

Western Australian Industrial Relations Commission

Application No. CICS 1 of 2024

2024 State Wage Order

Filed on behalf: the Western Australian Local Government Association

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Written Submission Western Australian Local Government Association

Introduction

1. The WA Local Government Association (**WALGA**) provides this submission in response to application no. CICS 1 of 2024 regarding the 2024 State Wage Order.
2. WALGA is an independent, member based, not for profit organisation representing and supporting the WA Local Government sector. Our membership includes all 139 Local Governments in the State. WALGA uses its influence, support, and expertise to deliver better outcomes for WA Local Governments and their communities. WALGA is not a government department or agency.
3. According to [Australian Bureau of Statistics](#) data, 24,600 employees were employed in the WA Local Government sector at the end of June 2023.¹

¹ Employment and Earnings, Public Sector, Australia 2022-23 financial year.



4. WALGA supports:
 - a. Wage increases that balance the need for fair wages with the requirement for Local Governments to carefully manage their budgets in the interest of their communities.
 - b. Increases in line with wage fixing principles.

Industrial relations context of WA Local Governments

5. 137 of the 139 WA Local Governments and six Regional Councils were mandated to operate in the State industrial relations system from 1 January 2023. Prior to this date, only approximately 30 Local Governments operated in the State industrial relations system.
6. As a result of the mandate the 2024 State Wage Order applies to all Local Governments and Regional Councils in WA (with the exception of the Shire of Christmas Island and the Shire of Cocos (Keeling) Islands).
7. Approximately 80 WA Local Governments out of the 137 that operate in the State industrial relations system are covered by either State awards or the new State instrument – Local Government Industry Award 2020 (formerly a Federal modern award) industrial agreement in some way. Of this 80, approximately 55 WA Local Governments almost exclusively apply these instruments to their workforce. These include many of the smaller SAT Band 4 Local Governments that have more limited revenue and capacity to pay compared to some of the larger Local Governments. The remaining Local Governments have:
 - a. an enterprise agreement that transitioned to the State industrial relations system that operates as a new State instrument; or
 - b. a registered and negotiated industrial agreement in place,that covers employees that would otherwise be covered by either a State award or the Local Government Industry Award 2020 industrial agreement.

Industrial instruments for Local Governments that transitioned from the Federal system to the State system on 1 January 2023

8. Local Governments which transitioned are currently covered by industrial agreements including the following:

- a. New State instrument – The Federal Local Government Industry Award 2020 which became the [Local Government Industry Award 2020 industrial agreement](#) on 1 January 2023 and other federal awards that applied or purport to have applied to declared employees at the time of the transition.
 - b. New State instrument – Federal enterprise agreements which became State industrial agreements on 1 January 2023. Approximately 80% of the sector transitioned from the Federal industrial relations system to the State industrial relations system on 1 January 2023; and/or
 - c. Newly registered industrial agreements since 1 January 2023.
9. Each of the above instruments were underpinned by the Fair Work Commission's Annual Wage Review until 1 January 2023.

Industrial instruments for Local Governments that operated in the State system before 1 January 2023

10. State system Local Governments apply the following industrial instruments:
- a. The [Local Government Officers' \(Western Australia\) Award 2021](#) (LGO Award 2021);
 - b. The [Municipal Employees \(Western Australia\) Award 2021](#) (ME Award 2021);
 - c. Other State awards that may cover Local Government employees; and/or
 - d. An industrial agreement.
11. The origins of the LGO Award 2021 and the ME Award 2021 (together the **2021 Local Government Awards**) stem from Federal awards created by the Australian Industrial Relations Commission (AIRC), in summary:
- a. Immediately prior to the *Fair Work Act 2009* (Cth) (**FW Act**), some WA Local Governments were covered by pre-modern Federal awards, namely the Local Government Officers' (Western Australia) Award 1999 and the Municipal Employees (Western Australia) Award (**1999 Federal Awards**) – awards which were made by the AIRC.
 - b. In or around 2011, the Local Government Officers' (Western Australia) Interim Award 2011 and the Municipal Employees (Western Australia) Award 2011 (**2011 Interim Awards**) were put in place. These were substantially the same as the 1999 Federal Awards.
 - c. In 2021, the 2011 Interim Awards were converted to the LGO Award 2021 and the ME Award 2021.
12. The practical effect is that the 2021 Local Government Awards when made were similar to the 1999 Federal Awards. Whilst there has been some recent variations

(for example the decision of Senior Commissioner Cosentino [2023 WAIRC 00836](#)) the 2021 Local Government Awards require further amendment.

13. One of the things that have changed since 1999 are wage rates. These have been amended by the relevant Commission of the day in accordance with wage fixing principles. WALGA submits that this is a practice that should continue.

Potential coverage of other State award to Local Governments

14. It is arguable that at least the following other State awards may apply to Local Government employees:
 - a. [Aged and Disabled Persons Hostels Award 1987](#);
 - b. [Building Trades Award 1968](#);
 - c. [Child Care \(Out of School Care - Playleaders\) Award](#);
 - d. [Child Care \(Subsidised Centres\) Award](#);
 - e. [Cleaners and Caretakers Award, 1969](#);
 - f. [Enrolled Nurses and Nursing Assistants \(Private\) Award No 8 of 1978](#);
 - g. [Metal Trades \(General\) Award 1966](#);
 - h. [Nurses' \(Private Hospitals\) Award](#);
 - i. [Restaurant, Tearoom and Catering Workers Award 1979 \(RTC Award\)](#).
15. The following more recent decisions of the Commission consider the coverage of State awards for Local Governments:
 - a. [Commission's Own Motion v \(Not Applicable\) 2023 WAIRC 00810](#) relating to coverage of the Cleaners and Caretakes Award in comparison with the ME Award 2021 and the LGO Award 2021; and
 - b. [Commission's Own Motion v \(Not Applicable\) 2023 WAIRC 00811](#) relating to coverage of the RTC Award in comparison with the LGO Award.
16. Most Local Government employers would prefer to have a comprehensive award which covers the Local Government industry.

Impact of superannuation increases

17. WA Local Governments will be required to provide employees with an additional 0.5% of superannuation from 1 July 2024 taking the total superannuation contribution to 11.5% of ordinary time earnings.
18. WALGA submits that the legislated superannuation increase will have an impact on Local Governments' capacity to pay additional wages and should be considered when setting the State minimum wage and award wages.

WA Economic context

Economic Growth

19. The Western Australian economy continues to grow, up 3.5% in 2022-23 and forecast in the WA Treasury's Mid-year Financial Projections to end 2023-24 up 1.75% as measured by Gross State Product. Looking forward, modest economic growth is expected to continue at around 2.0% per annum.
20. The domestic economy, excluding imports and exports have performed strongly in recent years off the back of the pandemic, up 3.8% in 2022-23 and forecast to end the year up 4.5% according to the WA Treasury. The domestic economy is forecast to return to annual growth of around 3% as Government investment eases post-stimulus.
21. This economic growth is largely driven by population growth which has exceeded previous forecasts, up 3.1% in 2022-23 and forecast to increase by 2.4% in 2023-24 before returning to its long-term average of 1.7%. Given the strong population growth experienced in recent months, it is possible that this forecast will be revised upwards in May's State budget.
22. There are considerable risks to this forecast including an escalation in overseas conflicts, the impact of a struggling property sector on the Chinese economy and subdued household spending with high interest rates and cost of living pressures.

Inflation

23. Inflation continues to moderate in Australia, falling to 4.1% in December, the lowest level since December 2021. The Reserve Bank of Australia's (RBA) preferred measure, the Trimmed Mean, sat at 4.2%.
24. In Western Australia, the Perth Consumer Price Index (CPI) fell to 3.6% as the impact of the State Government's Electricity Credit washed through. Removing the impact of the volatile Food and Energy groups, the Perth CPI fell from 4.5% in September to 3.8% in December – a similar level to the Australian CPI (ex Food and Energy) of 3.7%. The WA Treasury forecasts the Perth CPI to end 2023-24 up 4.0% before returning to the RBA's target range of 2% to 3% in the budget outyears.
25. The slowdown in prices for goods has been the key factor influencing falling inflation, with Goods CPI falling for five consecutive quarters and now sitting at

3.8%. This has been driven both by the ongoing easing of supply chain constraints and a slowing in demand for goods. Services have been slower to fall but have dropped for the second consecutive quarter to reach 4.6% growth. The RBA expects services inflation to continue to fall, but at a slower pace, as demand for services reduces due to a slowing domestic economy. Labour costs are generally a greater concern for the services sector due to their comparatively labour-intensive composition. As wages growth reaches its peak and starts to moderate it is expected that this will flow through to the services sector, further reducing services inflation which is required for inflation to return to the RBA's target band.

Labour and Wages

26. Wages growth continued in the December quarter with the WA Wage Price Index (WPI) increasing by 4.7% over the last year, up slightly from the September figure of 4.6% and above the national figure of 4.3%. On a quarterly basis, wages growth slowed from 1.9% in September to 0.8%. This was in line with forecasts, as the September quarter typically records the largest increase due to the impact of pay increases through awards, enterprise agreements and individual agreements that are effective at the start of July.
27. In its Mid-year Review the WA Treasury revised its forecast for wages growth in 2023-24 upwards from 4.0% to 4.25%. Wages are then expected to ease to 3.5% in 2024-25, 3.25% in 2025-26 and 3.0% in 2026-27. While real wages growth (that is, above inflation) is positive after a period going backwards, it does increase pressure on local government budgets, given approximately one-third of the sector's cost base are employee costs.
28. A key driver of wages growth has been the persistent tight labour market across the country and particularly in WA. In 2023, 53,200 jobs were created in WA, an increase of 3.5% in seasonally adjusted terms. The participation rate remains historically high at 69.4% in January 2024. For the last three years, WA's participation rate, at between 68% and 70% has been the highest in the nation. The State's unemployment rate is 4.2%, narrowly above the national figure of 4.1%.
29. Job vacancies are continuing to fall slowly, with 49,500 jobs available in December 2023. This is still well above the pre-pandemic level of 20,000 – 30,000 job vacancies in WA at any given time.
30. So far in 2023-24, job creation has exceeded the WA Treasury's expectations from the May Budget, with its jobs growth forecast revised upwards from 1.0% to 2.5% in the Mid-year Review. This rate is similar to its updated population

growth forecast of 2.4% in 2023-24, suggesting that the labour market is able to absorb the increasing population and avoiding placing upwards pressure on unemployment. Looking forward, Treasury is forecasting jobs growth to struggle to keep pace with population growth with the unemployment rate shifting upwards as a result.

31. Local Governments should expect to continue to find attracting and retaining staff challenging in the short term, however this challenge will ease in the medium term as the labour market loosens.

Local Government capacity to pay

32. Maintaining financial sustainability is important for all Local Governments. However, the objective is to ensure they can deliver services and infrastructure for their communities and minimise the burden on rate payers, rather than general commercial returns or deliver shareholder value.
33. Local Governments' set their budget with an aim to generate sufficient revenue to meet the needs of the community, as set out in each Local Governments' Strategic Community Plan.
34. Unlike other levels of Government which have a range of revenue generating levers at their disposal, Local Government's capacity to raise revenue is constrained.
35. Local Governments' primary lever for generating revenue is rates – which are a form of property tax levied by Local Governments to fund local infrastructure and services. Rates are the sector's primary source of revenue – accounting for 60% of the sector's revenue in 2019-20, and 70% of the sectors own-sourced revenue. Local Governments also rely heavily on grants from the Federal and State Governments to meet their operating and capital needs.
36. To this end, Local Government's must weigh up any increase in costs with an increase in rates, or commensurate reduction in services.
37. It's important to note that the Local Government sector is not homogenous. Some Local Governments face significant financial sustainability challenges – typically, those with declining populations which are facing an ongoing underlying operating deficit.
38. Local Government finances have come under pressure in recent years as a result of a number of factors.

Local Government Costs

39. Local Governments have also been operating in an environment of rising costs in recent years.
40. The Local Government Cost Index (LGCI) is an indicator which aims to measure changes in a basket of cost items commonly incurred by Local Governments. The components of the Index capture the key inputs that Local Governments purchase to undertake its activities and include both capital and operating costs.
41. Local Governments have keenly felt the impact of inflation in recent years with the LGCI increasing 6.4% in 2021-22 and up 4.4% in 2022-23. Like the CPI, the LGCI has peaked and started to slow, increasing by 0.8% in the December quarter, down from 1.3% in September. Over the year to December, LGCI increased 3.5%, down from 4.8% in December 2022.
42. Over the last year, the drivers LGCI growth have shifted from construction costs, which comprise around a quarter of the index, to wages costs, which make up around a third. The growth in construction costs was largely driven by challenges in the supply of materials due to the impact of the pandemic and the war in Ukraine on supply chains as well as the elevated levels of demand from the post-pandemic stimulus. As the market has moved closer to a balance between supply and demand, price rises have eased, with construction costs settling at the new, higher level.
43. The LGCI is forecast to end 2023-24 up 3.9% before returning to annual growth of 3% in the next three years, broadly in-line with inflation expectations.

Restrictions on fees and charges

44. Local Governments also impose fees and charges for a range of activities. However, a number of fees and charges are prescribed and restricted by legislation, and are specifically limited to recouping the cost of service provision. This has become an issue because a number of fees determined by State Government legislation represent significant revenue leakage because of:
 - a. lack of indexation;
 - b. lack of regular review (fees may remain at the same nominal levels for decades); and
 - c. lack of transparent methodology in setting the fees (fees do not appear to be set with regard to appropriate costs recovery levels).

45. Examples of fees and charges of this nature include dog registrations fees, town planning fees and building permits. Since Local Governments do not have direct control over the determination of fees set by legislation, this revenue leakage is recovered from rate revenue.

Financial assistance grants are declining as a share of tax revenue

46. Financial Assistance (FA) Grants are provided to all Local Government bodies and are an important component of operating revenue for all Councils.
47. Recent research, commissioned by the Australian Local Government Association, shows FA Grants make up more than 20% of annual operating expenditure for around one in four Australian councils, so it is a critical source of funding for many Local Governments which has come under pressure in recent years. Councils only collect 3.5% of national taxation and are heavily reliant on funding from other levels of government. FA Grants have declined from one per cent of Commonwealth taxation revenue in 1996 to just 0.52% today.

Local Government reserves

48. Many Local Governments also have significant assets in the form of reserves, that are generally held for a specific purpose.
49. While the *Local Government Act 1995* does not specify the purpose for which reserves can be used, sound financial management implies that reserves should be used for the purposes for which they have been set aside. Typically, reserves are used for capital projects rather than ongoing operating expenditure.

Additional considerations for 2024 State Wage Case

50. For this year's proceedings the Commission in Court Session:
 - a. Invites submissions on the Fair Work Commission's decision in its Annual Wage Review 2022-23, to alter the basis of the setting of the National Minimum Wage from an alignment with the C14 modern award rate to the C13 modern award rate, and any implications of this for the setting of the State Minimum Wage, having regard to the history and legislative setting of the State Minimum Wage in this State; and

- b. Requests UnionsWA to confer with the other section 50 parties if it intends to pursue its proposal, initially advanced during the 2023 State Wage Case, to alter Principle 7 – Work Value Changes of the Statement of Principles – July 2023, to align it with s 157(2A) of the *Fair Work Act 2009* (Cth).

Fair Work Commission’s decision – Annual Wage Review 2022-23 to alter the basis of setting the National Minimum Wage

51. We repeat our paragraphs 11 to 13 above.
52. The ME Award 2021 and its predecessors were minimum rate awards, and our understanding is that the classification levels in the ME Award 2021 described as:
- “level 1 (up to 38 hours)” has historical ties to the C14,
 - “Above 38 hours” has historical ties to the C13.
53. This understanding is illustrated by the below table:

Classification level	In ME Award 2021	Metal (General) Trades	Manufacturing and Associated Industries and Occupations Award 2020
level 1 (up to 38 hours)	78.5%	C14 78%	C14 78%
Above 38 hours	82.5%	C13 82%	C13 82%
Level 2	87.5%	C12 87.4%	C12 87.4%
Level 3	92.5%	C11 92.4%	C11 92.4%
Level 4	96%	Note: No 96% relativity	
Level 4A	100%	C10	C10
Level 5	102.5%	Note: C9 = 105%	Note: C9 105%
Level 6	110%	C8 110%	C8 110%

54. The Commission in Court Session ought to have regard to the Fair Work Commission Decision [\[2024\] FWCFB 213](#) published on 16 April 2024.

Alteration of Principle 7 – Work Value Changes of the Statement of Principles

55. The IR Act does not define the meaning of ‘section 50 parties’.
56. However, section 50 of the IR Act (which sets out the procedure for General Orders, nature and making) refers to the following parties:
- UnionsWA;

- b. the Chamber;
- c. the Mines and Metals Association; or
- d. the Minister.

57. Section 7, Terms used, of the IR Act provides:

- a. ***Chamber*** means the body known as the Chamber of Commerce and Industry of Western Australia (Inc); and
- b. ***Mines and Metals Association*** means the body known as the Australian Mines and Metals Association (Incorporated);

58. WALGA is not a s 50 party but would welcome the opportunity to provide further submissions if it would assist the Commission in Court Session with considering these issues.