

National Farmers' Federation Submission to the Safety Net Review Case 2003

26 February 2003
Prepared by Denita Harris, Industrial Advocate

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Introduction

1. National Farmers' Federation (NFF) sought leave to intervene in the Safety Net Review Case 2003 (SNR 2003) before the Full Bench of the Australian Industrial Relations Commission (AIRC) on Monday 16 December 2002. Leave was granted.
2. NFF opposes the applications of the SNR 2003 Case to increase the minimum wage safety net in Federal Awards.
3. NFF opposes any increase to the minimum wage safety net award in 2003.
4. NFF submits that the drought conditions in Australia have created a significant and broad detrimental impact to rural and regional businesses to the extent that the Commission should not grant any wage increase.
5. If the Commission does not accept NFF's submission and determines that a wage increase should be granted, NFF seeks the following:
 - i. That the detrimental impact of drought on rural businesses is given substantial weight in determining the quantum of such an increase; and
 - ii. An amendment to Principle 12 of the Statement of Principles – Economic Incapacity.

6. If required, an amendment to Principle 12 of the Statement of Principles is sought to streamline the process for applications filed by businesses that have been already identified as experiencing extreme adverse economic circumstances due to drought.
7. NFF's amendment would provide that all businesses located in Commonwealth drought declared areas that have been deemed eligible for government assistance are exempt from the payment of the 2003 increase for a period of 12 months.
8. The amendment to Principle 12 is sought in these proceedings as opposed to pursuing the exemption through individual agricultural awards to provide certainty, avoid duplication of claims and recognise that access to government assistance has been extended to non-farming businesses that have been adversely affected by the drought.

Farming in Australia

9. Farming is an important sector of the Australian economy.
10. There are approximately 150,000 farming businesses throughout Australia, around 98% of those businesses would be defined, pursuant to turnover figures, as small businesses (less than \$10 million in turnover) or around 92% are micro businesses (less than \$1 million in turnover)¹
11. Farming enterprises are predominately deemed to be small businesses. ABS statistics utilised to define an agricultural small business are calculated through a measure of the Estimated Value of Agricultural Operations. ABS determined that agricultural small businesses are those businesses as having an EVAO of between \$22,500 and \$400,000. In utilising that measure, ABS estimated that 86% of agricultural businesses are deemed to be small business.²
12. Prior to drought, agriculture makes up around 3% of Australia's GDP, having a value added of \$20.5bn in 2001-02³.

¹ According to ATO Figures

² ABS, *Small Business in Australia 2001*, Cat No 1321.0, p80

³ ABS, *National Income, Expenditure and Product*, table 47.

13. Agriculture provided around 20 per cent (\$30bn) of our goods and services exports in 2001-02 (estimated 17% or \$27bn in the current drought year)⁴.
14. Agriculture also represents a significant input into many other industries, particularly the food processing industry, which had a value added of \$14.7 bn in 2000-01 (2.2% of GDP).
15. Many rural communities depend upon agriculture for their prosperity. Agriculture contributes more than 30 per cent of employment in 66 per cent of small non-coastal towns⁵.
16. Farmers are vital custodians of the land, with agricultural activities covering 60% of the Australian landmass⁶.
17. ABS characterises the agricultural industry as such:

“The structure and characteristics of agricultural businesses can be quite different to those in other industries. Agricultural businesses tend to be dominated by owner operated family businesses, engage few regular employees; and show greater income volatility over time than businesses in other industries.”⁷

4. ABARE, *Australian Commodities*, table 5 and 27. Exports are greater than value added, because export value includes value added in non-agricultural industries.

5. Agriculture contributes more than half of total employment in 28 per cent of small non-coastal towns. ABARE (2001), *Country Australia*, p38

6. ABS, *Agriculture* (Cat no 7113.0), table 5.1

⁷ ABS, *Small Business in Australia*, Cat No 1321.0, 2001, p79

Employment and Award Coverage

18. Agriculture provided over 380,000 jobs in 2001-02.⁸
19. Federal awards, as opposed to State awards, cover the majority of farming businesses in all States with the exception of Queensland, although there are a substantial number of State agricultural awards.
20. A review of federal and state award lists provided nearly 45 agricultural awards in Australia with 15 of those federal awards that NFF believes cover a majority of farming enterprises.
21. The State and Territory Governments have acknowledged that national wage case outcomes extend beyond federal awards and generally have a direct and substantial significance in state wage cases⁹. Therefore, the impact of a wage increase is not only felt in federal but also state agricultural awards.
22. In a submission to the *Senate Employment, Workplace Relations & Education Committee*, dated 10 May 2002 NFF outlined the likely federal award coverage of farming businesses. It was stated in the submission that:

“Pursuant to advice received from our State affiliate bodies, the overall picture is that a majority of farming businesses fall

8. ABARE, *Australian Commodities*, table 10.
State & Territory Governments Joint Submission, ACTU Minimum Wages Case 2003, 5 February 2003, paragraph 7, p4

under the Federal jurisdiction as opposed to the State jurisdiction.

In averaging each of the State figures, without taking into account the number of businesses in each State, the average of agricultural businesses that fall under Federal Awards is 65 per cent. In recognising that Victoria is totally under the Federal jurisdiction, the figure when discounting Victoria is 60 per cent. The two States with the highest Federal coverage after Victoria were New South Wales (75%) and Tasmania (65%).”

23. There are a limited number of AWAs or certified agreements in place for farming businesses. The Office of Employment Advocate, AWA Statistics, shows that only 1% of AWAs represent the agriculture, forestry and fishing industry. Further, in comparing the three types of registered agreements available in the federal system, agriculture, forestry and fishing only represented 1.4% of total current agreements. When considering the number of agriculture, fishing and forestry agreements (discounting for a percentage that are not agriculture and that AWAs are individual agreements as opposed to collective agreements) it is likely that less than 2% of farming enterprises are covered by some form of federal agreements.¹⁰

¹⁰ Office of Employment Advocate, AWA Statistics, www.oea.gov.au, 19 February 2003

24. Most forms of employment in the agricultural industry are relatively low-skilled activities, which is indicative of a high incidence of award coverage.
25. The reason for these various conclusions by NFF is to provide evidence that the agriculture industry is heavily award dependent. NFF is unable to rely on ABS statistics, as they do not provide any statistics to show the extent of award coverage in the agricultural sector. In the ABS document, *Employee Earning and Hours* (May 2002) it is stated in the explanatory notes that the survey covered all employing organisations in Australia except enterprises primarily engaged in agriculture, forestry and fishing.¹¹
26. NFF submits that the conclusions reached by the ACTU in stating that award only employees are concentrated in three industry sectors (Accommodation, Cafes & Restaurants; Retail Trade; and Health and Community Services)¹² is incomplete and distorted because the exclusion of agriculture from the ABS survey means that the agriculture industry may in fact have a concentration of award only employees.
27. NFF submits that due to the indicators described above, the agriculture sector does indeed have a strong concentration of award only employees and the consequence of the ACTU claim should be considered in the light of this evidence.

¹¹ ABS, *Employee Earnings & Hours*, Cat No 6305, May 2002, p 25

¹² ACTU Minimum Wage Case 2003 Submission, 5 February 2003, paragraph 2.11, p 12

Drought

Climate

28. The current drought is, meteorologically speaking, one of the worst droughts on record. Between April and October 2002, 68% of Australia had a severe rainfall deficiency¹³. This was the most prevalent incidence of severe rainfall deficiency in recorded history¹⁴.

29. 2002 was the fourth driest year on record (mean rainfall for March to December was the lowest on record), and the fifth hottest (with the average maximum temperatures the highest on record)¹⁵.

30. The drought has become more severe over the 2002-03 summer period. For the period November 2002 to January 2003 rainfall was below to very much below average across most of the eastern states, with a large area of central to eastern Queensland experiencing record low falls for this period. Below average rainfalls were also prevalent in west and central Northern Territory and the far west of Western Australia.¹⁶
 Current maps of the areas experiencing rainfall deficiency are Attachments 1 and 2.

13. Bureau of Rural Sciences

14. From April to December 2002, 59% of Australia was experiencing severe rainfall deficiency, which is only just slightly better than the worst period on record, November 1901 to July 1902. Bureau of Meteorology (2003), *Drought Statement*, 7th January 2003

15. Bureau of Meteorology (2002), *Annual Australian Climate Summary 2002*
 Bureau of Meteorology (2003), Rainfall for previous 3 months, www.bom.gov.au, 19 February 2003

31. The current drought is significantly worse than the droughts of 1982 and 1994, in terms of both rainfall deficiency and the area affected.¹⁷

32. Although there are probabilities that there is a weakening of the El Nino pattern that creates drought conditions, resulting in potential rain during autumn, the Bureau of Meteorology states that

“It may take several months of sustained above average rainfalls in some areas to effectively end drought; the break will not occur uniformly across all drought affected areas and some El Nino indicators may continue to fluctuate in and out of neutral values after the change in the Australian rainfall patterns.”¹⁸

General Impact on Farm Business

33. ABARE is an independent government economic research agency focusing on Australian commodities including agriculture. ABARE has recently published two documents that highlight the economic issues relating to the agricultural industry and provide forecasts as to the implications of the current drought. NFF seeks to rely on those two documents, *Australian commodities: forecasts and issues, December quarter 2002*

¹⁷ Bureau of Rural Science, 2002

¹⁸ Bureau of Meteorology (2003), Three-month rainfall probabilities, www.bom.gov.au, 18 February 2003

(Relevant sections are at Attachment 3) and ABARE crop report, 18 February 2003 (Attachment 4).

34. NFF will also seek to rely on the *Australian commodities - March quarter 2003* that will be released on 4 March 2003. In accordance with the directions of the Full Bench on 19 December 2002, it is intended to include details and an analysis of this report within the NFF submission in reply to ACTU written reply that is due on 25 March 2004.
35. According to ABARE, around 62 per cent of broadacre farms were affected by drought conditions at the end of October 2002 being the highest proportion of farms surveyed reporting drought since the 1982 drought.¹⁹ Given the conditions experienced over the summer months, it is likely that this figure has risen.
36. Farm incomes are being adversely affected because of the drought according to ABARE.

“Drought conditions are severely affecting Australia’s agriculture sector. Dramatically lower crop plantings and yields are forecast to result in lower farm incomes in the cropping industries. In the livestock industries, lower prices for livestock as poor pasture conditions lead to higher turnoff rates are forecast to adversely affect farm incomes”²⁰

¹⁹ ABAREconomics, *Australian Commodities*, December quarter, p 566
²⁰ *Australian Commodities*, p 564

37. ABARE has forecast the net value of farm production will be \$2.15 billion in 2002/2003. This figure is a reduction from ABARE's September quarter forecast and nearly 80% below the strong performance of the industry in 2001/2002.²¹
38. Further, ABARE forecasts that the gross value of farm production is will fall by 21%.²²
39. Exports of farm products have fallen substantially due to the drought, the appreciation of the Australian dollar (by over 10% against the US dollar during 2002) and slower world growth. ABARE forecasts farm exports for 2002-03 will be 13% lower than exports for last financial year. The data so far supports this forecast, with the value of rural exports in the 6 months to December 2002 down 10% on the same period in 2001²³.
40. Farm exports are also being hampered by a weak world economy. The projected growth rate in the OECD for 2002 is 1.5%, well below the forecast of 3.5% for Australia. As a result of the drought and subdued world demand, the Australian trade performance deteriorated during 2002, with the current account deficit estimated to have risen from 2% of GDP in 2001 to 3% in 2002²⁴.

²¹ *Australian Commodities*, p 564. Reference *the Australian farm incomes table & the Major indicators of Australia's farm sector table* at Attachment 3, p565

²² *Australian Commodities*, p 564. Gross value of farm production is the value placed on recorded production at the wholesale prices realised in the market in each State & Territory.

23. ABS, *International Trade in Goods and Services (Cat No 5368.0)*, table 3.

24. OECD *Economic Outlook*

41. In terms of cash flow, the drought has dramatically impacted on farm cash income. ABARE has projected that broadacre farms will fall 60 per cent from the previous year while farm cash incomes in the dairy industry will fall by 80 per cent.²⁵

42. ABARE has stated that:

“Farm business profit – a measure of longer term farm profitability – is projected to fall by even more than farm cash income. Farm business profit incorporates changes in the value of trading stocks held on farms. Many farms will reduce livestock numbers together with stocks of grain, fodder and wool during 2002/2003, diminishing their capacity to generate cash flow in the period immediately following the cessation of the drought. Farm business profits on broadacre farms are projected to fall from around \$51,800 in 2001/2002 to a loss of around \$54,000 in 2002/2003. In real terms, broadacre farm business profits are forecast to decline to around the 1982-83 drought affected outcome. Dairy farm business profits in 2002/2003 are forecast to fall by a similar amount to the falls in the broadacre sector.”²⁶

43. Interestingly, farm costs are forecast to only fall slightly as a result of the drought. ABARE has stated that total farm costs are forecast to fall by 0.5% in 2002-03. In particular, while total labour costs are set to fall, unit labour costs will rise.²⁷

²⁵ Australian Commodities, p 566-567

²⁶ Australian Commodities, p 567, Note Financial performance, broadacre farms table on p567

²⁷ Australian Commodities, p 566 & 621

44. The Mid-Year Economic and Fiscal Outlook 2002-03 (MYEFO) as released by the Commonwealth Treasurer in November 2002 highlights the concerns of the Commonwealth Government regarding the various economic effects of drought on the farming sector and the Australian economy in general. The Report, for example, indicates that the Budget forecast for business investment had been lowered

*“Largely reflecting the weaker global outlook and the weaker outlook for agricultural investment, which is expected to fall sharply in 2002-03 as drought affected farmers defer investment plans following the surge in spending during 2001-02”.*²⁸

45. The Reserve Bank of Australia (RBA), *Statement on Monetary Policy* released in February 2003 also notes that the impact of the drought will have significant effects on the economic position of the farming industry. The RBA stated that *“incomes in the rural sector have deteriorated sharply”*²⁹ and that *“expectations for farm income and investment remain very subdued.”*³⁰

46. The RBA noted that

“ABS projections, ... imply that real farm output is likely to fall by 34% over the year to the June quarter 2003, a decline

²⁸ *Mid-year Economic & Fiscal Outlook 2002-03*, November 2002, p14

²⁹ RBA, *Statement on Monetary Policy*, February 2003, p2

³⁰ RBA, p 25

similar to that experienced in previous major drought episodes (Graph 30).³¹

47. The National Bank in its *Quarterly Agribusiness Survey*, December quarter 2002, found that agribusiness conditions remained weak with respondents to the survey expecting weaker conditions in the March 2003 quarter.³² Agribusiness is defined as post-farm gate production and processing.
48. Although there has been the experience of some rain in late February, the rainfall is insufficient to conclude that drought is over.
49. The February rainfall has reinforced the understanding that following a break of drought the biggest costs to farmers are actually incurred during the drought recovery phase. For example, the Federal Agriculture Minister, The Hon Warren Truss MP, was quoted on 22 February,

“In a sense the biggest costs associated in a drought are in the recovery phase when farmers are seeking to buy new stock to rebuild their flocks and their herds and for grain growers to buy seed that they need to produce the next crop.”³³

50. Overall, the agriculture industry has experienced one of the worst droughts on record. The true nature of the long-term

³¹ RBA. Graph 30 from the Policy is reproduced as Attachment 5

³² National Bank Survey is Attachment 6

³³ ABC News Online Website, “Despite the rain Government says drought isn’t over”, 22 February 2003

economic costs associated with drought are only just starting to be realised, with the cost implications of drought recovery exacerbating what is already a difficult period for Australian farmers. This is occurring at a time when international fuel prices continue to escalate and an increase in the Australian dollar

51. The drought affects each agricultural commodity in different ways. Below is an outline of each of the major commodity groups and the particular problems those groups are facing and will continue to face in the next 12 months.

Crops

52. ABARE noted in December that while crop prices were up, production forecasts were dramatically down. The value of wheat production was set to fall by 50 per cent, cotton by 62% and rice by 72%. The area of cotton sown was forecast to fall by 44%, and rice by 70%³⁴.
53. While the price of most crops have increased substantially with the drought, this has not been enough to offset the fall in production, so that the value of crop production was set to fall 30% to this financial year (2002-03).³⁵

34. *Australian Commodities*, p 568

35. *Australian Commodities*, p 568

54. With the release of ABARE's *Australian Crop Report* in February 2003, the forecasts have been revised downwards. The Executive Director of ABARE, Dr Brian Fisher, stated that:

*“There is little doubt that 2002-03 is turning out to be one of the worst years on record for Australian grain producers’. After a low winter grain harvest, there is little relief in sight for summer crop producers.”*³⁶

55. The *Crop Report* indicates that winter grain production is estimated at 15.4 million tonnes, which is down by 61% from last season and the lowest harvest since 1982/1983. New South Wales and Victoria producers have been the hardest hit.³⁷
56. Wheat production is now forecast to have fallen by 62%, Barley by 61%, canola by 65%, lupin by 56% and cotton by 62%.³⁸
57. Summer crop production has been limited due to the shortage of irrigation water with a major reduction in the area sown for cotton and rice.³⁹
58. ABARE forecast that a large fall in cotton production will adversely affect exports for both the current financial year and 2003/2004 as a large proportion of cotton is exported in the following financial year from when it is actually harvested.⁴⁰

³⁶ ABARE, Press Release, *Drought hits summer crops*, 18 February 2003

³⁷ ABARE, *Australian Crop Report*, February 2003, p 1

³⁸ *Crop Report*, p1

³⁹ *Crop Report*, p 1

⁴⁰ *Australian Commodities*, p 572

Livestock

59. Due to drought conditions, saleyard prices for meat were forecast to fall as the turnoff of stock increases. If drought breaks in autumn, ABARE has forecast that there is likely to be a substantial increase in saleyard and retail prices of meat as farmers hold back stock in order to rebuild numbers.⁴¹
60. Cattle slaughtering had risen in trend terms for the 11th consecutive month in December to 705,000. ABARE forecasts that by June 2003, the Australian sheep flock will fall to 91 million, reportedly the lowest level since 1920.⁴²
61. Profit returns for cattle at feedlots will significantly reduce due to the limited feed supplies relative to overall demand and consequent high prices.⁴³
62. Although lamb prices are relatively high due to lack of stock, the rate of production will reduce by 6% in 2002/2003. Further, drought conditions have impacted on the slaughter rates for lambs, which creates a reduction in the return to the farmer.⁴⁴
63. Meat and Livestock Australia recently published *Australian Cattle and Sheep Industry Projections 2003*, and noted that while 2002 was harsh it wasn't until the adverse summer conditions were felt, that farmers were forced to turnoff drought

⁴¹ *Australian Commodities*, p 576

⁴² *Australian Commodities*, p 575

⁴³ *Australian Commodities*, p 577

⁴⁴ *Australian Commodities*, p 579

affected stock and a large number of stock died. MLA noted in the introduction:

“The worst financial impacts are likely to be felt in coming years, at least for those whose herds have been depleted.”⁴⁵

64. MLA stated that in the short term

“Beef and cattle industry prospects for 2003 are critically dependant on the breaking of the drought, recovery in Japanese demand, lower US beef production and the maintenance of a low Australian Dollar.”⁴⁶

65. MLA concluded

“Beef farm incomes are likely to have been damaged significantly in 2002/2003 by the fall in cattle prices and increased expenditures associated with the drought (principally on transport, agistment, feed and water). Despite the reduced cattle turnoff in the next few years, due to the drought, incomes are likely to return to favourable levels.”⁴⁷

66. In regard to lamb, while MLA acknowledges the high prices currently for prime lamb,

“Producer incomes will again be harmed by lower productivity and lambs marked in 2003, due to the drought.”⁴⁸

⁴⁵ MLA, *Australian Cattle & Sheep Industry Projections 2003*, January 2003, p 1

⁴⁶ MLA, p 2

⁴⁷ MLA, p 2

⁴⁸ MLA, p 4

67. Wool prices are relatively high but this is due to shorn wool production falling to a 50 year low in 2002/2003. It is likely that the high wool prices will result in processors moving away from wool. This, combined with a reduced worldwide demand for textiles, should see an easing of wool prices. The sheep flock is forecast to reduce further if the drought persists to autumn to around 91 million by June 2003.⁴⁹
68. The President of Wool Producers⁵⁰, Mr Simon Campbell, has stated that the drought *“consequences for wool growers will last long after the drought breaking rains arrive.”*⁵¹
69. Mr Campbell believes that for wool producers *“it is estimated that drought recovery will take place between the next 3 to 10 years.”*⁵²
70. ABARE have forecast that milk production will fall by approximately 8% in 2002/2003 and further, average milk yields will fall by around 5% due to higher feed grain prices, lower farm gates prices for milk and poor pasture conditions. The gross value of milk production is forecast to fall by approximately 21% in 2002/2003.⁵³

⁴⁹ *Australian Commodities*, p 575-576

⁵⁰ Wool Producers is the peak commodity council representing Australian wool producers and is a member organisation of NFF

⁵¹ Paragraph 2.1, Witness Statement of Simon Campbell. The witness statement is attached at the rear of the Attachment section of this submission.

⁵² paragraph 5.1 of Witness statement. The witness statement provides extensive detail as to the nature of costs arising from drought conditions for wool producers.

⁵³ *Australian Commodities*, p 580

71. The long-term impact on the livestock sector resulting from the drought has been expressed as the “*green drought*” where feed is available but stock is scarce and expensive to the extent that only a few farmers can afford to restock and restore their income. Cattle Council of Australia, Executive Director, Mr Brett de Hayr has stated:

“Many breeders who have liquidated large numbers of their stock would not have adequate cash reserves to buy back stock at inflated post-drought prices.”⁵⁴

72. Problems associated with a green drought for livestock producers were also recognised by NSW drought relief coordinator, Mr Geoff File, after the rainfall experienced on 20/21 February,

“They’re not going to have a cash flow for 18 months these guys, and ... won’t see a cash flow for two years by the time they’ve bought cows back in, got them in calf, got a calf on the ground and sell it nine months later. So we’re really going to see a huge cash flow drought for the next 12 months for all the livestock people.”⁵⁵

Employment

73. Agriculture is a significant employer and is particularly important to rural and regional employment.

⁵⁴ Quoted in Australian Financial Review article, *Brace for a green drought*, 10/1/03, p13

⁵⁵ ABC News Online Website, “*Long haul for graziers as rain breaks*”, 22 February 2003

74. There has already been a large impact of the drought on the labour force, with the number of people employed in agriculture, fisheries and forestry falling by 79,000 jobs between November 2001 and November 2002⁵⁶ equating to 18% reduction.

75. The Commonwealth Government's MYEFO acknowledged the reduction in employment in the farming industry due to drought:

“There are some risks to the employment outlook, ... with rural employment already weak because of the drought.”⁵⁷

76. The RBA noted in the February Statement on Monetary Policy that employment in the farming sector had fallen by around 18% over the year to the December quarter and that

“Falling farm employment has been evident in most states, but has been most acute in northern and western NSW, where the drought is especially severe.”⁵⁸

77. Indicative of the flow on affects to sectors reliant on agricultural production, was the report on 18 February 2003 that SunRice, a rice exporter, is dismissing 200 workers due to the closure of 3 rice mills (one permanently) in Victoria and New South Wales. The closure was directly attributable to the drought. It was noted by the Ricegrowers Association of Australia that the usual rice production from the Murray River valley was usually

56. ABS, *Labour Force (Cat No 6203)*, table 38.

57. MYEFO, p 6

58. RBA, p28

600,000 tonnes but the summer crop for 2003 is expected to be only 50,000 tonnes.⁵⁹

78. The impact of the drought on employment should be considered in the context that rural and regional Australia has a higher unemployment rate than in the metropolitan areas. Of the ten regions with the lowest unemployment rates, nine are outside capital cities. Nine of the ten regions with the lowest unemployment rates are in metropolitan areas⁶⁰

Impact of Drought on the Australian Economy

79. The drought has significantly slowed economic growth. Treasury estimates that the drought will cut 0.75% off GDP growth rates for 2002-03, with the Reserve Bank (RBA) noting that the effect could be up to 1.0%⁶¹. Westpac forecasts a decline of 0.8%, while National Australia Bank forecasts 1%⁶². The Centre for Policy Studies at Monash University has modelled a GDP reduction of 1.6% in 2002-03, with gross regional product in some regions falling by over 10%⁶³.
80. MYEFO concluded:

⁵⁹ "Drought axe falls on SunRice Staff", article at www.news.com.au, 18 February 2003

⁶⁰ Department of Employment and Workplace Relations, *Australian Regional Labour Markets, December Quarter 2002*

⁶¹ RBA, p31.

⁶² Australian Financial Review, *Counting the cost of the drought*, 17 February 2003, p 69

⁶³ Monash University Centre for Policy Studies (2002), *Drought, Regions and the Australian Economy between 2001-02 and 2004-05*.

“The drought is expected to subtract around ¾ of a percentage point from GDP growth in 2002-2003, but a larger subtraction is possible if the dry conditions are worse than now assumed or if the indirect effects on other parts of the economy are larger than expected. It is also possible that the dry conditions could persist into 2003-04, possibly reducing forecast growth in that year.”⁶⁴

Commonwealth Government Response to Drought

81. The Commonwealth Government provides assistance to farmers under specific instances where a drought is declared as an exceptional drought known as an Exceptional Circumstances Drought Declared Area (EC). The process to determine eligibility is very strict to the extent that an EC declaration can only be triggered if the impact of the drought is so severe and prolonged that it occurs only once in every 20-25 years.⁶⁵

82. Due to the particular severity of the current drought, the Commonwealth Government has introduced additional drought declared areas (known as interim assistance areas) that is indicative of the extensive and severe nature of the extent of the drought in Australia. The new measures are also linked to strict eligibility tests.⁶⁶

⁶⁴ MYEFO, p 7

⁶⁵ Refer to Attachment 7, Exceptional Circumstance Frequently Asked Questions, www.affa.gov.au, 15 January 2003

⁶⁶ Refer to Attachment 7

83. NFF seeks to rely on the Commonwealth response to the drought crisis to justify two claims. First, that the extent of the Government's response exemplifies the critical problems being experienced by farmers, and second that the assistance criteria established by the Commonwealth can be utilised to define the parameters of the NFF application to seek an amendment to Principle 12.

84. NFF does not necessarily agree with the strict parameters upon which EC assistance is provided however, we support the criteria as a mechanism that can activate a streamlined process of Principle 12 for drought affected farmers.

85. The Government has established 3 levels of criteria upon which an area can be deemed to be drought declared. Once an area meets the criteria, a business located in that declared area is eligible for certain types of Government assistance so long as they themselves meet certain eligibility criteria.

86. A geographical area can be drought declared as an EC area, a prima facie EC area or an Interim Assistance area. Maps of current declared areas are attached. Attachment 8 represents EC boundaries including prima facie EC areas as of 20 February 2003 and Attachment 9 represents the Interim Assistance Boundaries. There is an overlap between EC and Interim Assistance. An EC declared area overrides an Interim Assistance area as there is greater assistance granted to businesses located in an EC declared area.

87. *“An EC declaration triggers short-term support for producers in situations beyond the scope of normal risk management and when the future of significant numbers of farmers in a region is at risk.”⁶⁷*
88. EC applications are required to be lodged by a State Government in consultation with the communities affected by drought. The EC application must demonstrate through evidence that the drought in the area is rare (a one in 20-25 year event) and severe; has resulted in a severe downturn in farm income over a prolonged period (more than 12 months) for a significant number of farmers in a region or industry; and was not predictable or part of a process of structural adjustment.⁶⁸
89. An example of the evidence required to substantiate an EC application is Attachment 10. Attachment 10 is an Application for Exceptional Circumstances Assistance to be provided by a farmer to the NSW Government to assist in the development of an EC application by the State Government. Three years of financial records, records of assets and liabilities and current financial position are required for the application.
90. Once an EC application is filed with the Commonwealth Government a preliminary assessment is undertaken of the application for the relevant Department (AFFA) who will determine if a prima facie case exists. If a prima facie case does exist then the National Rural Advisory Council (NRAC), an

⁶⁷ Refer to Attachment 7
⁶⁸ Refer to Attachment 7

independent panel of farmers, agribusiness and industry, considers the application and determines whether a full case has been made against the EC criteria. A recommendation is then made to the Minister who has final responsibility in declaring whether EC is to be granted, although Cabinet approval is required prior to the granting of an EC declaration.⁶⁹

91. Once EC has been declared then farmers are eligible to apply for the EC Relief Payment (ECRP) with assistance available for 24 months. ECRP is equivalent to the NewStart Allowance and is delivered by Centrelink. Eligible farmers are also entitled to apply for interest rate subsidies on new or existing loans under EC business support measures. EC interest rate subsidies are 50% for 2 years with assistance capped at \$100,000 per year or \$300,000 over five years.⁷⁰

92. Both ECRP and the EC interest rate subsidy are subject to income and/or assets tests. ECRP is subject to both an income and assets test while the EC interest rate subsidy is only based on an assets test based on non-farm assets. Details of the tests and specific questions asked of the applicants are contained in Attachment 11 – Newstart Payment Rates.

93. It should be noted that the assessment criteria for both assistance packages is very strict and limits the number of farmers able to access assistance. For example, if a farmer wishes to access ECRP at the full allowance then their income

⁶⁹ Refer to Attachment 7
⁷⁰ Refer to Attachment 7

would have to be less than \$62 per fortnight. Part allowances would be paid only if income does not exceed \$620.43 per fortnight. In addition, the farmer would also be subject to the assets test of non-essential farm assets. If those assets exceeded \$145,250 then ECRP would not be accessible regardless of the extent to which the farmer was receiving an income.

94. The Commonwealth Government has since extended the assistance measures (with some limitations) to those farmers who are in prima facie EC declared areas and those who are located in parts of Australia that have not been EC declared or prima facie EC declared but are suffering a 1 in 20 year rainfall deficiency over the nine months March 2002 and November 2002 (Interim Assistance Areas). Farmers in these circumstances can access Interim Income Support and Interest Rate Relief.⁷¹
95. Interim Income Support is effectively the same as ECRP, however, is limited to 6 months. The eligibility criterion is the same as ECRP. Interest Rate Relief is only for new and additional borrowings to help with stock support and drought recovery essentials. The relief is equivalent to 5 percentage points or 50% of the prevailing interest rate, whichever is the lower, on new or additional commercial loans of up to \$100,000 for up to 2 years. As with EC interest rate relief, the prima facie or interim interest rate relief criteria is based on an assets test.

⁷¹ Attachments 12 – 15 provide further detail particularly on eligibility and evidence required to access assistance

96. Non-farming small businesses that are affected by the drought can also access assistance from the Commonwealth Government. Any small business located in an EC declared area could access interest rate relief to help service new and existing commercial borrowings. The assistance is only available to those small businesses that are, but for the drought conditions, sustainable.⁷²
97. The criteria for determining accessibility to interest rate relief for small business is that they have a minimum annual turnover or \$50,000, demonstrate a close connected to an EC-declared area, employ fewer than 20 employees, business turnover/cash receipts has fallen by 50% in the past 6 months and fall within the assets test criteria.
98. According to the latest figures from the Commonwealth Government there are now approximately 5,000 farming businesses receiving either the 6-month interim assistance or the 2-year EC drought relief. This represents approximately 5% of farming businesses in Australia. Details of the assistance are outlined in the attached media release of the Hon Warren Truss MP, Minister for Agriculture, Fisheries and Forestry (Attachment 18).

⁷² For further details refer to Attachments 16 & 17

Requirements of Workplace Relations Act

99. The Workplace Relations Act 1996 (WRA) provides a principal object of the Act for the promotion of economic prosperity and welfare of Australian people (s 3) through a variety of means including the maintenance of an effective award safety net of fair minimum wages (s 3(d)(ii)).
100. Specifically, the WRA outlines the requirements of the Commission in determining minimum wages including fair minimum standards for employees, economic factors and needs of the low paid (s 88B(2)).
101. The Commission is also required to consider these requirements in the context of a public interest test pursuant to s 90 of the WRA.
102. In the context of the *SNR 2003 Case*, NFF believes it is imperative that the Commission, in determining the application to increase the level of the safety net of minimum wages, must consider the implications of the drought on the farming industry and in broader terms its impact on farming families, employees, rural business and the economy as a whole. The drought has had a profound affect resulting in savage reductions in farm and other business incomes, loss of employment and financial and emotional stress on all rural families whether an employer or employee.

103. The question for the Commission in analysing the requirements to provide a safety net of minimum wages is what impact an increase in wages may have on the rebuilding of rural businesses and in particular the return of jobs lost? This is important in the context of the costs that will be associated in the recovery phase after the drought has broken.

104. NFF submits that in taking into consideration all of the evidence of the extent to which the drought has impacted on rural and regional Australia and, more importantly, its continuing impact, there is significant proof that a wage increase at this time of economic hardship cannot be justified and certainly not to the extent sought by the ACTU. Any wage increase is likely to impact detrimentally on the capacity of farmers to employ labour and, therefore, put added stress on the difficult employment situation in rural and regional Australia.

ACTU Claim

105. NFF opposes the application to increase wages by \$24.60 per week.
106. NFF disputes the conclusion reached by the ACTU that the increase is “*within the bounds of overall economic responsibility and moderation*”.⁷³
107. In consideration of the current difficulties being experienced by farming businesses it is astounding that the ACTU can claim that such an increase is responsible and moderate. NFF submits that this lack of recognition of reality is reflective of the ACTU submission in its entirety, that is, the ACTU has paid scant regard to the impact of drought not only on farming businesses but on rural and regional businesses in general and the negative consequences on rural employment.
108. The direct and indirect impact of the drought cannot be ignored in consideration of the ACTU claim, in fact, it should be considered a significant factor due to the impact that a wage increase may have to the viability and economic prospects of over 200,000 farming businesses, their families, their employees and those businesses reliant on agricultural productivity in rural and regional Australia where unemployment is generally higher than in the metropolitan areas.

⁷³ ACTU submission, paragraph 1.1, p 1

109. It is interesting to note that the comments by the ACTU in regards to the problems for the low paid. *“Life for the low paid is a struggle. It means juggling to make ends meet, it means going into debt and it means significant levels of financial stress.”*⁷⁴ In many respects the same comments can be associated with those farmers who are experiencing the extreme adverse affects of the drought.
110. NFF refutes the statement of the ACTU that there are *“better economic conditions in prospect for the period in which this year’s safety net increase will take effect”* when considering the agriculture industry. The 2001-02 financial year was relatively strong for the industry, however, economic conditions for the 2002-03 financial year and potentially the following financial year (particularly for livestock producers) have been forecast to be in substantive decline with a 46% fall in net cash income and a 80% fall in net value of farm production.⁷⁵
111. It is recognised that the State and Territory Governments, unlike the ACTU, at least acknowledge to some extent the negative impact of the drought:

“The major development in the domestic economy since the start of the financial year has been the emergence and intensification of the drought.”⁷⁶

⁷⁴ ACTU, paragraph 1.5, p1

⁷⁵ ACTU, paragraph 1.4, p 1

⁷⁶ State & Territory Governments Joint Submission, 5 February 2003, paragraph 63, p 17

112. The conclusion reached by ACTU that *“Australian economic prospects thus provide no impediment to granting the ACTU claim”*⁷⁷ again is a refusal by the ACTU to recognise the significance of the drought particularly when the agriculture employees are predominately award employees (a fact not acknowledged by the ACTU as per NFF paragraph 25).
113. The potential for a negative effect on employment arising from the impact of wage increases on award reliant business was acknowledged by the Full Bench in the 2002 SNR decision:

*“We accept that the increase we have decided upon may have some negative effects on employment in those sectors of the economy in which a high proportion of the workers are award reliant.”*⁷⁸

NFF submits that a wage increase, particularly of the magnitude sought by the ACTU, would have a considerable negative effect on employment in the agriculture industry. NFF reiterates that 79,000 jobs have already been lost in the agriculture industry. This is likely to increase with the release of the ABS March quarter statistics in an environment in which there is already a higher level of unemployment in regional Australia.

114. NFF fundamentally opposes the conclusion by the ACTU that the \$18.00 per week increase set by the Commission in the Safety Net Review Case 2002 is a *“new floor”*.

⁷⁷ ACTU, paragraph 1.26, p 6

⁷⁸ SNR 2002 Decision, PR002002, paragraph 161, p 58

115. There is no prescription contained within the WRA that specifies that “floors” can be created in the determination of the safety net for minimum wages.
116. It is the submission of NFF that the Commission has to be satisfied that the evidence provided by the ACTU in each individual safety net review case substantiates any increase to the safety net.
117. If there is to be any usage of the term “floor” then it should be there to identify that the “floor” is a \$0 increase with a requirement that there is evidence from the ACTU to justify any movement from that level.
118. NFF submits that the ACTU has no basis to conclude that just because the general economic conditions may be favourable as with the previous decision (NFF does not agree with this proposition) there is an automatic acceptance that \$18 is a floor and that there should be a further increase beyond that level. There are different economic factors in consideration this year, particularly for the agriculture sector, which create a different dynamic for consideration by the Commission.
119. The State and Territory Governments even acknowledge that
- “(They) are not suggesting economic factors that existed during the 2002 Living Wage Case and that of the current*

*proceedings are the same. Today these are different pressures such as the effect of the drought”.*⁷⁹

NFF however, does not agree with the joint Government submission that an \$18 a week increase is still justifiable.

⁷⁹ Submission of the State & Territory Governments, paragraph 278, p 70

Principle 12 – Economic Incapacity

Current Provision

120. The provisions contained within Principle 12 of the Statement of Principles provide for tests and procedures to satisfy the AIRC that the employer is experiencing such economic adverse circumstances that there is an inability to pay an increase in labour costs particularly given that an increase would otherwise have a negative impact on employment.
121. Applicants under Principle 12 need to satisfy the AIRC that there is serious or extreme economic adversity through the provision of material to be “*rigorously tested*” and that the party making the application must make and justify an application pursuant to s107 of the Workplace Relations Act.
122. There have been a number of decisions by the AIRC regarding the operation of Principle 12 and the parameters upon which it can be applied. In the *Safety Net Review Decision of 2002 (PR 002002)* the Full Bench summarised previous decisions of the AIRC including the *1998 and 1999 Safety Net Review Decisions*.
123. The Full Bench in the *1998 Safety Net Review Decision* concluded that:

“the Commission has long expressed the view that incapacity arguments should be limited to individual respondents and/or groups of respondents where all members of the group can claim very serious or extreme economic adversity. The diversity of economic positions in sectors covered by an award may make it inappropriate to exempt all sectors from an increase in labour costs (see Food Preservers’ Award 1973 (1982) 285 CAR 10; Pastoral Industry (Wages and Allowances) Award, Print G5732; Pastoral Industry Case, Print J1761).”⁸⁰

124. In the 1999 Safety Net Review Decision the Full Bench stated that:

“We also consider that given the economic conditions which exist within and between industries, it is not appropriate that we introduce a principle which would allow the exemption of industries and sectors from an increase in labour costs without an examination of the individual enterprises.”⁸¹

125. In the 2002 Safety Net Review Decision the Full Bench stated that:

“We do not propose to alter the reference in the principle to “Any respondent or group of respondents to

⁸⁰ April 1998 Decision at pp 60-61 as quoted at pp 212 of May 2002 Decision

⁸¹ April 1999 Decision as quoted at pp 133 of the May 2002 Decision

*an award". We are not persuaded that relief should be available to a group of employers or to employers within a sectoral, industry or regional level". As it is clear from the passages from earlier Safety Net Review decisions we have set out, the arguments relied upon have been considered and rejected by the Commission. Nothing has been submitted which leads us to take a different course on this occasion. The individual circumstances of employers will need to justify the relief sought by them.*⁸²

126. NFF acknowledges the previous decisions of the AIRC regarding applications for economic incapacity in respect to sector or industry wide applications.
127. NFF submits that consistent with those decisions, an avenue could be established to provide for a streamlined process to enable ease of access to the implementation of Principle 12 for individual businesses that are located in specific drought areas and are experiencing recognised hardship. A mechanism, to meet the requirement in Principle 12 that material must be rigorously tested to satisfy economic incapacity test, already exists for drought-affected farmers. This mechanism could be relied upon by the Commission to streamline the process and reduce the burden upon the employer in applying for a claim pursuant to Principle 12.

⁸²

May 2002 Decision at pp222

NFF Proposal

128. If the Commission grants a wage increase in the SNR 2003 Case, NFF seeks an exemption (2003 drought exemption) to be included into Principle 12 to provide a basis upon which there is an automatic approval system for individual enterprises located in specifically identifiable drought regions to be granted a 12-month delay from the payment of any wage increase flowing from the SNR case 2003 without the necessity of providing any evidence other than evidence to establish that Commonwealth Government assistance has been provided in accordance with the Commonwealth criteria relating to declared drought areas.
129. The process is envisaged as follows:
- a. An automatic exemption is included under Principle 12 to provide for a delay of 12 months in the increase of wages as per the SNR 2003 decision.
 - b. A business wishing to utilise the exemption must satisfy the criteria, that is, that they are a business located within a Commonwealth drought declared area and further, that the business has been deemed to be eligible for government assistance as assessed by Centrelink (refer to details in the section relating to Commonwealth Government Response to Drought).

- c. Material providing evidence that the criteria have been met (relevant Commonwealth documentation) would be required to be filed with the application.
 - d. Upon receipt of the application it would be deemed that the application satisfies s107 and that the Commonwealth documentation is sufficient evidence to satisfy the test of Principle 12. This would then provide an automatic approval of the application without hearing unless another party opposes the application, or the material supplied to the AIRC was insufficient to establish eligibility.
 - e. If opposed, the onus of proof would rest with the opposing party to substantiate why the employer should not be eligible for the automatic exemption under Principle 12.
130. NFF proposes the following wording to be added to the end of the current Principle 12:

2003 Drought Exemption

“A business, that is located in a Commonwealth declared drought area (for the purposes of drought relief) and has been granted Commonwealth Government assistance due to adverse economic circumstances, the business will be automatically accepted by the Commission as satisfying the requirements of this Principle. Upon application, that should include documentation proving that the Commonwealth Government Assistance has been granted, the Commission

will grant an application to postpone the introduction of the wage increase arising from the SNR 2003 decision for 12 months, without hearing. A hearing will be required if the material filed does not meet the criteria and/or the application is opposed by another party. The onus will rest with the opposing party to establish reasons why the application should not be granted.”

Conclusion

131. The agriculture industry is suffering from one of the worst droughts on record that is continuing to have an adverse impact on incomes, productivity and employment throughout most of rural Australia.
132. The drought has not only impacted on farming businesses but on rural and regional business reliant on a buoyant agriculture sector.
133. Some farmers have been more adversely affected than others. This is dependent upon geographical location, commodity produced and income returns from the previous year prior to drought.
134. While the drought may break during autumn 2003, the negative cost impact on farming business will be particularly felt in the long-term particularly for livestock producers.
135. It is imperative that the economic prosperity and the revival of farming businesses are not hampered by additional increases to costs such as award wage increases. It is a time for moderation, to ensure success rebuilding during the drought recovery period particularly to try and reinstate the 79,000 jobs that have been lost in the agriculture sector alone. This is particularly pertinent given the high award reliance of farming businesses.

136. NFF submits that given these circumstances, there is no justification to increase the safety net of minimum wages and conditions in the *SNR 2003 Case*.

137. If the Commission believes that some increase to minimum wages should be granted, NFF submits that it is imperative that the negative impact of the drought and the drought recovery process be given substantial weight in determining the level of the increase.

138. Further, if the Commission does grant an increase, NFF seeks an amendment to Principle 12 to provide ease of access to a delay of the introduction of the wage increase for those farmers that are experiencing extreme economic difficulties.