



**SOUTH AUSTRALIAN
WINE INDUSTRY
ASSOCIATION**

**Fair Work Commission
Submission in reply –
Application to vary Vehicle Allowances in
Modern Awards AM2026/12**

SUBMISSION OF: SOUTH AUSTRALIAN WINE INDUSTRY
ASSOCIATION INCORPORATED

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ABOUT THE SOUTH AUSTRALIAN WINE INDUSTRY ASSOCIATION (SAWIA)

The South Australian Wine Industry Association (**SAWIA**) is an industry association representing the interests of wine grape growers and wine producers throughout the state of South Australia.

SAWIA is a not-for-profit incorporated association, funded by voluntary member subscriptions, grants and fee for service activities. Our mission is to provide leadership, advice and support to South Australian grape and wine businesses, assisting them to prosper within a dynamic, diverse industry.

SAWIA's membership represents approximately 96% of the winegrapes crushed in South Australia and about 40% of the vineyard area. The board of SAWIA is comprised of six members elected by the membership and seven members nominated by each of the main wine regions in South Australia (Adelaide Hills, Barossa, Clare, Coonawarra, Langhorne Creek, McLaren Vale and Riverland).

SAWIA has a strong track record as an industry leader and innovator in many areas and proactively represents members and the greater wine industry to government and related agencies on a wide variety of matters.

Value delivered to members covers four key areas:

- a) representation and leadership;
- b) providing expert advice, information and resources to members on employee relations, industrial relations, Work Health and Safety, liquor licensing, environment and other matters;
- c) driving programs and initiatives that improve grape and wine industry operations; and
- d) creating domestic direct-to-consumer opportunities and supporting the development of export markets.

SAWIA is a registered association of employers under the South Australian *Fair Work Act 1994* and is also a Recognised State-Registered Association under the *Fair Work (Registered Organisations) Act 2009*.

APPLICATION TO VARY VEHICLE ALLOWANCES

SAWIA makes this submission in reply to the application by the United Workers' Union (UWU) (AM2026/12) for the Fair Work Commission (FWC) to vary the *Wine Industry Award 2020*, by inserting a proposed *Schedule – Additional Vehicle Allowance adjustments during the 2026 Oil Shock Crisis*.

This submission is made pursuant to the Directions by President Hatcher issued on 20 April 2026.

THE SOUTH AUSTRALIAN WINE INDUSTRY

South Australia's wine industry remains a cornerstone of the state's economy, contributing significantly to regional employment, exports and tourism. The industry supports almost 9,000 direct jobs and over 80,000 indirect jobs, while wine tourism alone contributes over \$1 billion annually to the state economy and a significant portion of South Australia's \$10 billion visitor economy.

The industry is diverse in scale and structure, comprising approximately 1,250 licensed¹ wine producers (including about 600 processing facilities, 340 cellar doors²) as well as 3,182 registered vineyard owners³. Wine tourism continues to attract a substantial share of visitors to regional South Australia and is a major driver of regional visitation and expenditure.

¹ Government of South Australia, Consumer and Business Services SA.

² Winetitles, *The Australian and New Zealand Wine Industry Directory 2023*.

³ Wine Australia, *South Australian Winegrape Crush Survey 2025*.

South Australia accounts for a substantial share of national production, with approximately 74,591 hectares under vine. The 2025 crush totalled 687,564 tonnes, representing close to 50% of Australia's total crush, but sitting 13% below the 10-year average⁴.

The industry is heavily export-oriented. In the twelve months to the end of December 2025, South Australia exported \$1.69 billion worth of wine, representing approximately 73% of Australia's total wine export value⁵. However, this reflects a decline of 11.6% from the previous year⁶ alone and over \$300 million compared to December 2020⁷.

Export performance has weakened across several key markets. In the past 12 months, exports declined to China (-22 per cent), the United Kingdom (-10 per cent) and Hong Kong (-49 per cent)⁸. While the removal of Chinese trade restrictions in March 2024 led to a temporary increase in shipments, this largely reflected the restocking rather than a sustained recovery in demand⁹. Export values to China declined from \$712 million in 2024 to \$556 million in 2025 and the Chinese wine market remains significantly smaller than it was five years ago.

RECENT GLOBAL DEVELOPMENTS

Recent global developments have further intensified the already challenging operating environment for the Australian wine industry. The outbreak of conflict in the Middle East in late February 2026 has had an immediate impact on global energy markets and supply chains, with disruptions to shipping through the Strait of Hormuz significantly reducing capacity and driving increases in fuel prices.

While crude oil prices have risen, increases in refined fuels, including diesel, petrol, jet fuel and LPG, have been even more pronounced, reflecting supply constraints and heightened market volatility¹⁰.

This has translated quickly into higher input costs across the wine industry. The flow-on effects are being felt across the supply chain. Fuel surcharges for bulk wine haulage and palletised freight have increased significantly, with some surcharges rising by more than 20–25 per cent in a matter of weeks and continuing to adjust in line with volatility in fuel markets. Export shipping costs are also increasing rapidly, with reduced global freight capacity and rerouting of vessels contributing to longer transit times and higher costs. At the same time, some transport providers are seeking emergency payments to manage cash flow pressures arising from fuel cost increases.

These impacts are being felt in an environment where grape prices remain at historically low levels and margins are already under significant pressure.

Availability of fuel has also emerged as a practical constraint in some regions during vintage, with reports of supply limitations and partial fulfilment of fuel orders. This has required some growers and winemakers to adjust operations, including increased on-site fuel storage and reliance on existing supplier relationships. Beyond direct cost impacts, there are broader flow-on effects. There are also early indications of reduced visitation to cellar doors, with fuel prices and travel costs influencing consumer behaviour, particularly ahead of key tourism periods.

STATUTORY THRESHOLD

Under section 157(1)(a) of the Fair Work Act 2009 (the Act), the FWC may only make a determination varying a Modern Award if it is satisfied that doing so is necessary to achieve the Modern Awards Objective in section 134 of the Act.

It has previously been held that where variations to Modern Awards are considered, a distinction must be made between what is “necessary” and what is merely “desirable”. *“That what is necessary must be*

⁴ Wine Australia, *National Vintage Report 2025*.

⁵ Wine Australia 2026, South Australia Export Report, 12 months to 31 December 2025, February 2026

⁶ Wine Australia 2025, South Australia Export Report, 12 months to 31 December 2024, February 2025

⁷ Wine Australia 2015, South Australia Export Report, 12 months to 31 December 2020, February 2021

⁸ Wine Australia 2026, South Australia Export Report, 12 months to 31 December 2025, February 2026

⁹ Wine Australia 2026, Export Report, 12 months to 31 December 2025

¹⁰ International Energy Agency 2026, *Sheltering from Oil Shocks, Measures to reduce impacts on households and businesses*

*done. That which is desirable does not carry the same imperative for action*¹¹. This distinction has been adopted by the Full Bench of the FWC in a series of decisions involving variations to Modern Awards.¹²

The necessity threshold is therefore a meaningful one. It is not sufficient that a variation would be convenient, beneficial or consistent with the objective, FWC must be positively satisfied, on the evidence, that the variation to the Modern Award is required.

Section 138 of the Act operates as a general constraint on the content of Modern Awards. It provides that a Modern Award may include terms that it is permitted to include, and must include terms that it is required to include, only *“to the extent necessary to achieve the modern awards objective”*.

The Full Bench of the FWC in [2017] FWCFB 1001 held that determining whether a term is necessary to achieve the Modern Awards objective in a particular case involves a value judgement, *“taking into account the s.134 considerations to the extent that they are relevant having regard to the context, including the circumstances pertaining to the particular modern award, the terms of any proposed variation and the submissions and evidence”*¹³.

Accordingly, the application in respect of the Wine Industry Award 2020 must be assessed by reference to the circumstances pertaining to that Award specifically, having regard to the evidence and submissions directed to the wine industry and the employees covered by it.

APPLICATION TO THE WINE INDUSTRY

The Wine Industry Award 2020 covers employees in the wine industry as defined in Clause 4.2 as:

“the industry of growing and processing wine grapes and includes:

- (a) the preparation of land for the planting of wine grape vines, the planting of wine grape vines, the pruning of wine grape vines, the care, growing, treating, picking, harvesting and forwarding of wine grapes and other activities associated with a wine grape vineyard; and/or
- (b) processing wine grapes, producing wine juice or grape spirit, the bottling, packaging, storage or dispatch of wine, brandy or other potable spirit, liqueurs, vinegar or grape juice and other activities associated with a winery or wine distillery including but not limited to cellar door sales, laboratory activities and making or repairing barrels, vats, casks and like articles; and/or
- (c) packaging, storing and dispatching of wine or grape spirit from a warehouse facility or other place of storage associated with a winery or wine distillery.”

Taking the classification structure in Schedule A, into account, common roles in the wine industry covered by the Wine Industry Award 2020 includes:

- vineyard worker/vineyard hand (undertaking vineyard and viticulture tasks, e.g. irrigation, routine repairs, trellising, pruning and harvesting),
- cellar worker/cellar hand (undertaking winemaking tasks, e.g. grape intake, crushing and pressing of grapes, transfers, fermentation and additions),
- cellar door sales (undertaking cellar door sales tasks, e.g. cellar door bookings, processing online sales, welcoming customers, undertaking guided wine tastings, cellar door sales)
- bottling worker/bottling line operator (undertaking wine bottling tasks, e.g. bottling and labelling set up, operating bottling equipment, labelling equipment, packaging of special orders),

¹¹ *Shop, Distributive and Allied Employees Association v National Retail Association and Another (No 2)* [2012] FCA 480 at (46)

¹² Decision: *4 Yearly Review of Modern Awards: Preliminary Jurisdictional Issues* [2014] FWCFB 1788; Decision: *4 yearly review of modern awards – Penalty Rates*, [2017] FWCFB 1001 at [136]

¹³ Decision: *4 yearly review of modern awards – Penalty Rates*, [2017] FWCFB 1001 at [136]

- laboratory worker (test grape samples for sugar and acidity levels, monitor fermentation, prepares additions for winemakers, testing wine for quality and compliance, supporting food safety and certification systems),
- warehouse worker (forklift operations, movement of incoming dry goods and supplies, movement of packaged product).

The Wine Industry Award 2020 contains the following allowance:

19.3 Expense-related allowances

(b) Vehicle allowance

An employee who agrees with their employer to use their own motor vehicle on the employer's business, must be paid **\$0.98** per kilometre travelled.

Whilst the allowance is an entitlement and required to be paid in the circumstances set out in clause 19.3(b), in practical terms it is rare that employees covered by the Wine Industry Award 2020 would be required to travel for work purposes and in such event using their private vehicle. This is the consequence of the nature of the work in the industry, the roles covered by the Modern Award, the operational practices and the way transport and travel in the business is structured and facilitated.

Cellar workers are engaged in the winery undertaking winemaking work. Cellar door sales workers are engaged in the cellar door engaging with customers. Bottling workers are engaged in winery undertaking bottling work. Laboratory workers are engaged at the winery undertaking laboratory work. Warehouse workers are engaged at the winery undertaking warehousing work.

Vineyard workers are engaged in the vineyard which may either be in proximity to the winery or further away and the vineyard is their regular workplace. Wine businesses provide work vehicles to facilitate transportation between vineyards in separate locations and/or between vineyards and the winery.

In short, it would be rare for employees covered by Wine Industry Award 2020 to be required to travel in their employer's business, and even more so being required to use their private vehicle for such purposes.

As discussed above, the onus is on the applicant, in this case, United Workers' Union to make submissions and bring evidence to satisfy the statutory threshold that the variation is necessary to achieve the Modern Awards objective.

SAWIA notes that outline of submissions by UWU filed on 24 April 2026 does not either directly address the wine industry, the Wine Industry Award 2020 nor refers to any evidence in relation to the wine industry. It also adopts the submission by the Australian Council of Trade Unions (ACTU).

Three witness statements have been filed by UWU to support their application to vary 12 different Modern Awards, including the Wine Industry Award 2020. These are:

- Statement by Ms Revill in relation to workers in the contract cleaning industry and in support of the variation sought in relation to the Cleaning Services Award 2020;
- Statement by Mr Gibbons in relation to his work in the contract cleaning industry and in support of the variation sought in relation to the Cleaning Services Award 2020;
- Statement by Ms Coad in relation to her experiences representing workers in the social and community sector and in support of the variation sought in relation to the Social, Community, Home Care and Disability Industry Award 2020.

SAWIA submits that the three witness statements provide no evidence in support of the variation sought to the Wine Industry Award 2020.

The submission by ACTU discusses movements in fuel prices and refers to the statements by employees covered by the Health Professionals and Support Services Award 2020, Nurses Award 2020, enterprise agreements and Social, Community, Home Care and Disability Industry Award 2020. No submissions or statements are presented in relation to Wine Industry Award 2020.

In these circumstances, SAWIA submits that the FWC cannot be satisfied that a variation to the Wine Industry Award 2020 is necessary to achieve the Modern Awards Objective. SAWIA develops this submission by reference to the following matters.

- **Evidentiary gap and the statutory threshold:** As set out above, the onus rests on the UWU, to satisfy the FWC that a variation to the Wine Industry Award 2020 is necessary to achieve the Modern Awards Objective. That onus has not been discharged in respect of the Wine Industry Award 2020.

No evidence has been directed to that Award. No witness statements have been filed concerning employees engaged in the wine industry. No submissions have been made that address the circumstances pertaining to the Wine Industry Award 2020 specifically. The UWU's outline of submissions adopts the ACTU submission in its entirety and does not engage with the wine industry at all.

In the absence of any evidence or submissions directed to the Wine Industry Award 2020, the FWC cannot be positively satisfied that a variation to that Award is necessary under section 157(1)(a) of the Act.

- **Evidence directed to other industries does not establish necessity in relation to the wine industry:** The ACTU's case for variation rests on two foundations: general fuel price data drawn from AIP and ACCC reporting and witness evidence filed by affiliate unions concerning employees in the cleaning, nursing and disability support sectors.

On the basis of that evidence and pointing to the standardised nature of the vehicle allowance across Modern Awards, the ACTU submits that the variations should be made in relation to all 41 Modern Awards.

SAWIA submits that this approach is inconsistent with the framework established by the Full Bench in [2017] FWCFB 1001. As the Full Bench made clear, the necessity of a term must be assessed by reference to the circumstances pertaining to the particular Modern Award in question, taking into account the terms of any proposed variation and the submissions and evidence directed to it.

The ACTU's submission does not engage with that framework or attempt to distinguish it in the context of a standardised allowance. The standardisation of an allowance rate and adjustment mechanism across awards does not remove the requirement to assess necessity by reference to each award individually. What may be necessary in one context where employees routinely travel using their own vehicles, cannot be assumed to be necessary in the wine industry context without submissions and evidence directed to that Award specifically.

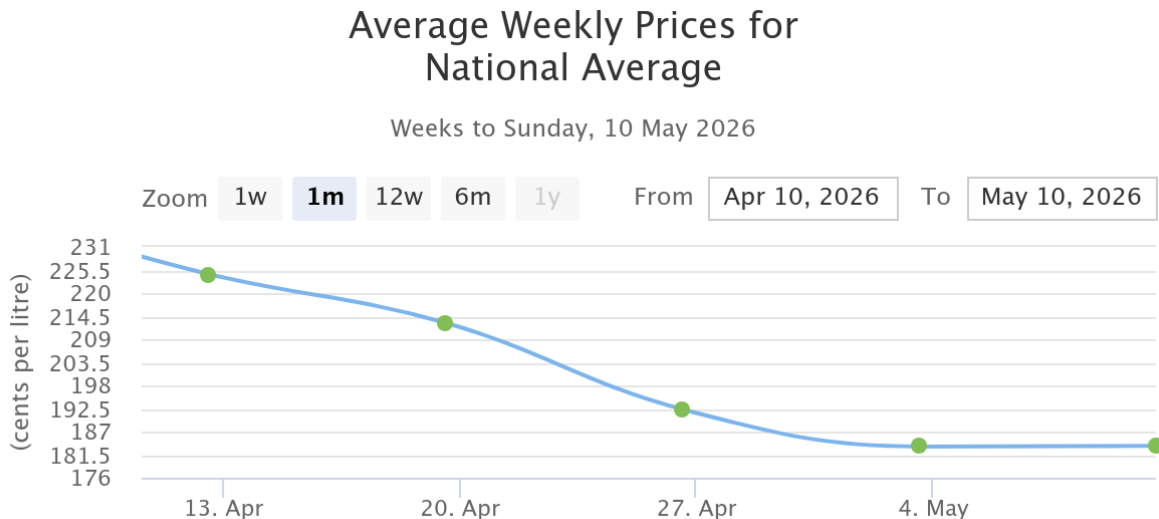
Neither the fuel price data nor the witness statements are sufficient to demonstrate the change is necessary. The fuel price data speaks to a general economic phenomenon; the witness statements speak to the experience of workers in other industries. Neither, individually or in combination, addresses whether employees covered by the Wine Industry Award 2020 are, in practice required to use their private vehicle in their employer's business.

The work performed under that Award is almost exclusively site-based. Employees are not ordinarily required to use their private vehicles on their employer's business. The actual engagement of this allowance is therefore very different from the circumstances of the industries referred to by the ACTU. In the absence of submissions and evidence directed to the circumstances of the Wine Industry Award 2020, the FWC cannot be satisfied, consistently with [2017] FWCFB 1001 at [136], that a variation to that Award is necessary.

- **The picture has changed considerably since the applications were filed:** SAWIA makes this observation without conceding that general fuel price evidence was ever capable of establishing necessity in relation to the Wine Industry Award 2020.

Even if the FWC were to proceed on the basis that such evidence is capable of being relevant, the factual context has shifted since the applications were filed. The applications were filed when fuel prices had spiked sharply following the outbreak of conflict in the Middle East in late February 2026.

Since then, AIP weekly reporting and the ACCC's fuel price monitoring data indicate that retail prices have come back from their peak. The point is a factual one; the sense of urgency that drove these applications does not describe the position as it stands today.



Source: Australian Institute of Petroleum (AIP) 2026, Pump prices, 10 May 2026

As demonstrated by the latest AIP data in the chart above, the national average retail petrol price has fallen from around 225 cents per litre in the week ending 13 April 2026 to around 183 cents per litre in the week ending 10 May 2026 a decline of more than 18 per cent in the space of four weeks. ACCC¹⁴ has found that retail petrol prices have fallen well in excess of the excise cut. SAWIA does not suggest that prices have returned to pre-crisis levels and the broader cost pressures on the wine industry identified above remain real. But the trajectory is clearly downward.

- **Proposed mechanism is disproportionate and cannot be considered necessary:** Even if some residual case for a variation to the Wine Industry Award 2020 could be made out, which SAWIA does not accept, the proposed mechanism goes well beyond what the necessity threshold could justify in the wine industry context.

The proposed temporary schedule would insert a regime of monthly upward-only adjustments to the vehicle allowance running through to May 2027. That mechanism is targeted, at best, to the experience of industries in which vehicle allowances are routinely and frequently used.

A schedule of monthly upward-only adjustments extending across more than twelve months, applied in a context where the allowance is seldom if ever triggered, cannot meet the standard of necessity. In this respect, even if the FWC were satisfied that some variation to other awards is necessary, it would not follow that the same variation is necessary in respect of the Wine Industry Award 2020.

¹⁴ ACCC 2026, Weekly fuel price monitoring report, Friday 8 May 2026

The onus of the applicant is to demonstrate the necessity of the variation for each Modern Award which the application relates to. In respect of the Wine Industry Award 2020, the proposed mechanism fails that assessment.

CONCLUSION

These proceedings raise questions about the interaction between extraordinary fuel price movements, the Modern Award vehicle allowance framework and the Annual Wage Review and its adjustments to expense-related allowances. These may be well be complex considerations.

What is clear, however, is that in relation to the Wine Industry Award 2020 specifically, those questions do not need to be resolved. The application has not been supported by any evidence or submissions directed to that Modern Award or the industry it covers. The onus rested on the UJU to satisfy the FWC that a variation was necessary to achieve the Modern Awards Objective. That onus has not been discharged.

Hence, SAWIA respectfully submits that the application to vary the Wine Industry Award 2020 should be dismissed.

End of submission.