Industry/Skill Level is then used, in combination with a trainee's age and years out of school, to determine the appropriate minimum wage for award free trainees.
73. There have been minimal changes to this list since last year, with only one additional training package added for Hairdressing and Beauty Services (SHB) and some refinements to the levels of qualifications able to be studied under some training packages. A small number of training packages have also undergone a change of title.
74. The Industry/skills level list is attached at **Attachment C**.

⁴⁴ NCVET 2016, Australian vocational education and training statistics: apprentices and trainees 2015 — September quarter.

⁴⁵ Ibid.

Trainees under State awards which reference the National Training Wage Award

75. The Minister submits that the provisions in the State Wage Order regarding the pay rates applicable to trainees be amended in the 2016 Order. The Minister submits that the Commission should modify paragraph 6 of the 2015 Order to take account of an issue regarding trainees covered by State awards which reference the obsolete National Training Wage Award (**NTWA**).

76. Paragraph 6 of the 2015 State Wage Order, in which the Commission sets minimum weekly rates of pay for trainees specifies:

“THAT the Minimum Weekly Rate of Pay applicable under section 14 of the Minimum Conditions of Employment Act 1993 to an apprentice whose training contract specifies they are undertaking a traineeship ("trainee") shall be:

(a) In relation to that class of trainee to whom an award applies or a relevant award applies where an employer-employee agreement is in force, the minimum weekly rate of pay shall be the rate of pay that applies to that class of trainee under the award where an award applies or the relevant award where an employer-employee agreement is in force.

(b) In relation to that class of trainee to whom an award does not apply and to whom there is no relevant award to apply if an employer-employee agreement is in force or is subsequently entered into, the minimum weekly rate of pay at the relevant Industry/Skill level as determined by reference to Attachment A hereunder, shall be the rate of pay based on the Metal Trades (General) Award contained in Table 1 as follows...”

77. The NTWA provided a framework of award wages for trainees across Australia by establishing a scale of wage rates for trainees based on categories of traineeships, years of school experience and the trainee’s age.

78. There are 23 State awards that include clauses which provide that the NTWA applies to trainees covered by the State award, thus incorporating the pay rates of the NTWA into the current State awards. This consists of 11 private sector awards and 12 public sector awards, as follows:

- Aboriginal Communities and Organisations Western Australian Interim Award 2011
- Animal Welfare Industry Award
- Building Trades (Government) Award 1968
- Children’s Services (Private) Award 2006

- Cleaners and Caretakers (Government) Award 1975⁴⁶
- Country High School Hostels Authority Residential College Supervisory Staff Award 2005
- Country High School Hostels Award, 1979⁴⁷
- Club Workers' Award
- Dry Cleaning and Laundry Award 1979
- Education Department Ministerial Officers Salaries Allowances and Conditions Award 1983 No.5 of 1983
- Government Officers (Insurance Commission of Western Australia) Award, 1987
- Government Officers Salaries, Allowances and Conditions Award 1989
- Hotel and Tavern Workers' Award
- Laundry Workers' Award, 1981
- Miscellaneous Government Conditions and Allowances Award No A 4 of 1992
- Motel, Hostel, Service Flats and Boarding House Workers' Award
- Pest Control Industry Award
- Public Service Award 1992
- Railway Employees' Award No. 18 of 1969
- Restaurant, Tearoom and Catering Workers' Award
- Shearing Contractors' Award of Western Australia 2003
- Transport Workers (Government) Award, 1952
- WA Health – HSU Award 2006

79. In accordance with the provisions of the *Workplace Relations Amendment (Work Choices) Act 2006* the NTWA, so far as it applied to non-constitutional corporations, became a transitional award which would “cease to be in force” on 27 March 2011.
80. Prior to the commencement of the *Fair Work Act 2009* the pay rates in the transitional NTWA were adjusted following the federal 2008 Wages and Allowances Review. However the NTWA trainee rates have not been updated since the 2008 review, and the NTWA then ceased to be in force in 2011.
81. The NTWA references in the 23 State awards remain, now 5 years beyond the cessation of the transitional NTWA and the pay rates provided in the NTWA are increasingly outdated.

⁴⁶ The Cleaners and Caretaker’s (Government) Award 1975 indirectly references the NTWA, as it provides that provisions of the Miscellaneous Government Conditions and Allowances Award No A 4 of 1992 (“**Miscellaneous Award**”) also apply to employees. The Miscellaneous Award, in turn, specifies that rates of pay for trainees up to 20 years of age are as prescribed in the NTWA.

⁴⁷ Ibid.

82. As a consequence, the NTWA pay rates set in 2008 are still incorporated in some State awards. Prior to the 2013 State Wage Order the impact was limited to an effective 'freeze' on wages for the relevant group of trainees, as trainee rates under the NTWA exceeded the minimum rates in the State Wage Order applicable to award free trainees.
83. However, this has not been the case for the last three State Wage Orders as award free trainee minimum rates under the State Wage Order have overtaken those for trainees covered by those State awards that reference the NTWA. It should be noted that following the 2015 State Wage Order the only category of trainee that may still receive a higher rate under the NTWA is the school leaver, depending on time spent in training.
84. The Minister submits that it is inappropriate that these outdated award-based trainee pay rates which are below the minimum safety net rate for award free trainees are incorporated from an obsolete federal award. This situation may also act as a disincentive over time for the establishment of traineeships under the relevant awards.
85. In order to address this issue of State awards incorporating NTWA pay rates which are below the minimum rates set by the State Wage Order for award free trainees, the Minister submits that the 2016 State Wage Order continue to provide that for trainees covered by a State award, the rate in the award applies (as is presently the case) but include the additional proviso that trainees whose awards incorporate pay rates from the NTWA are not to be paid less than the rates payable to award free trainees.
86. It is proposed that at the end of the paragraph 6 in the State Wage Order that relates to the minimum weekly rate of pay for "that class of trainee to whom an award applies or a relevant award applies where an employer-employee agreement is in force" words to the following effect be added:
- "except that where an award provides that pay rates in the National Training Wage Award apply, a trainee shall not be paid less than the rates in paragraph 6(b) that apply to a trainee to whom an award does not apply".*
87. A proviso in these terms would ensure that award covered trainees in the State industrial relations system are not paid less than award free trainees by virtue of obsolete and outdated federal award provisions incorporated into State awards.

Conclusion

88. Western Australia is currently experiencing weaker conditions in its domestic economy which have flowed through to a softer labour market and a sustained higher level of unemployment.

89. Paid employment is known to generate a wide range of social and economic benefits for employees and the community as a whole. Wage restraint may play a role in protecting and generating employment and it is important that any minimum and award wage increases granted through the 2016 State Wage Order are not a threat to the capacity of employers to sustain and create jobs for Western Australian workers.
90. The Minister supports the Commission taking a balanced approach which assists in meeting the needs of low paid workers while mitigating the potential risks for employers and employees from a significant wage rise at the current time.
91. The Minister's position is that a CPI increase to the minimum wage, and an equivalent flat dollar adjustment to adult award wages, is such a balanced approach and would maintain the value of the minimum wage as a crucial safety need while recognising the ongoing challenging conditions for employers and the economy.