

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 1999 - s. 287 - application for a declaration of general ruling
- s. 288 - application for statement of policy

Queensland Council of Unions AND the Crown and Others (B/2005/1197)

VICE PRESIDENT LINNANE
DEPUTY PRESIDENT BLOOMFIELD
COMMISSIONER ASBURY

27 July 2006

STATE WAGE CASE 2006

DECISION

TABLE OF CONTENTS

1. The Claim [1]
2. Outline of Response to the Claim [7]
3. Commonwealth Minister's Application to Delay Decision [21]
4. National Economy [54]
5. The Queensland Economy [94]
6. Wage Environment [152]
7. Social Factors [176]
8. Legislation [190]
9. Merits of the Claim [198]
10. Conclusion [258]

1. THE CLAIM

- [1] On 10 November 2005 the Queensland Council of Unions (QCU) filed an application (B/2005/1197) seeking a general ruling pursuant to s. 287 of the *Industrial Relations Act 1999* (the Act) and a statement of policy pursuant to s. 288 of the Act in regard to the principles of wage fixing. In so doing the QCU seeks a 4% increase to:
- award wage rates;
 - existing award allowances which relate to work or conditions which have not changed and service increments; and
 - the level of the Queensland Minimum Wage as it applies to all employees.
- [2] The QCU claim has been the subject of a decision of this Full Bench in B/2006/5 in relation to an application by the Minister for Employment and Workplace Relations (Commonwealth Minister) which sought to have the hearing of the QCU application adjourned until after any decision of the Australian Fair Pay Commission (AFPC) on the national minimum wage: see *Minister for Employment and Workplace Relations v Queensland Council of Unions and Anor* (2006) 181 QGIG 292.
- [3] Whilst The Australian Workers' Union of Employees, Queensland (AWU) also filed a similar application on 10 November 2005 in B/2005/1198 there was no joinder of the applications. The AWU application will be dealt with in a separate decision.
- [4] Essentially the QCU submits that the 4% it is seeking is a moderate increase which will partially maintain the relative value of the wages of Queensland's award-reliant workers. The QCU contends that the 4% claim is below the current market rates as reflected in the Wage Price Index (WPI), at 4.3%, and less than the average level of increase in rates in Queensland certified agreements in the quarter ending December 2005, at greater than 4.5%.
- [5] The QCU further submits that the Queensland economy has performed effectively and efficiently on all major indicators since the introduction of the Act in 1999, that the Queensland economy is forecast to grow by 4.25% in 2005-06. The continued strength in the labour market, rising real incomes and solid population growth are all expected to underpin a robust growth in consumption expenditure. The QCU also point to the fact that jobs growth in Queensland in 2005-06 is forecast to grow by 2.75% with the unemployment rate forecast to remain unchanged at 5%.
- [6] The QCU seeks an operative date of 1 September 2006.

2. OUTLINE OF RESPONSES TO THE CLAIM

2.1 Queensland Government:

- [7] The Queensland Government position will be further outlined later in this decision but essentially it supports a \$20.00 per week increase to all state award rates of pay and the Queensland Minimum Wage, with an operative date of 1 September 2006. Support for a \$20.00 per week increase is based on:
- the current strong state of the Queensland economy and the economic outlook which is forecast to remain positive. The Queensland economy has the capacity to absorb and sustain an increase of \$20.00;
 - the importance of fair wages for those employees who remain reliant on Queensland awards and/or the Queensland Minimum Wage for their rate of pay. For this reason an increase of \$20.00 per week to adult award rates and the Queensland Minimum Wage will ensure that low paid workers with little, or no, bargaining power are not unduly disadvantaged in the labour market;
 - the impact of minimum and award wage adjustments where a \$20.00 per week increase in the Queensland Minimum Wage would translate to a 4.1% increase in nominal terms and a real increase of 1.3%. Further, the cost impact of the \$20.00 per week increase is responsible and affordable. It is further estimated that the \$20.00 per week increase will have a negligible cost impact of 0.003% across the Queensland economy, and will add between 0.4% and 0.6% of a percentage point to average earnings growth impact on that sector of the economy where the wage increases will flow i.e. private sector unincorporated businesses. Further, it is contended that a \$20.00 per week increase can be awarded without adverse employment impacts; and
 - a \$20.00 per week increase provides an appropriate balance between the economic and social objectives underpinning the Act. In this regard the principal object of the Act is relevant i.e. the provision of a framework for industrial relations that supports economic prosperity and social justice.
- [8] The Queensland Government also supports a 3.5% increase in work related allowances and service increments.

2.2 Queensland Chamber of Commerce and Industry Limited, Industrial Organisation of Employers (QCCI):

- [9] QCCI supports a \$15.00 per week increase in award rates of pay and in the Queensland Minimum Wage respectively as well as a 2.6% increase to work related allowances and service increments with an operative date of 1 September 2006. QCCI submits that the Queensland economy and labour market have performed solidly, however, it also states that there is evidence that the Queensland economy is slowing which is probably due to previous high levels of demand. The Queensland economy has previously shown that it can sustain reasonable and fair wage increases but the level of the QCU claim, which ranges from \$19.00 per week to \$32.00 per week, cannot be justified based on the prevailing economic conditions.
- [10] QCCI submits that a \$15.00 per week wage increase without any bargaining is fair and reasonable and that such an increase will not close the disparity gap between bargaining outcomes and wage outcomes awarded by the Commission, however, a \$15.00 per week increase will ensure that employees will not be disadvantaged.

2.3 Queensland Retail Traders and Shopkeepers Association (Industrial Organization of Employers) (QRTSA):

- [11] QRTSA opposes both the QCU claim and the Queensland Government's response to it. QRTSA supports a \$15.00 per week increase in wage rates and a 2.6% increase in work related allowances with an operative date of 1 September 2006. QRTSA also submits that the Commission is obligated to examine both the social and economic environment when determining an appropriate wage increase i.e. a wage increase that is both fair and reasonable for employees and employers.
- [12] QRTSA agrees that the Queensland economy continues to deliver a solid performance and acknowledges that it is anticipated that the Queensland economy will continue to perform in such a manner. Nevertheless, QRTSA contends that the Full Bench should give particular consideration to the state of the Queensland retail industry in determining the level of a suitable increase. We will deal with specific submissions from the retail industry later in this decision.

2.4 Queensland Hotels Association, Union of Employers (QHA):

- [13] QHA opposes the QCU claim and in lieu thereof supports a \$15.00 per week increase in award wages and does not oppose an increase in work related allowances directly proportional to a flat rate increase of \$15.00 on the

C10 classification in the *Engineering Award - State 2002*. Further, the QHA did not oppose an operative date of 1 September 2006. In adopting this position the QHA stated that whilst it recognised the moderate economic growth in Queensland in 2004-05, it could not support a higher level of increase. This was because there was now a higher percentage of large and medium businesses, which contribute to a higher degree of overall growth and profit, now find themselves in the federal system by virtue of their incorporation. It is the small business area with their smaller profit margins and lower overall contribution to the Queensland economy which remains in the state system that should be considered by the Full Bench when awarding any wage increase.

- [14] The QHA rejects the macro-economic approach taken by the QCU and submits that regional differences in the Queensland micro-economy need to be considered in the application although no data on regional differences was provided by the QHA. The QHA further submits that any increase arising from this application will detrimentally affect unincorporated employers remaining in the Queensland system because of the *Workplace Relations Amendment (Work Choices) Act 2005* (Work Choices).

2.5 Queensland Fruit & Vegetable Growers, Union of Employers (QFVG):

- [15] QFVG supports the position of QCCI in pressing for a \$15.00 per week increase to award wage rates contending that such an amount represents a reasonable and appropriate wage increase. QFVG submit that the interests of fruit and vegetable growers in rural and regional Queensland face decreasing product prices and rising input costs. The impact of drought conditions has also had a profound and detrimental effect on this industry sector. QFVG did indicate during the course of the hearing that they would seek an exemption from the outcome of this decision for particular regions in north Queensland suffering the effects of cyclone Larry. However, on 6 June 2006 the Registry received correspondence from QFVG which indicated that they no longer intended to pursue such an application.

2.6 The Baking Industry Association of Queensland - Union of Employers (BIAQ):

- [16] BIAQ appears to support the position adopted by QCCI in this application although, in its written submission, the BIAQ makes no reference to supporting a \$15.00 per week increase. The written submission says that the "BIAQ also supports the supporting evidence proposed by the Queensland Chamber of Commerce and Industry". There was, however, no evidence adduced by QCCI, rather QCCI presented both oral and written submissions. The BIAQ did not orally address their written submission and so some doubt remains as to their true position.

2.7 Queensland Cane Growers' Association Union of Employers (QCGA):

- [17] QCGA supports an increase of \$15.00 per week in award rates of pay and the Queensland Minimum Wage, respectively, as well as an increase of 2.6% in existing allowances and an operative date of 31 December 2006. QCGA contends that their position is one that is fair and reasonable in all the circumstances. Whilst QCGA expressed concerns about the effects of cyclone Larry on the sugar industry in north Queensland it did not take the matter further than that.

2.8 Australian Industry Group, Industrial Organisation of Employers (Queensland) (AIG):

- [18] AIG opposes both applications and supports the position of the Commonwealth Minister in matter B/2006/05 i.e. that the hearing of the claim should be adjourned to await a decision of the AFPC.

2.9 National Retail Association Limited, Union of Employers (NRA):

- [19] NRA opposes the QCU application on behalf of the NRA membership in the Queensland retail sector and in the aged care industry in Queensland arguing that the proposed 4% increase could not be sustained. NRA did not propose any alternative relief, simply relying on the position adopted by the Commonwealth Minister.

2.10 The Restaurant and Caterers Employers Association of Queensland Industrial Organisation of Employers (RCEA):

[20] RCEA opposes the QCU claim with its position being that it does not support any wage increase whatsoever.

3. COMMONWEALTH MINISTER'S APPLICATION TO DELAY DECISION

3.1 Commonwealth Minister

[21] Early this year the Commonwealth Minister made application to have both the QCU and AWU applications adjourned until after the AFPC had made its first minimum wage determination and the Australian Industrial Relations Commission (AIRC) had made a similar determination in relation to persons described as "transitional employees" under the *Workplace Relations Act 1996* (WRA). The Full Bench determined that it had a "legislative obligation to hear this application and determine them on the material presented by those who appear in support or in opposition to the applications" and that the "matters raised by various organisations during the course of the hearing are matters that, no doubt, will be argued before the Full Bench when dealing with the substantive application": see *Minister for Employment and Workplace Relations v Queensland Council of Unions and Anor* (2006) 181 QGIG 292. The Commonwealth Minister was given a limited right to be heard in the substantive application, appearing and making submissions in this matter.

[22] Essentially, the Commonwealth Minister's position is that a decision on the QCU and AWU applications should be deferred until such time as this Full Bench has had the opportunity to consider the AFPC's deliberations and decision. This, it is said, would be consistent with the approach taken by the AIRC in *Applications by Transport Workers' Union of Australia and Others* (Print PR966840, AIRC, 21 December 2005). We have dealt with the reasoning advanced in the AIRC decision in *Minister for Employment and Workplace Relations v Queensland Council of Unions and Anor* (2006) 181 QGIG 292 at paragraphs [29] to [32]. Once again we reiterate that the decision of the AIRC was one basically imposed on the Members of the Full Bench by the provisions of the WRA. There is no such legislative obligation placed on this Full Bench by the provisions of the Act.

[23] The Commonwealth Minister's position is summarised as follows:

- (i) National Workplace Relations System: The WRA establishes the mechanism whereby minimum rates of pay for employees of constitutional corporations will be determined by the AFPC. That legislation has also established that the minimum rates of wages for "transitional employees" (employees who are covered by federal awards but who are not within the jurisdiction of the AFPC) will be determined by the AIRC. This Commission has no jurisdiction to establish minimum rates of pay for such employees.

The AFPC has been established as an independent statutory body to set minimum wages and casual loadings and it is for the AFPC to determine the timing and frequency of wage reviews, the scope of particular wage reviews, the manner in which wage reviews are to be conducted and when wage setting decisions are to come into effect. The AFPC must, according to the Commonwealth Minister, have regard to the following wage setting parameters in promoting the economic prosperity of the people of Australia:

- the capacity for the unemployed and low paid to obtain and remain in employment;
- employment and competitiveness across the economy;
- providing a safety net for the low paid; and
- providing minimum wages for junior employees, employees to whom training arrangements apply and employees with disabilities that ensure those employees are competitive in the labour market.

In performing its wage setting function the AFPC is able to undertake research and monitor and evaluate the impact of its wage setting decisions. The Commonwealth Minister made the submission that the "effect of the decisions of the AFPC on the operation of minimum rates of pay in workplaces has essentially not changed from that of the AIRC under the previous federal system and the Queensland Industrial Relations Commission (QIRC) in the Queensland State Wage Case".

Reference was also made to the fact that the AFPC will move away from an adversarial system of minimum wage setting to a more consultative approach. However, the Minister failed to address any detriment of the adversarial system or benefit of the so-called consultative approach.

The Commonwealth Minister contends that the AFPC is primarily concerned with questions of fairness with reference being made to the fact that "fair" formed part of its name. The Commonwealth Minister also contends that because the AFPC is required to consider the needs of the unemployed that made the system fairer than previously. However, in making this point, the Commonwealth Minister did concede that the AIRC was never required by legislation to consider the needs of the unemployed in its decision making. The Commonwealth Minister also urged the Full Bench to be mindful of the impact that the QCU claim may have on the job prospects of unemployed people in Queensland.

- (ii) QIRC Jurisdiction and Award-Reliance: The Commonwealth Minister referred to the fact that the QIRC's jurisdiction was now limited to non-constitutional corporations. He said that the impact of any decision of this Full Bench will fall upon award-reliant workers in the QIRC's jurisdiction and those workers on agreements who receive a flow-on of state wage case adjustments.

Australian Bureau of Statistics (ABS) data, indicates that the three industries in Queensland with the highest concentration of award-reliant employees were accommodation, cafes and restaurants (56.2%), cultural and recreational services (37.6%) and retail trade (33.9%): see ABS Employee Earnings and Hours, Employees by industry by type of legal organisation, Queensland, May 2004. In total employment terms, the three industries with the highest number of award reliant employees were retail trade (79,700), health and community services (53,100) and accommodation, cafes and restaurants (42,100): see ABS, Employee Earnings and Hours, Award-reliance by industry, Queensland, May 2004.

The Commonwealth Minister combined the abovementioned ABS Employee Earnings and Hours data in a Table which is produced below:

Queensland industries with a high number of award-reliant employees, May 2004.

	Number of employees award-reliant ('000)	Rank according to number of employees award-reliant	Percentage of employees award-reliant (%)	Proportion of award-reliant employees in unincorporated enterprises (%)	Number of award-reliant employees in unincorporated enterprises ('000)
Retail Trade	79.7	1	33.9	40.6	32.4
Health and community service	53.1	2	29.7	44.6	23.7
Accommodation, cafes and restaurants	42.1	3	56.2	29.1	12.2
Property and business services	39.3	4	22.0	48.9	19.2
Manufacturing	33.1	5	21.6	37.7	12.5
Personal and other services	17.8	6	29.0	55.8	9.9
Wholesale trade	16.0	7	22.7	28.4	4.5
Construction	13.9	8	18.3	30.6	4.2
Cultural and recreational services	13.8	9	37.6	72.6	10.0
Transport and storage	12.5	10	19.3	30.1	3.8
Education	10.9	11	7.3	35.2	3.8
Finance and insurance	3.3	12	4.6	55.8	1.8
Communication services	1.3	13	8.1	76.5	1.0
Government administration and defence	0.6	14	0.8	0.0	0.0
Mining	0.3	15	1.6	0.0	0.0
Electricity gas and water	0.2	16	1.8	n.p.	0.0
Total	337.7		23.0	41.2	139.1

Source: ABS Employee Earnings and Hours (Cat No 6306.0) May 2004, unpublished data.

Based on ABS data it would seem that 59.4% of employees in the retail trade were in incorporated businesses and therefore in the AFPC's jurisdiction, whilst the remaining 40.6% were employed in unincorporated enterprises and perhaps split between the jurisdiction of this Commission and that of the AIRC which covers transitional employees for a period of up to five years. In health and community services 44.6% of employees were employed by unincorporated enterprises and in accommodation, cafes and restaurants 29.1% were employed in unincorporated enterprises.

- (iii) National Consistency: The Commonwealth Minister referred to the history of consistency in minimum wage adjustments between the Queensland and federal jurisdictions which, he said, had been maintained despite various changes to both the Queensland and federal legislation covering industrial relations and, at times, differing performances in the Queensland and national economies. He submitted that there was nothing in the WRA that undermines or seeks to end a national approach to minimum wage adjustments. Rather, the WRA now seeks to create a national system of workplace relations. The Commonwealth Minister submits that there are thus strong economic reasons for maintaining consistency in minimum wage adjustments.

For there to be such consistency, the Commonwealth Minister argues that the jurisdiction with the numerically largest and geographically widest coverage should make the decision first i.e. Queensland should await the outcome of the AFPC deliberations. In that way, it is suggested, the smaller and narrower state jurisdictions would be able to have regard to the national decision. The Commonwealth Minister does, however, concede that this approach would not guarantee national consistency as the various state industrial tribunals could easily depart from the AFPC's outcome. The result then would be that there would be no consistency in minimum wage adjustments but Queensland workers would have any wage increase delayed for an indefinite period.

The Commonwealth Minister also refers to the fact that the Queensland trade union movement has traditionally sought consistency between the wage outcomes granted by the AIRC and the wage increases sought in this Commission via the state wage case hearings. This, in his submission, suggests that the union movement has similarly seen the benefit of national consistency in minimum wage outcomes. In now pursuing a different approach, the Commonwealth Minister argues that the QCU is aiding and abetting the trade union movement's aim of undermining the WRA. Disparate minimum wage outcomes across Australia will, according to the Commonwealth Minister, make life extremely difficult for those operating businesses across states as well as for employees working within those businesses.

- [24] For this Commission and other State industrial tribunals to determine minimum wage adjustments without the benefit of the AFPC's deliberations is said by the Commonwealth Minister to be the first step to increasing minimum wage differentials which would become more and more divergent over time.

3.2 AIG Position

- [25] AIG provided a rather brief written submission. Essentially the AIG submits that by proceeding prior to the AFPC making its first wage determination the Queensland Commission cannot ensure inequities and inconsistencies are not created between the minimum wages of employees employed by unincorporated employers in Queensland and those of employers under the federal system. AIG further submits that the only way of ensuring that inequities and inconsistencies are not created is to delay a decision until after the Queensland Commission has had an opportunity to consider the results of the AFPC decision.

3.3 NRA Position

- [26] The NRA maintains the view, expressed in the earlier decision on the Commonwealth Minister's application to adjourn the hearing of the state wage case, that uniformity in general wages outcomes for Queensland employers, whether incorporated or unincorporated, whether federal or Queensland systems, remains the priority.

3.4 QCU Position

- [27] The QCU submits that this Commission should proceed to determine the current application and not accede to the Commonwealth Minister's submission that we should delay any determination until after the AFPC has completed its deliberations on the national minimum wage and the AIRC has dealt with transitional employees. This Commission's statutory mandate is to set award wages that are fair and reasonable.
- [28] The QCU further submits that there is no federal legislative provision which circumscribes the jurisdiction of this Commission to hear and determine the current application. This is in contrast to the position of the AIRC which must have regard to the wage setting decisions of the AFPC and any statements of the AFPC concerning the effects of wage increases on productivity, inflation and the levels of employment. The different requirements imposed upon the AIRC were the subject of deliberation in *Application by Transport Workers' Union of Australia and Others* (PR966840, Full Bench, 21 December 2005). QCU also submits that any determination by the AFPC will only affect employees who are engaged by constitutional corporations.
- [29] Those employees who are not engaged by constitutional corporations will be subject to the jurisdiction of either the AIRC (if they are transitional employees) or the relevant state industrial tribunals if they are engaged by non-constitutional corporations under state awards. Queensland state awards continue to have application to employers and employees of non constitutional corporations provided that they are not transitional employees.
- [30] QCU also argued that the AFPC is to conduct wage "reviews" and to exercise its wage setting powers "as necessary": see s. 22 of WRA. In fixing wages the AFPC must take into account matters such as the needs of the unemployed and the low paid to obtain and remain in employment. The AFPC is not required by the legislation to consider living standards in the community, fairness, the needs of the low paid and the public interest. This is in contrast to the requirements of the Act placed upon this Commission to ensure improved living standards and fair standards in relation to living standards: see s. 3(b) and (g) of the Act.
- [31] The QCU also stated that fairness in wage setting has been a centrally important issue in both the previous federal system and the current Queensland system of industrial relations but appears to be missing from the current federal legislation. Accordingly, QCU submits that the emphasis in the current federal legislation has clearly shifted from the fixing of fair minimum wages for those in employment to focus more on wage levels that, according to the legislation, will increase the capacity for the unemployed to obtain employment and for the low paid to remain in employment, regardless of whether the minimum wage is fair.
- [32] The QCU submits that this Commission's functions do not extend to the speculative realm of job creation for the unemployed by slowing the rate of increases to minimum wages for the low paid or by not increasing minimum wages.
- [33] Further, there is no statutory obligation on the AFPC to review minimum wages annually or within any regularised timeframe. This represents a significant departure from the regular annual reviews of minimum wages that have occurred over the past decade which have provided this Commission with the opportunity to review issues such as the maintenance of the real value of wages of the low paid. Further, there is no appeal process in respect of decisions of the AFPC. There is also no legislative requirement that this Commission have regard to the deliberations of the AFPC. The statutory framework of the operation of the AFPC bears no resemblance to the legislative framework of this Commission. The QCU also questions the autonomy of the AFPC.
- [34] The QCU submits that the order and structure that was connected with the securing of general wage and allowance increases flowing from the AIRC to state industrial tribunals has, with the introduction of the Work Choices amendments, been irretrievably undermined and this Commission should proceed to determine its application and not await any AFPC determination.
- [35] In support of its position, the QCU relies upon the statistical analysis undertaken by the Queensland Department of Industrial Relations (DIR) in 2005 and 2006 which is referenced and dealt with in the Queensland Government position in Part 3.5.
- [36] The QCU submits that the role of this Commission continues to be a substantial one. That DIR analysis estimates that around 40% of Queensland employees will remain within the state jurisdiction following the implementation of the Work Choices legislation - down from around 55%. Further, the data indicates that the employees likely to remain in the Queensland jurisdiction are tradespersons and clerical and sales workers, employed in service industries such as property and business services, personal and other services and in retail trade. The median earnings of such persons are relatively lower than for full-time employees in incorporated businesses.

- [37] The QCU further submits that, based on the data available, workers remaining in the Queensland jurisdiction are principally employed at the trade level or below i.e. at \$578.20 per week or below.

3.5 Queensland Government Position

- [38] The Queensland Government acknowledges that the scope and coverage of the 2006 state wage case is fundamentally different from those in previous years because of the federal Work Choices legislation. The scope of the state wage case has changed in line with changes to the coverage of the state industrial relations jurisdiction imposed by the federal Work Choices legislation. The size and extent of the residual state jurisdiction following Work Choices and the profile of the employers and employees who remain within the Queensland jurisdiction are relevant. The Queensland Government estimates that there will still be up to 125,300 employees in Queensland who will benefit from any determination of this application.
- [39] The material provided by the Queensland Government is based on a research paper prepared by DIR titled "The Coverage and Characteristics of the State jurisdiction under a new Industrial Relations system" which has received independent verification and endorsement from John Buchanan, the Acting Director of the Workplace Research Centre (formerly known as the Australian Centre of Industrial Relations Research and Training (ACIRTT)), who gave evidence in the proceeding. His evidence is that he endorses the methodology used to estimate the size of the Queensland industrial relations jurisdiction. Dr Buchanan further considers that, given the assumptions made, the report provides a reliable estimate for this Full Bench to take into account when determining this application.
- [40] The findings of the report can be summarised as follows:

Size of Queensland jurisdiction: It is estimated that prior to the commencement of Work Choices around 28% of all employees in Queensland were covered by the federal jurisdiction and around 55% of employees were covered by an industrial instrument in the Queensland jurisdiction. In addition, there were estimated to be a further 17% of employees in Queensland who were not covered by awards or agreements but had some minimum entitlements protected by the Act and were therefore entitled to receive the Queensland Minimum Wage. Thus those employees were also effectively covered by the Queensland jurisdiction. As a consequence, the estimated total coverage of the Queensland state jurisdiction, prior to Work Choices, was around 72% or over 1.19 million employees.

With the introduction of Work Choices that position has changed with the Queensland jurisdiction now covering only unincorporated entities. The Queensland Government estimates the unincorporated sector, including the state government, makes up around 40% of employees in Queensland. Whilst there would be some unincorporated entities covered by the federal system as transitional employers there would also be incorporated bodies which would not fit the definition of a constitutional corporation. Accounting for these categories of employers, the Queensland Government estimates that the size of the Queensland jurisdiction is somewhere between 580,000 – 628,000 employees (35% - 38% of employees in Queensland).

Thus, the number of employees who rely upon this Commission to determine wages and conditions would fall from around 1.19 million employees to fewer than 628,000 employees. Notwithstanding this position, there continues to be a significant role and responsibility for this Commission to determine wages and conditions for a significant proportion of the Queensland workforce.

Characteristics of Employees in Unincorporated Enterprises: There is a strong association between workplace size and the likelihood that a business will be unincorporated. While unincorporated organisations make up just over a quarter of all workplaces, they make up about half of workplaces in Queensland with fewer than twenty employees. The material indicates the industries which have a high proportion of employees of unincorporated business as being:

- property and business services (43.5%);
- personal and other services (35.6%); and
- retail trade (34.5%).

Further, the material shows that employees in unincorporated businesses are:

- tradespersons and related workers (35.7%); and
- all levels of clerical and sales workers (advanced 30.5%, intermediate 29.5% and elementary 29.7%).

Relatively low-skilled employees such as elementary clerical, sales and service workers and labourers and related workers are more likely than employees in other occupational groups to rely on awards. Employees

in unincorporated businesses in Queensland were also more likely to be employed on a casual basis (36.3%) or a permanent part-time basis (29.8%) than on a full-time basis (22.4%).

The data also shows that median earnings of employees in unincorporated businesses in Queensland at May 2004 (the time of the survey) was \$667.00 per week compared to \$700.00 for employees in incorporated businesses. Over 80% of employees in unincorporated businesses earned less than \$900.00 per week. The average weekly earnings for all full-time non-managerial employees at May 2004 was \$893.40 per week. The data also highlighted the disparity between average weekly ordinary time earnings for award only employees in the unincorporated private sector and the average weekly ordinary time earnings for employees in the private sector.

- [41] The Queensland Workplace Industrial Relations Survey (QWIRS), conducted in late 2005 by DIR in conjunction with ACIRRT, is also said to provide information on the profile of unincorporated businesses. That data indicates that unincorporated businesses are more likely to be in non-metropolitan areas of Queensland, that most are single workplace organisations, and that they have a high proportion of female employees and a high proportion of part-time and casual employees. The vast majority (71.7%) of unincorporated enterprises had an average weekly wage below \$700.00 per week compared to just over half (51.2%) of incorporated enterprises. The biggest grouping of unincorporated enterprises (29.1%) are those with an average weekly wage of \$400.00 to \$599.00 per week. Unincorporated businesses make up 34.5% of all businesses which have an average weekly wage in that category, compared to a 22% share of all businesses.
- [42] QWIRS also found that 25.9% of unincorporated enterprises rely upon award rates of pay as the preferred method of setting wages and conditions in their workplaces as compared to just 9.5% of incorporated enterprises and 13.1% of businesses overall. 43.7% of workplaces with award rates of pay as the preferred method of setting wages and conditions are unincorporated enterprises. This can be contrasted with the overall breakdown that shows 22.2% of workplaces are unincorporated enterprises.
- [43] The Queensland Government estimates that the number of employees in unincorporated businesses who rely on Queensland awards is in the range of 78,300 to 125,300 employees. It is that group of employees who will benefit from any increase in award rates of pay. Further, it is estimated that more than half of award-reliant employees in the unincorporated private sector fall into the categories of part-time, casual or juniors.
- [44] The Queensland Government indicated that it does not support the Commonwealth Minister's position and urged the Commission to proceed to determine the current applications.

3.6 Other Employer Organisations (other than AIG, NRA and RCEA)

- [45] All of the remaining organisations involved in this application pressed for an increase, albeit at a lower rate than the QCU claim or the Queensland Government position. Such organisations also did not support the Commonwealth Minister's position that the applications be adjourned to await any AFPC and AIRC decisions.

3.7 Conclusion on Commonwealth Minister's Position

- [46] We dispute the Commonwealth Minister's submission that the "effect of the decisions of the AFPC on the operation of minimum rates of pay in workplaces has essentially not changed from that of the AIRC under the previous federal system and the Queensland Industrial Relations Commission (QIRC) in the Queensland State Wage Case". The criteria under which the AFPC are required to make its decision is substantially different from the criteria imposed previously on the AIRC and currently on this Commission. This Commission is required by s. 126 of the Act to provide a framework for economic prosperity and social justice by ensuring that awards, *inter alia*:

- provide for secure, relevant and consistent wages and employment conditions;
- provide fair standards for employees in the context of living standards generally prevailing in the community; and
- take account of the efficiency and effectiveness of the economy, including productivity, inflation and the desirability of achieving a high level of employment.

- [47] Unlike the WRA, the legislation that we are required to determine this application under does not specifically require us to consider the capacity for the unemployed and low paid to obtain and remain in employment (although this will be an important economic consideration), nor does it require us to provide a safety net for the low paid. Rather, we are required to provide fair standards and to ensure social justice for all stakeholders. The same can be said about the Commonwealth Minister's attack on the QCU's claim in which he contends that the

QCU did not deal with the impact of its claim on low paid employees and the unemployed. By seeking a 4% increase in award wages the QCU has dealt with the impact of its claim on low paid employees.

[48] The Commonwealth Minister also referred to the adversarial system of minimum wage setting as opposed to the so-called "consultative approach". As we stated in paragraph [9] in *Minister for Employment and Workplace Relations v Queensland Council of Unions and Anor* (2006) 181 QGIG 292, this "Commission has always adopted the practice of publicly announcing the hearings in the Queensland state wage cases and inviting submissions from interested persons. Persons or organisations with an interest in these matters have every opportunity to present their case whether that is in support of the applications or in opposition to them". Consistent with past practice a Declaration of Intent was made by this Full Bench on 20 February 2006 and published in the Courier Mail on 4 March 2006 and the *Industrial Gazette* on 3 March 2006 (181 QGIG 299).

[49] To suggest that the hearing of this application was adversarial in nature is quite misleading. Each organisation appearing provided written submissions and most spoke to those written submissions. Only two witnesses gave evidence. There was general consensus on the state of the Queensland economy. Indeed, this approach has been traditional in Queensland, where all stakeholders in the industrial relations system have long enjoyed the benefits of a constructive relationship between industrial organisations of employers and employees.

[50] We are not persuaded by the Commonwealth Minister's submission to defer any decision until after the AFPC has made a decision. We indicated at [40] in our earlier decision that we would delay, at least until late July 2006, any decision on this application to await any announcement or determination by the AFPC: see *Minister for Employment and Workplace Relations v Queensland Council of Unions and Anor* (2006) 181 QGIG 292. The hearing in this application concluded on 16 May 2006. At that time the Commonwealth Minister undertook to provide the Full Bench with any announcements or decisions of the AFPC as and when they were made. We have not received any such documentation at the time of the release of this decision. As a result, we intend to proceed to determine the applications based upon the material before us.

[51] Our decision to proceed to determine the application currently before us is based on the following:

- there is no legislative provision which would prevent us from determining this application prior to any decision of the AFPC. This is contrary to the federal legislative provision which dictates that the AIRC must have regard to the wage setting decisions of the AFPC;
- any determination by the AFPC will only affect employees who are engaged by constitutional corporations;
- any determination by the AIRC, following a determination by the AFPC, will only affect transitional employees;
- any decision of this Commission will only have application to employers and employees of non-constitutional corporations who are not transitional employees;
- there continues to be a substantial number of employees who will benefit from any decision in this application. We rely upon the estimate provided by the Queensland Government i.e. that the number of employees in unincorporated businesses who rely on Queensland awards is in the range of 78,300 to 125,300 employees;
- the criteria imposed by the federal legislation on the AFPC and its deliberations on the national minimum wage are substantially different to the legislation governing this Commission's determination of the state wage case and the Queensland Minimum Wage. Unlike the AFPC, we are required to consider living standards in the community, the needs of the low paid, fairness and the public interest;
- there is a disparity between the average weekly ordinary time earnings for award only employees in the unincorporated private sector (i.e. those likely to benefit from this decision) and the average weekly ordinary time earnings for employees in the private sector; and
- many of those workers who will benefit from any decision in this application fall into the categories of part-time, casual and junior employees.

[52] Given that the legislative framework under which the Queensland Industrial Relations Commission is required to hear and determine matters such as minimum wage cases is substantially different to the legislative framework under which the AFPC will operate, it is highly unlikely that this Full Bench would simply follow any determination made by the AFPC. Consistency of outcomes is thus questionable at best. Further any decision of this Full Bench must be based on the material that has been provided by the various organisations appearing

before this Full Bench, in what has been transparent proceedings conducted in a judicial manner. The decision of this Full Bench cannot rely on material considered elsewhere.

- [53] To delay any decision on the applications before us would simply mean that those employees who rely upon awards to determine their wages and conditions would be disadvantaged by the delay. There is still no pronouncement by the AFPC of when it will release any decision. Traditionally, the Queensland state wage case outcomes have been available to employees on 1 September in any given year, with advance notice being given to employers of that operative date. We have not been convinced that we should depart from that tradition and we will proceed to determine this application.

4. NATIONAL ECONOMY

4.1 QCU

- [54] The QCU referred to a range of economic data drawn from various ABS statistics including:
- Cat No. 5206.0 National Income Expenditure and Product December 2005;
 - Cat. No. 6401 Consumer Price Index (CPI); and
 - Cat. No. 6202.0.55.001 Labour Force, Australia, Spreadsheets, January 2006.
- [55] The current economic expansion is now in its fifteenth year, with a total of fifty-seven consecutive quarters of positive growth - the last negative Gross Domestic Product (GDP) quarter was in September 1991. GDP grew by 0.5% (0.5% seasonally adjusted) in the December quarter 2005, to be 2.7% (2.7% seasonally adjusted) higher for the year. This was down on the September quarter 2005 where GDP grew by 0.6% (0.3% seasonally adjusted). The gross non farm product (GNFP) grew by 0.5% for the December quarter 2005 to be 3.0% higher than at the same time last year.
- [56] Queensland's gross state product (GSP) as reported by the ABS state accounts for the 2004-05 financial year was 4.0% i.e. 1.5 percentage points about the national average of 2.5% for the same period.
- [57] The most recent data for December 2005 revealed that private consumption expenditure grew by 0.7% during the quarter, to be 2.8% higher than a year earlier. This was supported by strong growth in private capital expenditure, which grew by 2.3% for the December quarter 2005 to be 10.4% higher than in the same quarter in the previous year.
- [58] For the December quarter 2005, state private final demand for Queensland as measured by the ABS National Accounts increased by 1.8% to be 6.1% higher than at the same time in the previous year. Private consumption expenditure grew by 1.0% during the December quarter 2005 to be 4.2% higher than at the same time last year. This was supported by growth in private fixed capital investment that increased by 3.3% for the December quarter 2005 to be 10.4% higher than a year ago.
- [59] **Investment:** Business investment nationally increased by 4.5% during the December quarter to be 17.3% higher than in the same quarter twelve months earlier with both machinery and equipment (increased by 4.5%) and non-dwelling construction (increased by 3.5%) achieving strong growth. In Queensland, business investment increased by 6.0% in the December quarter 2005 to be 16.1% higher than in the December quarter 2004 with non-dwelling construction (increased by 6.3% to be 22% higher than in December quarter 2004) and machinery and equipment (increased by 6.0% for December 2005 quarter to be 15% higher than in December quarter 2004) being the major components.
- [60] **Wages:** The wage share of total factor income decreased by 4.3% during the period 1991 to September 2005 whereas the profit share increased by 26.8% over the same period.
- [61] **Prices:** The CPI increased by 0.5% during the December quarter 2005, to be 2.8% higher over the year. This was within the Reserve Bank's target band. The CPI in Brisbane rose by 0.4% for the December quarter 2005 to be 2.9% higher over the year.
- [62] **Labour Market:** Nationally total employment increased by 1.6% over the year to January 2005 with a total of 10,027,400 persons employed, with 65% of all new jobs being full-time jobs. The national unemployment rate is 5.2% which is a slight increase over the recent thirty year low of 5.1%.
- [63] **External Sector:** The Current Account Deficit (CAD) over the twelve months to December 2005 closed slightly, decreasing from \$15.2 billion in December 2005 to \$13.9 billion in December 2005. As a proportion of

GDP, the CAD decreased from 7.1% in the December quarter 2004 to 6.3% in the December quarter 2005. The Terms of Trade increased by 2.0% in the December quarter 2005 to be 13.1% higher than at the same time a year earlier.

- [64] **Economic Outlook:** The Commonwealth Treasury's Mid-year Economic and Fiscal Outlook (MYEFO) for 2005-06, released in December 2004 continues to paint a positive picture of the Australian economy over the near future. The Commonwealth Treasury's key domestic forecasts for 2005-06 are summarised in the following Table:

MYEFO Domestic Economic Forecasts (a)

	2004-05	2005-06	
	Outcomes(b) Year average	Budget Year average	MYEFO Year average
Panel A - Demand and output (c)			
Household consumption	4.3	3 1/4	2 3/4
Private Investment	-1.6	-2	0
Dwellings	12.2	6	11
Total business investment (d)	7.7	2	8
Non-dwelling construction (d)	16.5	7	13
Private final demand (d)	4.5	3 1/2	3 3/4
Public final demand (d)	4.4	3 3/4	3
Total final demand	4.5	3 1/2	3 1/2
Change in inventories (e)			
Private non-farm	-0.3	1/4	0
Farm and public authorities (f)	-0.1	0	0
Gross national expenditure	4.1	3 3/4	3 1/2
Exports of goods and services	2.5	7	4
Imports of goods and services	12	8	7
Net exports (e)	-2.0	-1	-3/4
Gross domestic product	2.4	3	3
Non-farm product	2.6	3	3
Farm product	-6.5	5	0
Panel B - Other selected economic measures			
External accounts			
Terms of trade	10	12 1/4	9 1/2
Current account balance			
\$billion	-57.5	-48	-51 1/2
Percentage of GDP	-6.4	-5 1/4	-5 1/2

Labour market			
Employment (labour force survey basis)	3.0	1 3/4	2
Unemployment rate (per cent)	5.3	5	5 1/4
Participation rate (per cent)	64.0	63 3/4	64 1/4
Prices and wages			
Consumer Price Index	2.4	2 3/4	3
Gross non-farm product deflator	3.9	4 1/2	4
Wage Price Index	3.8	4	4 1/4

(a) Percentage change on preceding year unless otherwise indicated

(b) Calculated using original data

(c) Chain volume measure

(d) Excluding transfers of second-hand asset sales between the public and private sectors

(e) Percentage point contribution to growth in GDP

(f) For presentational purposes, forecast changes in inventories held by privatised marketing authorities are included with the inventories of the farm sector and public marketing authorities

Source: Treasury, *Mid-Year Economic and Fiscal Outlook*, December 2005

- [65] The MYEFO forecasts for 2005-06 and the Commonwealth Treasury's projections for the medium term are outlined in the following Table:

MYEFO Major Economic Parameters^(a)

	Forecasts		Projections	
	2005-06	2006-07	2007-08	2008-09
Real GDP	3	3	3 1/2	3 1/4
Employment	2	1	1 1/2	1 1/4
Wage Price Index	4 1/4	4	3 3/4	4
CPI	3	2 1/2	2 1/2	2 1/2

(a) Year-average percentage change

Source: Treasury, *Mid-Year Economic and Fiscal Outlook*, December 2005

- [66] **Economic Growth:** The Australian economy is forecast to grow 3% in 2005-06 and to continue its strong performance over the 2006-07 financial year with GDP forecast to grow by 3%. This economic growth will be characterised by high levels of investment with a slow-down in consumption expenditure. The slowing down in consumption expenditure is predicted to be due to increases in petrol prices, debt servicing ratio and lower growth in household wealth.
- [67] The Terms of Trade is forecast to improve with the current account deficit predicted to narrow to 5.2% of GDP during 2005-06 from a year average of 6.4% of GDP in 2004-05. Treasury predicts employment to slow by 2% during 2005-06 while unemployment is expected to remain around 5.25% during 2005-06 and 2006-07. The CPI is forecast to increase to 3% in year average terms during 2005-06 only to fall to 2.5% in 2006-07.

4.2 Queensland Government

- [68] According to the Queensland Government submission, the prospects for growth in the world economy remain favourable. In arriving at this conclusion the Queensland Government relies upon the Commonwealth Government's MYEFO. World GDP is forecast to grow by 4.5% in 2005 (was revised up by 1/4 percentage point from the Budget forecast). The February 2006 Statement on Monetary Policy, released by the Reserve Bank of Australia (RBA), also supports this positive outlook for the global economy which shows that most economic indicators point to ongoing healthy growth in the world economy which is now in its fifth year of expansion. Rapid growth in China and India are also driving growth in Queensland's major trading partners in non-Japan Asia. Strong growth in the world economy has driven strong growth in commodity prices, especially for oil, coal and iron ore. The effects of high commodity prices have been significant for both the Australian and Queensland economies.
- [69] The Australian GDP rose 2.5% in 2004-05, after growth of 4.0% in 2003-04. There were changes in the composition of growth over the last year with a rebalancing of economic activity away from the household sector to the business and trade sectors. This trend is expected to continue in 2005-06, with sustained strong growth in business investment and modest growth in exports expected to support overall economic growth. Household consumption growth is anticipated to moderate, reflecting the impact of lower growth in housing wealth, higher debt servicing ratios and higher petrol prices. Dwelling investment is expected to remain virtually unchanged.

- [70] Business investment in Australia is forecast to remain solid in 2005-06 and 2006-07, with growth in both non-dwelling construction and machinery and equipment investment expected to be strong.
- [71] Employment growth is expected to slow through 2005-06 from 3.0% in 2004-05 to around 2.0% in 2005-06. Jobs growth, however, should remain strong enough to maintain the 2005-06 unemployment rate at a similar level to that recorded in 2004-05 i.e. 5%.
- [72] Aggregate wages growth has strengthened over the first half of 2005-06 reflecting tighter conditions in the labour market. The Wage Price Index (WPI) rose 4.2% over the year to December quarter 2005 reflecting the highest annual growth recorded since the WPI commenced in 1997. According to the MYEFO, wages growth is expected to peak at 4.25% in 2005-06, before easing to 4% in 2006-07. Further, headline inflation is expected to be 3% in 2005-06 but is expected to fall to 2.5% in 2006-07.
- [73] GDP is expected to increase by 3% in 2005-06 and in 2006-07. Risks to the economic outlook include the timing and magnitude of any fall in commodity prices in response to an increase in world production. Future oil prices are also expected to remain uncertain due to volatility in oil markets. Capacity constraints also remain a key risk, with the MYEFO noting the potential upside risk to inflation outcomes where higher wage demands are met without offsetting productivity improvements. The RBA has, however, noted that the central forecast on inflation "incorporates an expectation that any additional pressures from labour costs on consumer price inflation will be quite modest, based largely on indications that profit margins remain healthy, which should permit firms to continue to absorb some additional labour cost pressures during the forecast period": see p. 61 RBA February 2006 Statement on Monetary Policy.

4.3 QCCI

- [74] QCCI submits that whilst the national economy grew by 0.5% in the December quarter 2005, taking annual growth to 2.8%, the growth rate of 2004 was well below economic growth rates of previous years. If GDP were to continue at this quarterly rate in 2006-07, the Australian economy would grow by only 2.0% for the year. Whilst the current Treasury forecast is for growth of 3.0% for 2005-06 and 2006-07, that forecast may have to be revised downwards. The ANZ Bank is also forecasting low growth in 2006 of 2.9%.
- [75] QCCI submits that the risks to economic growth are as follows:
- the housing market may fall further;
 - businesses are facing capacity constraints, particularly from the labour market, but also from infrastructure;
 - the exchange rate may begin to fall, helping exporters and import competitors, but putting upwards pressure on domestic prices;
 - the RBA may increase interest rates in response to rising prices;
 - the current account deficit is at high levels. This may cause the exchange rate to fall or it may constrain future economic growth;
 - large US budget deficits are of concern since it may mean that the US dollar may fall further, causing further appreciation in the Australian dollar, cutting net exports. This risk will be exacerbated if the Chinese Yuan is maintained at low levels against the US dollar;
 - movements in oil prices are still unclear. Global demand is high and political uncertainties are continuing to put upwards pressure on prices; and
 - China is facing capacity constraints in infrastructure, which may limit its ability to grow.
- [76] **Domestic Demand:** Final domestic demand drew by 0.6% during the December quarter 2005 to be up 2.5% over the year. Private (household) consumption expenditure grew by 0.4% in the December quarter, below the 0.8% for September. Yearly growth was 2.3%. Part of the reason for the reduction is submitted to be due to slower growth in housing prices. The QCCI submits that demand should be taken into account to the extent that it affects GDP.
- [77] The MYEFO forecast for private household consumption for 2005-06 and for 2006-07 is 2.75% and this is slower than the 4.3% growth recorded in 2004-05. QCCI submits that a high wage claim may not support consumption growth because:

- with slow GDP growth, the focus of economic policy should be on growing production rather than consumption;
- there is no guarantee that consumption growth will be spent domestically - it could all go towards increasing imports; and
- higher consumption growth detracts from saving and can increase the current account deficit.

[78] **Private Investment Expenditure:** Business investment was 5.55% in December 2005, bringing the annual growth to 23.61%. With a significant proportion of capital investment being spent on imported capital equipment, such investment is not available to fund increases in award wages. Investment in the future may be at risk from:

- unaffordable increases in award wages which reduce profits, providing fewer funds for investment; and
- for resources, other countries with resources are experiencing capacity constraints and are investing strongly. If they bring investment on line more quickly than Australia, world supply will increase, prices will fall and Australia will miss the benefits of higher world prices.

[79] **Profits:** QCCI submit that current profit growth is at risk, particularly if there is an unaffordable wage increase awarded. Reductions in profit will put investment at risk.

[80] **Prices and Inflation:** Inflation was 2.8% for the year to December 2005 with a 0.5% increase over the December quarter. Inflation is at or near the top of the RBA's target band of 2-3% which means that interest rate increases are definitely possible, particularly if cost pressures increase. The RBA is forecasting inflation to remain close to 3% (the top of the target band) throughout 2006.

[81] **Interest Rates and Monetary Policy:** In March 2005, the RBA increased the interest rate by 0.25%. The cost of interest rate rises to business will be substantial. Interest rate rises are also associated with a slowing or reversal of falls in unemployment. Higher interest rates may also cut investment and reduce consumption and domestic demand.

[82] There is, according to QCCI, a potential additional impact of interest rate increases on small business. In this regard QCCI referred the Full Bench to the 6 February 2003 report of the Senate Employment, Workplace Relations and Education References Committee and in particular to the following comments:

“Most small businesses rely on their own equity or borrowings, frequently using the family home as security. This is a particular problem for those in areas with depressed housing markets, including some rural and regional areas. In addition, small business is often subject to higher interest rates, and higher bank fees and charges, partly because of a more limited bargaining capacity and also because of perceptions of increased risk.”

[83] **Employment and Wages:** The QCCI's preferred measure of labour costs is the Labour Price Index (LPI) which rose by 0.9% (seasonally adjusted) in the December quarter 2005 with the public sector index rising by 1.0% and the private sector index rising by 0.9%. The LPI has been trending upwards over the past three years with the index rising from 3.1 in March 2002 to 4.2 in December 2005. This shows, according to QCCI, that there are significant wage pressures building in the economy. In this regard QCCI also rely upon:

- the St George-ACCI Business Expectations Survey of February 2006;
- the St George-ACCI Small Business Survey of February 2006; and
- the ACIL Tasman-ACCI Survey of Investor Confidence of January 2006.

[84] The MYEFO has forecast that employment growth is expected to ease over 2005-06, although it will remain strong enough to maintain the unemployment rate around its current low levels.

[85] **Labour:** Productivity remains low after falling in the first half of 2005. Low productivity indicates that labour costs are increasing since wages have accelerated at a greater rate than has productivity. In February 2006 the unemployment rate remained at 5.2% and has remained at this level for three months. This suggests that the labour market is consolidating around recent levels.

[86] QCCI also points to the level of under-employment in Australia which is said to be still high. ABS data on labour under-utilisation shows that despite the reduction in the unemployment rate there continues to be a significant number of under-employed with the latest data showing 5.9% of the labour force in under-

employment in September 2005. The under-employment rate, however, has remained basically unchanged since around 1993.

[87] QCCI raise the following as being significant risks to the unemployment and labour market outlook:

- lower economic growth means lower demand for employees;
- an interest rate increase could have a significant effect on employment;
- continuing sluggishness in exports will reduce employment by exporters. If import demand continues, this will reduce domestic employment opportunities;
- increasing capacity constraints (for both infrastructure and skilled labour) will reduce the ability of firms to put on new workers;
- wage pressures are building; and
- the lower the rate of unemployment, the harder it is for further reductions particularly when unskilled people are being priced out of the labour market by high award wages.

[88] QCCI also point to the Department of Employment and Workplace Relations (DEWR Leading Indicator of Employment - March 2006) indicates that a slowdown in jobs growth may be taking place. That indicator has fallen for eleven consecutive months. QCCI contend that this Commission cannot ignore the plight of the 551,800 unemployed or the much greater number of people underutilised. The fact that there is a labour shortage in several skilled industries would suggest that the current unemployed are not able to fill these vacancies.

[89] **Current Account Deficit:** The December quarter 2005 CAD was \$13.9 billion, slightly down from a record \$15.2 billion the year before. The QCCI identified that a high CAD can be an indicator of underlying problems, such as:

- industries are internationally uncompetitive;
- the exchange rate is too high. If the exchange rate falls, this will increase inflation. Access Economics argues that the Australian dollar is already overvalued by 10-20%;
- supply constraints (in labour and infrastructure markets); and
- domestic demand outstripping GDP.

[90] An unaffordable increase in the minimum wage will not, according to QCCI, assist in addressing these problems. If a high CAD is seen to be a problem by financial markets, they will start pricing in a risk premium which will increase the interest rate for Australian borrowers, reduce investment and cause growth to slow.

[91] **Terms of Trade:** Whilst Australia's terms of trade are at high levels, the QCCI contend that the following should be noted:

- this is mostly benefiting a small number of mining commodities. The mining sector is largely award-free, and hence the effects of the terms of trade on profits are largely irrelevant to the current QCU application;
- the higher terms of trade is keeping the exchange rate high, making all exporters less competitive;
- higher commodity prices mean higher input costs into production. This is probably reflected in substantial increases in producer prices;
- high commodity prices are predicated on high world demand, particularly from China. This demand could dry up;
- the terms of trade are increasing for other resource exporting countries. If they are able to expand production faster than Australia, we will be left behind. This is why high levels of investment is needed in Australia right now; and
- expanding production by Australian and/or other resource exporters will drive commodity prices down, meaning our terms of trade will fall.

- [92] **Exchange Rate:** The Australian exchange rate is currently high, reducing the benefits of the improved terms of trade. The following competing forces may be acting on the exchange rate:
- a high current account deficit may be putting pressure on the exchange rate to fall; and
 - the high terms of trade are keeping the exchange rate strong.
- [93] There are significant pressures facing the exchange rate which could move substantially in either direction with either possibility causing some disruption to the economy.

5. QUEENSLAND ECONOMY

5.1 QCU

- [94] In providing material on the Queensland economy, the QCU relied predominately upon the following:
- 2004-05 Annual Economic Report of the Queensland Economy for the year ended 30 June 2005;
 - the Priorities in Progress 2004-05 Queensland Treasury;
 - the Special Fiscal and Economic Statement October 2005; and
 - the Queensland Economic Review November 2005 Office of Economic and Statistical Research.
- [95] According to the QCU, Queensland recorded GSP growth of 4.0% in 2004-05 i.e. almost double the growth rate of 2.3% in the rest of Australia and the ninth consecutive year that Queensland had outperformed growth nationally. The growth in the Queensland economy was driven by a solid increase in domestic demand (gross state expenditure) of 5.9%. High levels of household wealth, solid consumer and business confidence, low interest rates and strong population growth all helped to underpin further growth in consumer spending and private investment during the year.
- [96] Record labour market outcomes were recorded in 2004-05 due to the strength of the Queensland economy's domestic and export sectors. Jobs growth reached a ten year high of 5.6% in 2004-05 i.e. more than twice the rate of job creation of 2.4% in the rest of Australia. Queensland also created a record 102,900 jobs in 2004-05, which accounted for more than one third of the national rise in employment. 84.3% of that jobs growth in Queensland was in full-time employment. Queensland contributed over 40% of full-time jobs growth nationally and recorded the largest increase in both full-time and total employment of any state in 2004-05. Employment growth was found in many of Queensland's labour-intensive service industries (construction up 22,600 persons, retail and wholesale trade up 21,600 persons, accommodation, cafes and restaurants up 13,000 persons, property and business services up 12,300 and education up 11,000) and in the resource-related mining (up 2,700 persons) and manufacturing industries (up 13,500). The strong growth in employment in the resource-related mining and manufacturing industries were partially offset by job losses in the agriculture, forestry and fishing industries (down 6,800 persons).
- [97] Strong jobs growth reduced the unemployment rate to a thirty year low of 4.9% which represents a rate below that in the rest of Australia for the first time in a decade, with the largest employment gains being recorded in the construction and retail trade industries. With jobs growth (5.6%) exceeding labour force growth (4.1%), the year average unemployment rate fell 1.3 percentage points from 6.2% in 2003-04 to 4.9% in 2004-05. The unemployment rate in the rest of Australia recorded a more modest fall of 0.4 percentage points to 5.3% in 2004-05. Thus, the Queensland unemployment rate was lower than that in the rest of Australia in 2004-05 for the first time since 1994-95. In January 2006 the unemployment rate for Queensland was 5.0% which was 0.2 percentage points below the national average. This compared with a decline from 5.6% to 5.1% in the rest of Australia over the same period.
- [98] Labour force growth in Queensland in 2004-05 of 4.1% was the strongest in a decade and was double the 2% growth recorded in the rest of Australia. Queensland accounted for more than 30% of the national increase in the labour force over the past seventeen years.
- [99] Queensland's participation rate rose one percentage point to reach an historical high of 65.8% in 2004-05. The participation rate in 2004-05 was above that in the rest of Australia for the seventeenth consecutive year with the rate in the rest of Australia only increasing by 0.4 percentage points to 63.6%. Further, Queensland's participation rate has risen at a faster rate relative to the rest of Australia over the past twenty years, with Queensland's participation rate being 2.2 percentage points higher than that in the rest of Australia in 2004-05, compared with a rate that was 0.9 of a percentage point below that in the rest of Australia in 1984-85. Much of

the increase in Queensland's labour force participation rate in 2004-05 was due to the female labour force participation rate rising by 1.3 percentage points to 58.7%, compared with a 0.7 percentage point increase in the state's male participation rate of 73.1%. This rise in the participation rate is said to be partly related to the strength of economic activity in Queensland, with the state's very strong jobs growth and decline in unemployment encouraging people to enter the labour force.

- [100] Employment growth in Queensland has, however, gradually returned to more sustainable rates in recent months with the total number of persons employed rising only 0.1% in both September and October 2005. Nevertheless, measured in annual terms, the level of employment in October 2005 remained 3.9% above that of a year ago, compared with a 2.8% rise nationally.
- [101] Working days lost due to work stoppages was 19 per 1,000 which was lower than that recorded for Australia of 28 per 1,000.
- [102] **Investment:** Business investment rose sharply by 17.9% in 2004-05 following growth of 4.8% in the previous year. Strong domestic demand and low borrowing costs have been the drivers of business spending with the recent appreciation of the Australian dollar exchange rate and the fall in the world prices of electronic equipment also playing a role. Business has also continued to experience strong profitability during the year.
- [103] **Prices:** Nationally, inflation of 2.4% was slightly lower than in Queensland in 2004-05.
- [104] **Wages:** Wages growth strengthened in 2004-05 partly reflecting strong labour market conditions during the year, characterised by jobs growth reaching a ten year high and the unemployment rate falling to below 5%. The total wage bill in Queensland, as measured by compensation of employees, rose 10.1% in 2004-05 as compared to the rest of Australia being 6.3%. This represents the strongest growth in aggregate wages since 1989-90. The average wage per employee rose by 4.0% in Queensland in 2004-05 which was higher than the 3.4% earnings growth in the previous year and slightly above the 3.9% growth in the rest of Australia in the same period.
- [105] **Economic Outlook:** Employment conditions within the Queensland economy are projected to remain positive over coming months. The Queensland economy is forecast to exceed growth nationally for the tenth consecutive year and grow a further 4.25% in 2005-06 with unemployment being maintained at an historically low rate.

5.2 Queensland Government

- [106] **Economic Growth:** The latest Queensland State Accounts, by the Office of Economic and Statistical Research, show that the Queensland economy grew 4.2% in 2004-05, more than double the 2.0% growth recorded in the rest of Australia and the ninth year in a row that the Queensland economy has outperformed the national economy. The Queensland economy is forecast to grow by 4.25% in 2005-06.
- [107] **Household Consumption:** As the largest sector of the Queensland economy, accounting for around 60% of gross state product, household consumption continues to be one of the key drivers of economic activity in Queensland. Household consumption grew by 5% in 2004-05 which followed a growth of 9.8% in 2003-04. Consumption expenditure was driven by the continued effects of increased household wealth, sustained high levels of consumer confidence, exceptional labour market conditions and above average rates of interstate and overseas migration. In addition, a strong Australian dollar, which made imported goods less expensive, supported spending on consumer durables. Overall, growth in household consumption is forecast to moderate to 4.25% in 2005-06.
- [108] **Dwelling Investment:** Dwelling investment continued to grow in 2004-05 rising 4.6%. Solid population growth, low home loan interest rates and a very buoyant labour market supported the demand for housing construction. Whilst the 2005-06 State Budget forecasts dwelling investment in Queensland to decline to around 3% over the year, ABS data for the first half of 2005-06 suggests dwelling investment may be stronger than previously anticipated.
- [109] **Business Investment:** Following three years of very strong growth, business investment increased by a further 15.2% in 2004-05. Both the major components of business investment rose i.e. other buildings and structures investment (up 8.1%) and machinery and equipment investment (up 19.5%). Both of these components of business investment are expected to continue to grow strongly in 2005-06.
- [110] **Net Exports:** Net exports detracted 1.9 percentage points from the level of growth in 2004-05 following a very large detraction from growth in 2003-04. At the time of the 2005-06 State Budget, growth in exports was expected to strengthen to a five year high of 6.75% in 2005-06, supported by continuing strong economic growth in Queensland's major trading partners, particularly in emerging economies such as China and India. Imports growth was expected to moderate to 6.25% in line with an anticipated easing in growth in the domestic economy.

However, more recent data would suggest that while the value of exports are expected to rise in 2005-06, the volume of commodity exports will grow more modestly in the current financial year.

- [111] **Employment:** The strength of the Queensland economy's domestic and export sectors have seen jobs growth reach a ten year high of 5.6% in 2004-05 i.e. more than twice the rate of job creation in the rest of Australia (2.4%). Queensland created a record 102,900 jobs in 2004-05 with most of the jobs growth being full-time employment. Queensland also contributed over 40% of full-time jobs growth nationally and recorded the largest rise in both full-time and total employment of any state in 2004-05. Significant job gains were found in service industries such as retail trade, construction, education, and property and business services. Queensland's year-average unemployment rate was reduced to 4.9% i.e. a thirty year low. Jobs growth in 2005-06 as a whole is forecast to be 2.75% which is expected to be offset by a rise in the participation rate. Thus, the year-average unemployment rate is forecast to remain unchanged.
- [112] **Population:** Queensland recorded solid population growth of 2% in 2004-05 with similar growth forecast for 2005-06. The state's population is expected to increase by approximately 150,000 persons over the next two years, to total more than four million persons by the end of 2005-06. The population growth in Queensland is forecast to remain substantially higher than that nationally over the current and upcoming financial years.
- [113] **Average Earnings:** Queensland recorded solid nominal average earnings growth of 3.8% in 2004-05 which was driven by the exceptional labour market conditions experienced over the year. The CPI rose 2.6% in 2004-05 implying a rise in real average earnings of around 1.2%. Nominal earnings growth is expected to be similar, at around 4%, in 2005-06. This is well above anticipated inflation for the year.
- [114] **Inflation:** Consumer price inflation is forecast to strengthen slightly to around 3% in 2005-06. Sustained tight labour market conditions are expected to provide a source of domestic inflationary pressures. Conversely, house price growth is likely to contribute less in 2005-06 which in turn will put downward pressure on non-tradables inflation. Tradables inflation is, however, expected to continue to move upwards into 2005-06. Over the year to the December quarter 2005, the CPI rose 2.8% in both Brisbane and nationally. Inflation nationally in 2005-06 is forecast to be similar to the 3% forecast in Queensland with both being upgraded in the respective mid-year economic updates.
- [115] **Potential Risks to Economic Activity:** Domestic risks at the time of the 2005-06 Budget included the possibility of a sharper than expected downturn in the housing sector and slower than anticipated population growth. These risks have since moderated somewhat. However, seasonal conditions continue to be a risk factor for the rural sector. External risks centre on the impact of higher oil prices and their effect on global and domestic growth as well as the possibility of a correction in commodity prices. Risks associated with an economy running at near capacity have also heightened since the time of the State Budget. In the October 2005 Special Fiscal and Economic Statement it was noted that wage pressures and unit labour costs had shown little signs of increasing sharply in spite of a tight labour market, however, the Queensland WPI has since strengthened to 4.3% in the December quarter 2005.
- [116] **Impact of Cyclone Larry in North Queensland:** Damage from Cyclone Larry has been extensive, covering some 300 km of coastline around Innisfail and the Atherton Tablelands. The cyclone has severely affected the region's agricultural production with the main crops affected being sugar cane, bananas, pawpaws and avocados. Estimates of production losses for raw sugar production are around 400,000 tonnes or around 8% of Australia's production. The loss amounts to around \$200 million. Banana plantations in the region, which account for around 90% of Australia's supply of bananas, have been almost completely destroyed. In 2004-05, the gross value of banana production in Queensland was estimated at around \$285 million. Employment in the affected region is heavily reliant on agricultural industries. A package of financial measures, funded by the Queensland Government and the federal Government, has been put together to assist farmers and small business owners in the region.
- [117] **Summary:** The forecast, according to the Queensland Government, is for generally positive economic prospects at the national and Queensland level. Solid economic growth has continued, employment has been strong with low unemployment, wages growth has strengthened but inflation has remained contained.

5.3 QCCI

- [118] QCCI submits that the Queensland economy continues to deliver a solid performance that is anticipated to continue over the next twelve months. QCCI, however, draws the Commission's attention to a number of matters. QCCI in its analysis has relied upon:
- the Queensland Economic Review January 2006; and
 - ABS Catalogue 6921.0.55.033.

- [119] **Economic Growth:** Whilst the economic growth of Queensland remains strong it has been reducing since 2001-02 where it was 5.4% to 2004-05 where it is 4.2% with the Queensland Government forecasting it to grow 4.25% in 2005-06.
- [120] **Employment:** Whilst Queensland recorded jobs growth of 5.6% in 2004-05 this has slowed in the second half of 2005 with monthly declines of 0.1% recorded in the last two months of 2005. The application before the Commission is based on 2004-05 data which indicates that Queensland experienced jobs growth due to sustained growth in the housing sector and consumer spending which has supported growth in construction and related activities.
- [121] The current ABS data, however, indicates that employment in Queensland has decreased over the period February 2005 to February 2006 particularly in:
- construction (down 2,300 people employed);
 - wholesale trade (down 1,400 people employed);
 - retail trade (down 16,400 people employed);
 - manufacturing (down 12,800 people employed); and
 - agriculture, forestry and fishing (down 12,000 people employed).
- [122] Overall, according to the QCCI, there were 33,400 more people employed between the February 2005 and February 2006 quarters. This is said to be in stark contrast to the preceding year in which there was a 112,500 increase in the number of people employed between the February 2004 and February 2005 quarters.
- [123] This, it is said, indicates a significant reduction in the rate at which industry is hiring new staff.
- [124] **Household Consumption:** Household consumption has continued to be a driver of economic activity in Queensland. In 2003-04 household consumption grew by 9.8% whereas in 2004-05 it grew by only 5% and in 2005-06 it is expected to grow by 4.25%. Thus, the growth is said to be slowly abating.
- [125] **Dwelling Approvals:** Total dwelling approvals in Queensland fell for the fifth consecutive month in November 2005, declining 2.0% with private housing approvals down by 0.8% and private other dwelling down by 5%. This decrease is consistent with the easing of investor demand in units and townhouses.
- [126] **Crops:** QCCI submits that as a result of a lower water allocation in some cotton growing regions there is a likely to be a reduction of around 44% in both cotton seed and cotton lint in the 2005-06 period as compared to the 2004-05 period. QCCI also urged this Commission to consider the effects of cyclone Larry which has caused substantial damage to the Innisfail, Atherton Tablelands and the surrounding regions and in particular to the damage on the local agricultural production. QCCI agreed with the Queensland Government's submission on the impact that cyclone Larry has had on the Queensland economy.

5.4 Retail Industry

- [127] **QRTSA:** The QRTSA submits that the Queensland economy continues to deliver a solid performance that is anticipated to continue. However, because of its size and importance, the retail industry needs to be specifically considered. The data relied upon by QRTSA did, however, relate to an earlier period than other data presented to this Full Bench.
- [128] According to the QRTSA, the Queensland retail industry endured a decline in the five months prior to January 2005 with food retailing, department stores, other retailing, hospitality and services being in decline over that period. January 2005 has seen a weak growth achieved in clothing and soft good retailing whilst the household good retailing had no growth whatsoever in the January 2005 period. February 2005 saw a further decline in the food retailing, clothing and soft good retailing, household good retailing and other retailing areas: see ABS Retail Trend (Cat. No. 8501.0)
- [129] In March 2005 the weak growth trend continued with clothing and soft good retailing and hospitality and services experiencing moderate growth but household good retailing and other retailing experiencing decline. Department stores, household good retailing and other retailing continued to decline throughout May and June 2005.

- [130] In July 2005 other retailing continued to be in decline whilst in August 2005 food retailing showed moderate growth. In September 2005 recreational good retailing and other retailing continued to show no growth in the trend. In October 2005 recreational good retailing continued to decline. In November 2005 department stores, clothing and soft good retailing and recreational good retailing declined. In December 2005 department stores had a decline for the fourth consecutive month, clothing and soft good retailing had a decline for the second month whilst recreational good retailing had a decline in the trend estimate for the eighth consecutive month.
- [131] QRTSA also referred the Commission to national retail industry data and submitted that cyclone Larry also had a serious impact on the local retail industry.
- [132] QRTSA concluded that the retail industry both nationally and in Queensland was not performing as well as the economy as a whole.
- [133] **NRA:** The NRA submits that the retail industry is the largest employing industry within both Queensland and Australia. The industry employs 17.51% of the Queensland workforce (ABS Labour Force Data). It is also the largest employer of women and the largest employer of youth. In Queensland 51% of the retail workforce is female and 39% is aged between 15 and 24.
- [134] Labour costs are a very significant operating expense for retailers. The NRA submits that wages in the retail sector have, since 1997, increased by 29.04% whereas the cumulative increase in the CPI is only 21.8%. This, it is said, shows that shop assistants under the retail award are accessing competitive increases. Such results are said to make it increasingly difficult for employers to negotiate meaningful outcomes in certified agreement negotiations.
- [135] The NRA submits that the performance of the retail sector is vital to the health of the overall economy and is a labour intensive and supplier intensive industry. The NRA argues that the retail industry provides substantial leverage for the generation of additional economic activity through other sectors of the economy, in that:
- retail trade generates relatively high multiplier effects, with a total multiplier of 2.245. This means that for each extra dollar of output through the retail industry, further output of \$2.24 is created in the economy over time;
 - the direct multiplier effects of the retail industry are also quite high at 0.87, due to the high labour content in this industry and the direct wages generated by additional retail sales; and
 - retail trade as an industry generates the second highest multiplier effect of any industry in the Australian economy.
- [136] It is thus submitted by the NRA that a profitable retail sector is a key contributor to the health of the Queensland and regional economies.

5.5 Hotel Industry

- [137] The QHA states that whilst it is cognisant of the moderate economic growth in Queensland in 2004-05, the economic data presented by the QCU and the Queensland Government fails to differentiate between large, medium and small businesses. In relying on the Sensis Business Index: Small and Medium Enterprise, February 2006, QHA submits that small businesses have experienced a reduction in profitability of ten points over the period November-January 2004-05 to November-January 2005-06. In terms of Queensland, the small and business outlook provided the following:
- business confidence was unchanged during the quarter and remained the highest of any state or territory;
 - despite the continued high confidence levels, the only indicator where Queensland small and medium enterprises (SMEs) recorded a result higher than the national average was for prices;
 - Queensland SMEs continued to record declining employment performance;
 - Performance in sales fell to be on par with the national average, with performance in profitability falling to be the lowest of any state or territory;
 - Performance in capital expenditure continued to fall during the past quarter to a level below the national average; and
 - SMEs in Queensland recorded the highest expectations for sales and profitability for the year ahead.

[138] Further, the QHA rejects the macro-economic approach taken by the QCU and submits that regional differences in the Queensland micro-economy needs to be taken into consideration before granting any increase in this application. The QHU submits that any wage and allowance increase will directly and detrimentally affect unincorporated employers to the competitive advantage of incorporated employers.

5.6 Restaurant and Catering Industry

[139] The RCEA submits that it cannot dispute that the Australian economy, and the Queensland economy in particular, has shown growth. It contends that whilst the economy continues to expand at a reasonable rate, the strength that was evident in the economy a year ago is no longer there. The RCEA provided the Full Bench with ABS data on cafes and restaurants resulting from a survey of businesses engaged in café and restaurant services conducted in respect of the 2003-04 financial year.

[140] The results of that data, when compared to the data received in the earlier survey in 1998-99 are said to indicate that:

- the café and restaurant services businesses experienced growth;
- income grew by 7.1% per annum since 1998-99 while expenditure grew at the slightly higher rate of 7.4% per annum for the same period;
- employment increased by 4.3% per annum;
- labour costs had the highest growth rate of all selected expenses, rising by 10.5% per annum; and
- operating profit before tax grew at an average annual rate of 3.9% per annum, however, the operating profit margin decreased from 4.8% to 4.0% in the period.

5.7 Fruit and Vegetable Growing Industry

[141] The QFVG submitted that Queensland is a significant producer of fresh fruit and vegetables. Approximately one third of the total value of national fruit and vegetable production is produced in Queensland. According to the latest statistics published by the Queensland Department of Primary Industries and Forestry in Prospects 2005, "the total farm gate value of fruit, vegetables and nuts produced in Queensland in 2005-06 was \$1.5 billion; \$790 million for fruit and nuts and \$750 million for vegetables."

[142] Sustained growth in this industry, which is vital to many rural communities, continues to be challenged by the trends of decreasing product prices compounded by rising input costs.

[143] **Prices:** The terms of trade for Australian agriculture (prices received as a ratio of prices paid per unit of production) have declined 23.4% since 1995. The declining trend continues as prices paid increase at a greater rate than prices received (RBA, 2005). This, according to QFVG, equates to an average decrease of approximately 1.9% per annum. The market for some products is characterised by the concentrated buying power of some domestic customers ("monopsonistic" market structure) and this reduces returns to the producers thus "price taking" is the norm. The export market is competitive with producers being "price takers" in this domain as well.

[144] **Input Costs:** Labour costs and fuel costs represent the most significant cost inputs of producers. The cost of fuel in Australia has increased by an average of 4.0% per annum during the ten year period, 1 September 1995 to 1 September 2005. QFVG also submit that the cost of labour to producers, based on minimum wage adjustments, in the period 1 September 1995 to 1 September 2005, has increased by an annual average of 4.3% per annum.

[145] **Drought:** The QFVG also asked the Full Bench to consider the effects of the drought which is said to be the worst drought on record, with drought impacts remaining severe in many areas. At the present time 60.6% of the Queensland land area has been drought declared. At 28 February 2006, sixty-one shires and seven part shires were drought declared. During any recovery process, horticultural producers are often not able to earn income from alternative sources as they are working full-time to rebuild their businesses, thus growers experience a negative cash flow during such periods.

[146] QFVG referred us to the Granite Belt region which is experiencing major losses in production and income. In this region, horticulture production was down 30-35% in the 2002-03 financial year when compared to the 2001-02 financial year. Losses for the 2003-04 financial year in the region were in the order of \$97 million or 74% of production. Other horticultural producing regions such as the Burnett, Upper Brisbane Valley, Lockyer Valley, Western Darling Downs and Central Queensland are said to be in similar situations.

[147] **Cyclone Larry:** The supply of bananas to the Australian market has been reduced by around 90% as a result of damage sustained to plantations from cyclone Larry. Tropical fruits and other tree crops have also been severely impacted as recovery periods for such producers are substantially longer e.g. up to twelve years for mangosteen and macadamia nut trees.

[148] Employment in the affected area is heavily reliant on agricultural industries. In the period 1991 to 2001 the percentage of persons employed in horticulture in these regions increased significantly. Persons employed in horticulture in the Coastal Wet Tropics increased by 93% and persons employed in horticulture in the Atherton Tablelands increased by 81.5% over that period.

5.8 Aged Care Industry

[149] The NRA, appearing for the Queensland aged care industry, submits that the aged care sector is highly regulated by the Commonwealth government in that the government controls:

- who can be an aged care provider;
- the building in which the services are delivered;
- the allocation of bed licences;
- who can come into a facility as a resident;
- how much can be charged to the resident;
- how much will be available through subsidies for care and support; and
- the expected outcomes from services.

[150] Aged care facilities are regulated in terms of the fees they may charge and the amount of subsidy they may receive. Thus their total income is regulated. These amounts are subject to annual indexation determined in accordance with the federal government's indexation policy. Therefore, aged care operators can be severely disadvantaged if indexation increases fall short of increases awarded by industrial relations tribunals.

[151] Labour costs in the aged care sector account for up to 80% of total operating costs. There is considerable sensitivity to wages outcomes in the industry.

6. WAGE ENVIRONMENT

6.1 QCU

[152] The QCU initially outlined the four most commonly used measures of wages growth indicating that, at times, these measures can produce different signals of wage trends. The four measures are as follows:

- Average Weekly Earnings (AWE) of non-farm wage and salary earners, from the ABS Survey of the same name (Catalogue No. 6302.0) published for "all employees", and also for "full-time employees". For the year to November 2005, AWE for all employees increased by 5.4% to \$810.60. The AWE for full-time adult employees increased by 5.1% to \$1,078.60, for the same period;
- Average Weekly Ordinary Time Earnings (AWOTE) is derived from the AWE survey above but includes only ordinary time earnings of adults working full-time. For the year to November 2005, AWOTE increased by 5.5% to \$1,029.50;
- Average compensation per non-farm employee (published as part of the ABS's Quarterly National Accounts) also referred to as Average Earnings on a National Accounts basis (AENA), which grew by 4.4% for the year to December 2005;

Each of these three measures of the wage bill is designed to measure the average level of wages or labour costs per employee. As they are measures of labour costs per employee, their movements will reflect both movements in wage rates and in the compositional change of the labour force e.g. changes in the relative share of full-time and part-time workers, increases in the number of high paid full-time jobs and low paid part-time jobs. The AENA differs from the other two as it incorporates major non-wage costs such as

superannuation, redundancy payments and workers' compensation payments. Thus, an increase in any one of these will result in an increase in the AENA even though wage payments remain the same; and

- Wage Price Index which forms part of the expanded LPI survey, which increased by 4.2% for the year to December 2005.

[153] According to the QCU, the WPI is not affected by compositional change and therefore it is the best measure to assess the economic impact of wage changes to the employer. The WPI is designed to measure changes in wage movements rather than levels, and unlike the AENA, does not incorporate non-wage costs. The WPI is constructed measuring the cost of purchasing the same quality and quantity of labour input. The QCU submits that it is the RBA's preferred measure of wages growth.

[154] According to the most recently available LPI, total hourly rates of pay, excluding bonuses, for all employees increased 1.0% during the December quarter 2005 to be 4.2% for the year. Public sector wage rates continued to grow faster than those in the private sector, increasing 4.5% and 4.0%, respectively, for the year to December 2005. The LPI provides an indication of the total price of labour to the employer. In Queensland the LPI has grown at almost the equivalent level of the national average (3.9%). The real unit labour cost has declined since September 2001 (falling 2.1% for the year to September 2005). Declining real unit labour costs means that productivity is growing faster than real labour costs. The QCU submits that this indicates that there are no inflationary pressures in the economy.

[155] **Wage Trends in Enterprise Bargaining:** There are two sources for this data - the Trends in Enterprise Bargaining (series published by the Department of Employment and Workplace Relations) and the Agreements Database and Monitor Report (ADAM) (published quarterly by ACIRRT). One of the main differences between the two series is that Trends in Enterprise Bargaining reports the average annualised wage increase (AAWI) "per employee", whilst the ACIRRT report measures AAWI increases "per agreement".

[156] The December 2005 issue of Trends in Enterprise Bargaining reports that the AAWI per employee for those agreements certified in the December quarter 2005 was 4.1%. Over the four quarters to December 2005, the AAWI for agreements certified in each quarter averaged 4.1%. The ACIRRT report indicates that AAWI for agreements registered in the September quarter 2005 was 4.1%. The AAWI for certified agreements registered during the four quarters over the year to September 2005 was 4.2%.

[157] **Recent Trends in Wages Growth:** The AWOTE, AENA and AAWI measures have grown at average annual rates of 4.7%, 3.5% and 3.9% respectively since the introduction of the WPI in September 1997. The average annual rate of the WPI measure has been 3.4% which is just slightly below the AENA measure for the same period. The WPI for Queensland grew by 4.3% in the year to December quarter 2005 with an average annual growth rate of 3.3% between the September quarter 1997 and the December quarter 2005 while the AWOTE averaged 4.5% over a similar period.

6.2 Queensland Government

[158] The Queensland Government relied upon the evidence of Dr Buchanan, the Acting Director of ACIRRT. ACIRRT was commissioned by the Queensland DIR in February 2006 to assist with the preparation of material that could be used for the Queensland Government submission in this proceeding. The report, at attachment JB2 to Exhibit 2 in this proceeding, was prepared by ACIRRT in March 2006 titled "Queensland Safety Net Adjustment Case 2006 - Report prepared for Queensland DIR". The report built on work completed by ACIRRT for the State Governments in the 2005 Federal Safety Net Adjustment Case in the AIRC. Dr Buchanan was a co-author of the report and gave evidence before this Full Bench.

[159] The key findings and arguments made in the report include:

- modest wage growth is compatible with continuing employment growth;
- safety net adjustments continue to play an important role in minimising wage inequality, particularly at the bottom end of the labour market;
- there are significant productivity benefits to be derived from maintaining reasonable minimum wage standards in a decentralised bargaining system; and
- a further safety net adjustment at the state level is sustainable, given the level of growth in Queensland, and projections that this growth is likely to continue.

[160] The following Table outlines the latest available data from the LPI, agreement databases and other earnings series:

Indicators of Annual Average Wage Movements, Australia 2005

Indicators	Data as reported in AIRC SNA 2005 ^(a) (%)	Latest estimate of annual average wage increase for comparable period 12 months ^(b) (%) – <i>Australia</i>	Latest estimate of annual average wage increase for comparable period 12 months ^(c) (%) – <i>Queensland</i>
Average Weekly Earnings (ABS 6302.0)	3.3	5.1 ^(d)	4.6
Average Weekly Ordinary Time Earnings (ABS 6302.0)	3.2	5.5 ^(e)	5.1
Wage Cost/Labour Price Index (ABS 6345.0)	3.5	4.1 ^(f)	4.3
ADAM	4.3	4.2 ^(g)	3.9 ^(h)
Workplace Agreements Database (Federal Agreements only)			
Agreements registered in year to September	4.05	4.1	N/A
All Current Agreements	3.9	4.1 ⁽ⁱ⁾	N/A
Consumer Price Index (ABS 6401.0)	2.3	2.8 ^(j)	2.8 ^(k)

(a) State and Territory Governments Minimum Wage Submission 2005 - figures used the latest data at that time representing the 12 month period to August/September 2004.

(b) Latest available data as of March 2006. Data pertains to twelve months leading to September 2005.

(c) Ibid.

(d) Full-time Adult trend estimates for 12 months to November 2005.

(e) Ibid.

(f) Changes to total hourly rates of pay (excluding bonuses) across all sectors for December quarter 2004 to corresponding quarter 2005.

(g) Quarterly ADAM Report maintained by ACIRRT University of Sydney, reports upon the average annual wage increases (AAWIs) for a sample of enterprise agreements registered a quarter. This figure is the average of increases reported over the four quarters to September 2004.

(h) This figure applies to the acirrt ADAM sample of Queensland collective agreements (n=94) registered in the twelve months to December 2005.

(i) Although data was available for the December quarter 2005, the September quarter 2005 data is used for comparison purposes.

Figure shown represents the mean of quarterly sample AAWIs, recorded by the Federal Department of Employment and Workplace Relations' *Trends in Federal Enterprise Bargaining Report* over the four quarters to September 2005.

(j) All groups weighted average of eight capital cities for the year to the December quarter 2005.

(k) All groups weighted average for Brisbane for December quarter 2004-5.

[161] Wage growth nationally throughout 2005 has been steady and wages growth in Queensland has shadowed this trend. There is nothing in any of the various measures of wage growth to indicate a threat to macro-economic balance, either nationally or at the state level. The ACIRRT report notes that some commentators have speculated wage pressures will build amidst skill shortages and the lowest official unemployment rate since the late 1970s. ACIRRT, however, identifies the following reasons to suggest that some of the concerns about wages pressure may be overstated:

- the official unemployment rate overstates the level of labour utilisation insofar as it does not reflect hidden unemployment or under-employment. The ABS deems someone to be employed if they perform more than one hour of paid work in the survey reference week. The strong growth of part-time employment and under-employment means there is still capacity to respond to increased demand through increased hours;
- the emergence of skill shortages is uneven across industries and they have been building for some time without any noticeable impact on wages growth; and
- to the extent that the labour market is tightening, changes in the structure of the labour market and wage-fixation system are such that they are unlikely to feed into wage pressures in the same way as in the past. Even if wage pressures do appear in some pockets of the labour market, their impact will be more muted than in the past.

- [162] These findings are consistent with the report into findings of a recent ACCI-Westpac industrial trends survey which found Australian manufacturers were confident of containing wages despite skill shortages in some areas. The March quarter 2006 survey found that despite a higher reported difficulty in finding labour, a 6% net balance of manufacturers expected wage rises in their firm's next round of enterprise agreements to be lower than in previous agreements.
- [163] As at 31 December 2005, 4,431 certified agreements had been approved in the Queensland jurisdiction since 1 July 1999, covering about 276,000 employees. This included 609 new certified agreements approved in the 2005 calendar year, covering about 74,000 employees. In the December quarter 2005, 158 new agreements were certified by the QIRC, covering over 19,000 employees. Of the 113 agreements that provided for a readily identifiable wage increase, the average wage increase per agreement was 4.57% (which may include tradeoffs with conditions of employment).
- [164] On the issue of wages and employment, the Queensland Government refers to s. 3(b) of the Act and the need to provide for an effective and efficient economy with strong economic growth including high employment. This, according to the Queensland Government, brings into focus the perennial debate about the impact of wage adjustments on employment. The Queensland Government submits that there is no empirical evidence that reasonable, predictable increases in state award rates of pay and the Queensland Minimum Wage will adversely impact employment, or award-reliant workers or any other persons out of work.
- [165] In this regard the Queensland Government points to the history of this Commission awarding a series of reasonable wage increases, that have increased award rates and the minimum wage in real terms, which has coincided with a period of falling unemployment and strong employment growth. The Queensland Government also submits that this Commission can award an increase that both meets the requirement for fair wages, while also meeting the object to provide for an effective and efficient economy with, *inter alia*, high employment.
- [166] The AIRC in its deliberations over many years has considered the arguments that increases in minimum wage standards creates unemployment, and has been unable to find any credible link between reasonable minimum wage adjustments and unemployment. In its *2005 Safety Net Review - Wages* [7 June, 2005 Decision Summary] the Full Bench of the AIRC at [21] again reviewed the literature and studies purporting to show the effects of increases in minimum wages on employment, and found that "this is an area in which useful and robust research is all too rare", and urged "the need for a cautious approach to estimates of the employment effects". In the *2005 Safety Net Review - Wage* decision [PR002005, 7 June 2005] at [279] the Full Bench said:
- "The material to which we have been referred does not undermine the conclusion expressed by the Commission in the May 2003 decision that there is a continuing controversy amongst academics and researchers about the employment effects of minimum wage improvements. There is nothing before the Commission to indicate that the controversy has been resolved."
- [167] All that was concluded on the basis of the material before the Full Bench was a general observation that:
- "Substantial safety net adjustments may have some negative effects on employment in those sectors of the economy in which a high proportion of the workers are award reliant."
- [168] In the *2003 Safety Net Review - Wages* [PR002003, 6 May 2003], the national wage case bench also considered a number of academic papers on the link between wages and employment, as well as the report of the UK Low Pay Commission. The bench found that the studies produced conflicting results finding that:
- "Having regard to the various studies and the research findings of the UK Low Pay Commission, it is evident that there is a continuing controversy amongst academics and researchers as to the employment effects of minimum wage improvements. As noted by the Low Pay Commission, the research results often conflict. That Commission concluded, from the research undertaken for it, that negative effects do occur but that those effects are modest and confined to specific groups. Taking all of the research into account, it has not been established that moderate increases in the wages of the low paid, of themselves, will diminish aggregate employment outcomes, although some studies suggest that some negative effects might occur for employees receiving the minimum wage."
- [169] The Report by ACIRRT (attachment JB2 to Exhibit 2) comes to a similar conclusion and refers to the dearth of material within Australia which provides directly relevant insights into the relationship between minimum award increases and employment levels. ACIRRT notes that recent studies have found that under conditions of strong growth, modest wage increases are compatible with continued employment growth. In this regard ACIRRT refers to the findings of the Organisation for Economic Co-operation and Development (OECD) Employment Outlook report to support its conclusions.

- [170] Given the lack of conclusive evidence, the Queensland Government submits that the most sensible approach is to examine the general employment data in Queensland. The Queensland Government's position is that, after almost a decade of safety net adjustments, if there was a strong basis for the notion that minimum wages hurt employment, then these negative affects would be revealing themselves in the employment data and the parties would be able to demonstrate such effects. The Queensland Government submits that no such effects have been demonstrated.
- [171] The Queensland Government also states that the analysis of the employment data indicates that increases awarded in previous years have not had adverse implications and indeed have been associated with strong macro-economic performance, including strong employment growth and lower unemployment. The Table below of state-wide trends indicates that safety net adjustments made by this Commission have not discouraged, nor hampered, employment growth.

Employment trends Qld and Australia 1999-2005

Year	Change in employment growth (%)		Annual average unemployment rate (%)	
	Qld	Aust	Qld	Aust
1999-00	1.6	2.1	7.7	6.6
2000-01	1.8	2.1	8	6.4
2001-02	2.4	1.2	8	6.7
2002-03	3.7	2.5	7.2	6.2
2003-04	3.3	1.8	6.2	5.8
2004-05	5.6	3	4.9	5.3

Source: ABS Labour Force cat no. 6202 and Qld Treasury, Office of Economic and Statistical Research 2006.

[172] The key employment indicators in Queensland show the labour market to be in a strong position with signs of strengthening even further. Since 1999 the state has recorded both strong employment growth (1.6% in 1999 to 5.6% in 2005) and an accompanying decline in state wide unemployment (7.7% in 1999 to 5.3% in 2005). These figures tend to challenge the assumption that wage increases at the bottom end of the market undermine employment growth and destabilise economic health overall. This is a similar conclusion to that of the AIRC in its *2005 Safety Net Review - Wages* [PR002005, 7 June 2005, decision summary, [22]] where it stated:

"... in light of the growth in employment and the fact that unemployment has declined to its lowest level in 28 years, it would be difficult to accept the Commission's safety net adjustments have been excessive".

[173] The Queensland Government also points to the evidence from industries that have a high proportion of award-reliant employees as another indicator that reasonable award wage increases are consistent with strong employment performance. The ACIRRT report (attachment JB2 to Exhibit 2) provides an industry-by-industry analysis that shows that those industries that are more award-reliant have experienced strong employment growth. The Table below identifies those industries with the highest coverage of award-reliant employees:

Award-reliant industries, Australia 2005

Industry	Proportion employed who are solely award reliant
Accommodation, cafes and restaurants	60.1%
Retail	31.3%
Health and community services	26.6%
Personal and other services	23.5%
Property and business services	19.7%

Source: ABS Survey of Employee Earnings and Hours May 2004

[174] The Table below shows that employment has grown in all five of the top award-reliant industries.

Percentage change in employment, Queensland and Australia, August 2000 to August 2005

Industry	% growth change Qld	% growth change Aust
Retail trade	18.5% increase	16.4% increase
Accommodation, cafes and rest.	4.38% increase	6.85% increase
Property & business services	29% increase	11.5% increase
Health & community services	11% increase	19% increase
Personal and other services	32% increase	20% increase

Source: ABS Labour force data cat no 6291

[175] Given this situation, the Queensland Government submits that even if this Full Bench had genuine concerns about the potential employment impact, these considerations would also need to be balanced against other factors, particularly the benefit that reasonable wage increases have for low paid employees who rely on the award and minimum wage.

7. SOCIAL FACTORS

7.1 QCU

- [176] The decision in *The Australian Workers' Union of Employees, Queensland and Anor v Queensland Chamber of Commerce and Industry and Others* (2005) 179 QGIG 879 noted that "whereas the AIRC is required to set award rates which operate as safety nets, the *Industrial Relations Act 1999* requires that consideration be given to social as well as economic factors."
- [177] When considering fair wages, the QCU submits that the adoption of a level of increase that would result in a reduction in spending power for award-reliant employees would result in a significant further reduction in the minimum wage relative to average weekly earnings and could not be considered fair. In so submitting, the QCU referred the Full Bench to the following comments in paragraph [423] in the *2005 Safety Net Review - Wages*:
- "... the implementation of the Commonwealth's proposal would result in a reduction in spending power for all award-reliant employees and a significant further reduction in the minimum wage relative to average weekly earnings."
- [178] The QCU further submits that the outcome it is seeking from this application is the maintenance of fair wages, consistent with the legislative requirements that the Commission provide secure, relevant and consistent award rates: see s. 126(d) of the Act.
- [179] In maintaining the fairness of award wages, the QCU submits that the Full Bench should consider that:
- it is more difficult for award-reliant wage earners to rely on bargaining because of a lack of bargaining power;
 - award wage increases will not reduce or eliminate the incentive to bargain;
 - it would not be fair for the wages of award-reliant wage workers to fall further behind other workers; and
 - award wage earners have needs associated with the costs of living.
- [180] The QCU contends that a widening of the differential between bargaining outcomes and award minimum wages will further encourage those employers who actively resist bargaining attempts by employees. QCU submits that should its claim be granted there would continue to be a significant gap between award wages and the outcomes from bargaining agreements and therefore there would still be considerable incentive for employees to seek, collectively or individually, arrangements in excess of the minimum.
- [181] It is further submitted by the QCU that there is no evidence that recent increases in award wage rates of pay have slowed the growth in bargaining. Rather, the contrary appears to be the case as the numbers of award-reliant employees has reduced: ABS Employee Earnings and Hours data shows the number of award wage reliant workers has declined from 20.5% of the workforce in 2002 to 20.0% in 2004.
- [182] As the claim is based on the WPI, the QCU also argues that it will ensure that the wages of award-reliant workers will increase in a way that is comparable to increases for others in the community. The quantum sought, of 4%, is less than the current rate of the WPI which is 4.2% for the December quarter 2005.
- [183] According to the QCU, fairness is also about the maintenance of the real value of wages and therefore regard must be had to the expenditure of low income wage and salary households and the cost of living increases as measured by the CPI. In this regard, indicators of Australian standards of living are provided by the ABS publication Household Expenditure Survey (HES). The 2003-04 HES collected information on the expenditure, income and other characteristics of a sample of 6,957 households resident in private dwellings throughout Australia (Cat No. 6530.0). The QCU commissioned unpublished data from the HES survey in order to provide an indicator of the standards of living of the population of "households whose principal source of household income is wages and salaries". The data was provided for quintile groups which represent 20% groupings of the estimated population when households are ranked in ascending order to each household's total gross weekly income. Household characteristics for households whose principal source of household income is wages and salaries are detailed in the Table below:

Household Characteristics by Gross Household Income - Quintile of Households where Principal Source of Income is Wages and Salaries

	Quintile 1	Quintile 2	Quintile 3	Quintile 4	Quintile 5	Total
Upper boundary of income quintile	850	1150	1490	1993		
Mean gross household income per week	\$643	\$1000	\$1310	\$1717	\$2782	\$1490
Source of income (% of total)						
Employee income	89.9	87.8	90.7	93	92.8	91.5
Average number of employed persons in household	1.2	1.4	1.8	2.1	2.5	1.8
Average age of reference person	41	41	41	41	44	42
Family composition of household (% of households)						
One family households						
Couple family with dependent children	19.6	32.0	43.1	47.1	44.8	37.3
One parent family with dependent children	5.9	8.3	6.5	2.2	1.0	4.8
Couple only	18.7	19.9	23.3	26.9	21.6	22.1
Other one family households	7.1	14.0	11.3	12.5	21.6	13.3
Multiple family households	-	0.1	1.2	1.4	4.4	1.4
Non-family households						
Lone person	46.2	21.9	9.9	5.6	2.3	13.3
Group households	2.5	3.9	4.8	4.3	4.1	1.4
Tenure & Landlord type						
Owner without a mortgage	21.8	22.2	18.7	20.0	23.4	21.2
Owner with a mortgage	33.6	43.3	52.9	57.8	60.1	49.5
Renter						
State/Terr. housing authority	4.7	1.2	0.8		0.3	1.4
Private landlord	34.9	30.2	22.1	20.4	13.1	24.2
Other landlord	1.6	1.6	1.7	1.4	1.4	1.5
Total Renters	41.3	33.0	24.6	21.8	14.8	27.1
Other tenure type	3.3	1.6	3.8	0.4	1.7	2.1
Average number in household						
Dependent children	0.4	0.8	1.0	1.0	0.9	0.8
Persons						
Under 18 years	0.4	0.7	0.9	0.9	0.8	0.8
18-64 years	1.5	1.8	2.0	2.2	2.7	2.0
65 years and over	0.1	0.1	0.1	0.1	0.1	0.1
Total	2.0	2.6	3.0	3.2	3.5	2.9
Estimated number in population						
Total households	892100	894000	891000	891600	891100	4459900
Persons	1767500	2310900	2672300	2852300	3138500	12741500

Source: Unpublished data ABS *Household Expenditure Survey 2003-04*

[184] The HES unpublished data provides household characteristics by household income quintile group. For 2003-04 the first quintile comprises households with income up to \$850.00 per week. The average household income in this quintile is \$643.00, 89.9% of which is sourced from wages and salaries. The number of employed persons is, on average, 1.2 persons i.e. 46.2% of the households being a "lone person". The average number of dependent children in the first quintile households is only 0.4 i.e. the same as the number of persons under 18 years of age.

[185] The unpublished HES data also provides information on the spending pattern of households in each quintile and is found in the Table below:

Broad Expenditure Groups by Gross Household Income - Quintile of Households where Principal Source of Income is Wages and Salaries

	Quintile 1	Quintile 2	Quintile 3	Quintile 4	Quintile 5	Total
Upper boundary of income quintile (\$)	850	1150	1490	1993		
Mean gross household income per week (\$)	643	1000	1310	1717	2782	1490
Broad expenditure group	\$	\$	\$	\$	\$	\$
Current housing costs (selected dwelling)	137.63	156.92	165.57	199.43	238.46	179.58
Domestic fuel & power	19.96	23.44	24.71	27.74	33.67	25.90
Food & non-alcoholic beverages	109.60	144.07	175.45	202.76	268.10	179.96
Alcoholic beverages	17.85	22.96	27.46	32.19	48.25	29.73
Tobacco products	11.77	12.83	14.26	13.09	12.99	12.99
Clothing & footwear	21.10	31.60	49.55	49.50	74.67	45.27
Household furnishings and equipment	39.11	49.43	60.68	66.68	91.24	61.42
Household services and operation	41.33	53.89	59.92	74.65	88.21	63.59
Medical care and health expenses	28.83	40.74	45.18	58.22	82.14	51.01
Transport	100.63	148.16	184.98	179.94	256.50	174.01
Recreation	71.48	105.02	132.50	167.31	237.41	142.71
Personal care	10.22	16.72	20.68	25.32	33.88	21.36
Miscellaneous goods and services	54.92	76.08	96.79	137.15	154.76	103.91
Total goods and services expenditure	664.44	881.87	1057.73	1233.97	1620.27	1091.44

Source: Unpublished data ABS *Household Expenditure Survey 2003-04*.

[186] Defining necessities as housing, utilities, food, clothing and transport the data reveals that the expenditure of low paid, low income households is focussed on necessities (58.5%).

[187] The CPI measures changes in the price of a "basket of goods and services". The composition of the "basket" for the fifteenth and current series of the CPI is based on the pattern of household expenditure of the CPI population.

[188] A combining of the HES and CPI data shows that:

- the largest expenditure item for the first quintile households, comprising 20.7% of total goods and services expenditure, is housing. The cost of housing, as measured by the CPI has increased at a faster rate than the CPI since the June quarter 2004, and over the last twelve months. Whilst the CPI has increased by 4.0% since June quarter 2004, and by 2.8% over the last twelve months, the cost of housing has increased by 6% and 3.6% respectively;
- the second largest component of the first quintile households' expenditure on goods and services is expenditure on food, comprising 16.5% of total expenditure. The cost of food has increased at a faster rate than the CPI over the last twelve months, and since June quarter 2004. While the CPI has increased by 4.00% since June quarter 2004, and by 2.8% over the last twelve months, the cost of food has increased by 4.5% and 3.6% respectively; and
- the third largest expenditure item for the first quintile households, comprising 15.1% of total goods and services expenditure, is transportation. The cost of transportation over those periods also has increased at a faster rate than the CPI being 6.2% for the June quarter 2004 and 3.9% over the last twelve months.

[189] The QCU submits that the data reveals that the areas of highest expenditure for low income wage households reflect expenditure groups for which costs have increased at rates higher than the CPI rate.

8. LEGISLATION

8.1 QCU

[190] The QCU contends that its application is in accord with certain key provisions of the Act. Relevantly, s. 3 of the Act provides that the framework for industrial relations is one that supports economic prosperity and social justice. This is promoted through ensuring wages and employment conditions provide fair standards in relation

to living standards prevailing in the community and by promoting and facilitating the regulation of employment by awards and agreements: see s. 3(f) and (i) of the Act.

- [191] Section 126 of the Act, in dealing with awards, provides that the Commission must ensure that awards provide for secure, relevant and consistent wages and employment conditions and provide for fair standards for employees in the context of living standards generally prevailing in the community: see s. 126(d) and (f) of the Act.
- [192] Section 287 of the Act provides that a General Ruling should be made at least once in each calendar year in respect of the Queensland Minimum Wage.

8.2 Queensland Government

- [193] The Queensland Government submits that the objects and other relevant provisions of the Act require this Commission to balance economic and social factors in making determinations on matters such as state wage cases. This is said to reflect the Queensland Government's view that industrial relations has both an economic and a social dimension with wages policy being a prime example. In economic terms, there is a need to ensure that wage outcomes are consistent with strong economic performance. In social terms, there is a need to ensure that people are covered by fair and reasonable wages that allow them to participate in society and that those who do not benefit from bargaining are not left behind. This position has been acknowledged in previous state wage case decisions: see *The Australian Workers' Union of Employees, Queensland and Anor v Queensland Chamber of Commerce and Industry and Others* (2005) 179 QGIG 879 at 171.
- [194] These economic and social objectives are, according to the Queensland Government, encapsulated in the Principal Object of the Act which is to provide a framework for industrial relations that supports economic prosperity and social justice. The attention of the Full Bench was drawn particularly to s. 3(b) and (g) i.e. (b) providing for an effective and efficient economy, with strong economic growth, high employment, employment security, improved living standards, low inflation and national and international competitiveness and (g) ensuring wages and employment conditions provide fair standards in relation to living standards prevailing in the community. These are matters which have traditionally formed part of Australian wage-fixing deliberations and include considerations of the needs of low paid workers and community living standards as well as economic factors.
- [195] The Act has a strong focus on the importance of ensuring fair wages and conditions: see s. 3(g), s. 126(d) and (f) and s. 273(1) of the Act. The intent behind the 1999 legislation was made clear by the then Minister for Employment, Training and Industrial Relations, the Hon. Paul Braddy in the Second Reading Speech when he said that awards would no longer be a mere safety net of wages and conditions: see Hansard, 25 May 1999, p. 1831.
- [196] Section 273(2) of the Act provides that the Commission must perform its functions in a way that furthers the objects of the Act and in s. 320(5) the Commission must consider the objects of the Act as well as the likely effects of its decisions on the community, local community, economy, industry generally and the particular industry concerned.
- [197] Section 287(2) of the Act requires that the Commission ensure that a general ruling about a Queensland Minimum Wage is made each calendar year.

9. MERITS OF THE CLAIM

9.1 QCU

[198] The QCU submits that the Queensland economy is in a strong position:

- strong jobs growth has reduced the unemployment rate to a thirty year low of 4.9% in 2004-05;
- for the first time more than 100,000 jobs were created in a single year in Queensland. Most of the jobs growth in Queensland was through full-time employment which rose by 86,700 while part-time employment increased by 16,200;
- the unemployment rate fell 1.3 percentage points in 2004-05. In January 2006 the unemployment rate for Queensland was 5.0% i.e. 0.2 percentage points below the national average;
- Queensland's very strong labour market conditions in 2004-05 were reflected in the number of wage and salary earners rising by 5.9% i.e. more than double the 2.3% growth recorded in the rest of Australia;
- the cost of housing, as measured by the CPI, has increased at a faster rate than the CPI since the June quarter 2004;
- the cost of food has increased at a faster rate than the CPI over the last twelve months;
- the cost of transportation over the past twelve months has increased at a faster rate than CPI; and
- the average wage per employee rose by 4.0% in Queensland in 2004-05 i.e. higher than the 3.4% earnings growth in the previous year and slightly above the 3.9% growth in the rest of Australia in 2004-05.

[199] There is, however, a significant gap between award wages and the outcomes from bargaining agreements and, therefore, there continues to remain a considerable incentive for employees to seek, collectively or individually, arrangements in excess of the minimum. The QCU said that the modest quantum it sought in this claim will not reduce an ever-widening gap between award and bargained wages.

[200] Should the claim be awarded then this will ensure that the wages of award-reliant workers would increase in a way that is comparable to increases for others in the community. This is because the claim is based on the WPI as the measure of general wage movements.

[201] The quantum sought by the QCU, at 4%, is conservative being less than the current rate of the WPI which is 4.2% for the December quarter 2005. It is about ensuring consistency with legislative provisions that require secure, relevant and consistent award rates prevail: see s. 126(d) of the Act. The QCU application ensures fairness by maintaining the real, and the relative, value of award wages. The three largest expenditure items for first quintile households i.e. housing, food and transportation have all increased at rates in excess of the CPI.

[202] The QCU submit that, in all the circumstances, its claim for a 4% increase in award wages should be accepted.

[203] **Costing:** In terms of the costing of its claim, the QCU relies upon the evidence of Richard Watts, a senior industrial officer with the Australian Council of Trade Unions (ACTU). Mr Watts has in the past had responsibility for the preparation of the ACTU's submissions to the AIRC's Safety Net Reviews and was the ACTU's advocate in the 2005 Safety Net Review proceeding.

[204] Mr Watts also refers to the costing methodology of the Queensland Government. In essence he suggests that the differences between the QCU and the Queensland Government costing are minor. The substantial difference between the Queensland Government cost estimates and the QCU estimate flows from the former costing a \$20.00 per week increase whereas the QCU's costing is based on a 4% increase.

[205] Mr Watts estimates that the economic impact of the QCU claim for a 4% increase in award wages for award only employees is 0.15% with the net impact on total ordinary time earnings being 0.05% and a CPI effect of 0.03%.

[206] Mr Watts acknowledged that the QCU costing methodology is similar to that used by the ACTU in the past and agrees that it does not include flow on costs. Mr Watts's evidence is that there is no data or estimate of the cost of flow on to non-award-reliant employees. He does, however, make the following points:

- as a result of the recent legislative changes, the majority of any agreements that allowed for adjustments to the rates of pay in the event of an award rate rise will now be in the federal system;

- the data clearly indicates that Queensland workers employed under the terms of an agreement earn considerably more than those workers who are award-reliant. AWOTE for Queensland award-reliant workers as of May 2004 was \$386.08 whereas the comparable rate for those under agreements was \$611.05;
- the QCU costing calculates the state-wide economic effect for a 4% increase in award rates of pay. The costing does not take into account the extent of over-award payments as it is agreed there is no reliable data for this. There is an implicit assumption that all award only workers in unincorporated businesses will receive the award increase thus making QCU's costing an overestimation; and
- unlike previous ACTU submissions to the national safety net review cases heard by the AIRC, there is no discounting to take account of non-compliance or non-observance of awards. There is no reliable state data available to facilitate this discounting. It is therefore presumed that the awarding of a 4% increase will immediately flow on to all Queensland award-reliant employees employed within private sector unincorporated businesses and that there will be a 100% observance.

[207] The QCU submit that the economic impact of its claim can properly be described as negligible

9.2 Queensland Government

[208] The Queensland Government's position is that the provisions of the Act and the relevant statutory obligations are best served by the Commission continuing the process of reasonable minimum and award wage adjustments on an annual basis. The legislative obligations mean that award rates should be adjusted with some reference to general movements in wages across the community. For those employees who rely on awards, a major indicator of community standards are the wage increases that have been achieved through enterprise bargaining, and increases in rates of pay generally. Awards were not intended to be a mere safety net of wages and there should be a continuing effort to address the disparity between award rates and enterprise bargaining rates, as well as general wage movements across the community.

[209] The Queensland Government says that this recognises an important principle that improvements in wages and conditions should not be restricted to those employees who are best placed to bargain for them in negotiations with their employer. In this regard we were referred to the following comments made by a Full Bench of the AIRC in the *2004 Safety Net Review - Wages* [PR002004, 5 May 2004] at [10]:

"... no one would suggest that all employees are capable of bargaining. Bargaining is not a practical possibility for employees who have no bargaining power. It is to be inferred from the statutory scheme that the award safety net should be adjusted with the interests of these employees in mind."

[210] Similar observations were made by a Full Bench of this Commission in the 2003 state wage case in *Queensland Council of Unions and Anor v Queensland Chamber of Commerce and Industry and Others* (2003) 173 QGIG 1252:

"Almost one quarter of Queensland employees rely on the award system to provide wage increases and there continues to be a wage disparity between this group of workers and those who benefit from individual and collective bargaining. It is important that such workers are not unduly disadvantaged because of an inability to negotiate wage increases with their employers."

[211] The Queensland Government submits that the concept of fair wages and community standards also contains some notion of ensuring that wage increases improve living standards and address issues of poverty and inequality. Fair wages should not have the effect of reducing real wages across the board for award-reliant and minimum wage employees i.e. the lowest paid employees in the workforce. General wage movements measured by the wage cost index are running at 4.3% whilst inflation is 2.75%. This means that there is real wage growth across the workforce generally. The Queensland Government submits that the lowest paid employees in the workforce who rely on award rates or the minimum wage should also receive the benefit of real wages growth. To do so would give effect to s. 3(b) and (g) of the Act i.e. the notion of improving living standards and providing fair standards in relation to living standards generally prevailing in the community. The Queensland Government submits that any increase below \$14.00 per week would have the effect of reducing real wages for all minimum wage and award-reliant employees.

[212] Growth in the minimum wage and the award rates of pay has not kept pace with the growth in average weekly earnings for full-time adults. Thus, there is a continuing issue of wage disparity that needs to be addressed in the interests of ensuring fair wages in line with standards generally prevailing in the community. Almost one quarter of employees rely on the award system to provide a wage increase. The disparity between this group of employees and those who benefit from enterprise bargaining is demonstrated in the following Table:

Average weekly ordinary time earnings, non-managerial employees by pay setting methods.

	Award Only	Federal registered CA	Federal registered IA	Other	State registered CA	State registered IA	Total
Non-managerial employees adult permanent/fixed contract full-time	\$590.10	\$823.80	\$902.50	\$829.80	\$907.30	n.p	\$820.30
adult casual full-time	\$633.00	\$744.90	\$1,198.60	\$896.70	\$658.60	-	\$803.50
adult permanent/fixed contract part-time	\$375.00	\$424.80	\$519.10	\$480.90	\$485.40	n.p	\$449.80
adult casual part-time	\$318.70	\$326.30	\$565.90	\$354.90	\$391.00	n.p	\$339.30
Junior	\$200.70	\$186.80	\$76.40	\$202.00	\$192.00	-	\$196.80
Total	\$394.60	\$638.40	\$861.70	\$719.00	\$749.10	n.p	\$633.20

Source: Unpublished data, ABS Survey of Employee Earnings and Hours (Cat. no. 6306.0), May 2004.

- [213] The wage disparity is apparent with the average weekly ordinary time earnings of award-reliant employees being \$394.60 a week as compared to \$633.20 a week overall for all employees. The gap between award rates of pay and certified agreements is not narrowing. In 2002 the ratio of award earnings to agreement earnings in all industries was 55.6% and this ratio had not changed by 2004, suggesting no growth in the gap between award rates and agreement rates. However, that pattern does differ across industry e.g. in accommodation, cafes and restaurants (the most award-reliant sector) the ratio of award to agreement earnings declined by -22.8% between 2002 and 2004. In most other industries where there are high proportions of award-reliant employees, there were also declines in the award-agreement ratio.
- [214] Employees who rely on awards for their wage increases are not evenly distributed throughout the labour force. They are over represented by women and employees in unincorporated businesses. In Queensland 29.1% of women are award-reliant as compared to 17.0% of men. Therefore, it is important that award wages continue to be fair wages in order to address gender equity issues.
- [215] The tendency is for employees of unincorporated organisations to be more concentrated in lower paying jobs than employees of incorporated businesses. The average weekly ordinary time earnings for full-time permanent employees in private sector unincorporated businesses was \$731.30 per week as compared to \$774.50 per week in incorporated private sector businesses. This pattern is reflected in further ABS data that show the median weekly total earnings for employees of unincorporated businesses in Queensland is \$667.00 per week as compared to a median figure of \$700.00 per week for employees of incorporated businesses. The Queensland Government submits that this material takes on added significance now that the Queensland state wage case is confined to dealing with employees of unincorporated organisations.
- [216] The Queensland Government further submits that fair wages can also help address issues of inequality and poverty which are a reality in both Queensland and Australia.
- [217] The significant growth in both the Queensland and Australian economies in the past two decades has not resulted in benefits being evenly distributed across the labour force with the result being a growing level of earnings inequality. Material contained in the ACIRRT report (Attachment JB2 to Exhibit 2) suggests that minimum and award wage adjustments are having a positive impact in this regard. According to the Queensland Government, the flow-through of fair wages and reasonable minimum wage adjustments to award only and minimum wage employees not only helps address issues of wage disparity or wage inequality, it can also help address income inequality in society. Reasonable wage increases can make a contribution to alleviating income inequality and this is relevant to the legislative object of providing fair standards in relation to living standards prevailing in the community.
- [218] The Queensland Government also submits that a not insignificant proportion of employees in Queensland and Australia live in poverty. Typically, poverty, in absolute terms, is regarded as a state of deprivation, where the standard of living has fallen below an acceptable minimum level. The Queensland Government refers to evidence that has been presented to various AIRC safety net reviews which point to the difficulties that low paid workers have in making ends meet and to afford what are broadly regarded as necessities by the broader Australian community: see *2004 Safety Net Review - Wages* [PR002004, 5 May 2004] at [293]. The Queensland Government submits that there is no reason to believe that the financial circumstances of such employees in Queensland would be any different from the evidence accepted by the AIRC in its previous decisions.

- [219] The Queensland Government also states that poverty, in relative terms, is defined not necessarily in terms of a lack of income to meet the most basic needs. Instead it looks at where a person's income is low relative to others, thereby precluding that person from participating in the lifestyle and consumption patterns enjoyed by others in the society. Such an assessment is against the general living standards and values of the community. This, according to the Queensland Government, is the approach taken in the Act towards wage-fixing which refers to fair standards in relation to living standards generally prevailing in the community.
- [220] Conservative estimates (using the half median income measure) indicate that more than 1.5 million people were living below the poverty line in 2000: see Senate Community Affairs Reference Committee 2004, p. 35). In its 2001 report "Financial Disadvantage in Australia 1990 to 2000: The persistence of poverty in a decade of growth", the National Centre for Social and Economic Modelling (NATSEM) defined the 2000 poverty line as half the average family income of all Australians, adjusted to take different family sizes and composition into account. On this basis, NATSEM found the poverty line was \$416.00 per week for a single-income couple with two children (after tax and before housing costs) whilst the poverty line was \$225.00 per week for a single employed person. NATSEM's central conclusion was that more than 2.4 million people, or one in every eight Australians (13.0%), lived in income poverty in 2000. Measured against half of median income the figure was 8.7%. The Queensland Government submits that there has been a slow but steady increase in poverty rates among all Australians during the period 1990 to 2000 even though unemployment has fallen over that period.
- [221] In spite of its overall economic prosperity, Queensland is also far from immune to poverty. The 2000 estimate was 13.4% of the Queensland population lived in poverty.
- [222] The issue of poverty is said to have relevance to this application as there is evidence to suggest that having a low paid job is not necessarily a guarantee against poverty. Whilst unemployment continues to be the primary cause of poverty in Queensland, it is recognised that there are a range of people who are vulnerable to poverty and this includes an increasing number of "working poor" where individuals or households fall below the poverty line, even where they are in paid employment. The ACIRRT report suggests that there is a particular risk for low paid single employees without children. ACIRRT refers to NATSEM's findings, based on ABS data, that showed that 20.8% of all single people and 18.4% of all single adults of prime working age (25-64) lived beneath the poverty line (defined as half of median income) in 2001. ACIRRT concludes that low paid singles are falling behind the rest of the community and would fall further behind without safety net increases, given they have not been the beneficiaries of tax relief. The Queensland Government submits that having a job is not always enough to escape from poverty and that fair and reasonable wages are also required.
- [223] The Queensland Government contends that there are strong arguments for another reasonable increase to the Queensland Minimum Wage and to state award rates of pay in the 2006 state wage case and points to various matters in coming to that conclusion:
- legislative changes at the federal level have altered the scope and coverage of the 2006 state wage case, but there continues to be a significant state jurisdiction, with up to 125,300 employees who will benefit from any state wage case increase that is awarded;
 - this Commission has a record of awarding reasonable wage increases that have been consistent with strong economic performance;
 - there is a continuing wage disparity between employees who rely on the award and the minimum wage and those who benefit from enterprise bargaining;
 - most low paid employees rely on Commission wage cases as the only practicable way to obtain an increase in pay, and, in the absence of such increases, these workers would be even more disadvantaged;
 - there is no strong evidence that reasonable wage increases have a negative impact on employment - the evidence in Queensland is that employment growth has been strong and unemployment has fallen since 1999; and
 - the Queensland economy is strong and the economic outlook continues to be positive.
- [224] The Queensland Government considers that a \$20.00 per week increase for award-reliant employees and employees on the minimum wage is appropriate. Such an increase is one that the Queensland economy can sustain in light of the generally favourable economic conditions and outlook. Whilst there are some potential risks and uncertainties in the future outlook, the Queensland Government's position is that any decision of this Commission should not be based on the worst case scenario. Further, the Queensland Government argues that it is not equitable for the lowest paid Australians to bear the burden of perceived uncertainties in the outlook.

- [225] The Queensland Government also submits that it is appropriate for the Commission to continue the practice of awarding flat dollar increases as this has the benefit of targeting lower paid workers with a proportionately higher increase and reducing the cost impact at higher classification levels.
- [226] For those employees on the current Queensland Minimum Wage of \$484.40 a week, an increase of \$20.00 per week represents a nominal increase of 4.3% and an expected real increase of 1.7%.
- [227] **Costing:** The Queensland Government provided an estimate of the cost impact of a \$20.00 per week increase across the economy, for the private sector as a whole, and for the unincorporated private sector. The methodology, the assumptions, and the results of this costing exercise are contained in Appendix 2 to the Queensland Government's written submission. The methodology and results received independent verification from Dr Buchanan who gave evidence in the proceeding.
- [228] The Queensland Government asked Dr Buchanan to review the report prepared by DIR in relation to the estimated cost impact of a \$20.00 per week increase in award wage rates. Dr Buchanan, in his evidence, endorsed the methodology that was used to estimate the cost impact. Given the assumptions that have been made, Dr Buchanan considered that the report provided the Full Bench with a reliable estimate to consider the cost of a \$20.00 per week increase. Mr Watts, in his evidence, said that the costing processes undertaken by the Queensland Government were a valid estimate of the economy wide impact of a \$20.00 per week increase in award wages.
- [229] The costing is based on:
- the estimate that between 78,300 and 125,300 employees will be covered by a \$20.00 per week increase; and
 - the dollar increase being weighted to take into account the profile of employees who fall within the award-reliant category.
- [230] The wage cost impact is expressed as a percentage point contribution to average weekly earnings growth.
- [231] The results show that the granting of a \$20.00 per week increase to award-reliant employees in the Queensland jurisdiction would increase average weekly earnings growth in Queensland by just 0.003%. The Queensland Government submits that this is a negligible cost impact across the economy. The economy wide estimate is said to be an important measure for the Commission to consider in light of its statutory responsibilities regarding an efficient and effective economy: see s.3(b) of the Act.
- [232] A \$20.00 per week increase is expected to add between 0.4 and 0.6 of a percentage point to average weekly ordinary time earnings growth of private sector unincorporated businesses, the employees of whom would be the direct beneficiaries of the increase. The Queensland Government considers this to be a reasonable and affordable addition to wages growth.
- [233] While the Queensland Government acknowledges that a \$20.00 per week increase will have some impact on labour costs, a cost burden in itself does not constitute a reason for denying a certain level of improvement to current standards. In this respect it said that the cost impact whilst being an important consideration, needs to be balanced against other considerations. It is also noted by the Queensland Government that the current statement of policy enables any party to apply to the Commission to, temporarily or otherwise, reduce, postpone and/or phase in the application of any increase in labour costs on the ground of very serious or extreme economic adversity.
- [234] **Operative Date:** The Queensland Government supports an operative date for increases emanating from this decision of no earlier than 1 September 2006.
- [235] **Adjustment to Allowances:** Whilst the current applications seek increases in allowances which relate to work or conditions which have not changed and service increments by an amount of 4%, the Queensland Government supports a 3.5% increase, representing the \$20.00 increase that is proposed calculated as a percentage of the C10 rate in the *Engineering Award - State 2002*. This is the basis on which allowances have been adjusted in the past and the Queensland Government supports a continuation of this practice.
- [236] **Queensland Minimum Wage:** The Queensland Government supports a consistent approach to dealing with increases to award rates and increases to the Queensland Minimum Wage which covers both award and non-award employees. The Queensland Minimum Wage is said to form a vital part of the legislative framework governing wages and conditions in Queensland and it is appropriate to adjust it so that it reflects general movements in wages across the community. The Queensland Government thus supports a \$20.00 per week increase to the Queensland Minimum Wage with an operative date of 1 September 2006.

- [237] **Wage Fixing Principles:** The Queensland Government supports a continuation of the current statement of principles through a statement of policy, with the necessary amendments to reflect the changes to the operative dates, the quantum of wage and allowance adjustments determined in this application, and other consequential amendments.
- [238] The Queensland Government's support for a \$20.00 per week increase to award rates and the Queensland Minimum Wage is based on the following:
- the capacity of the Queensland economy to absorb the proposed wage increases in light of recent strong economic performance and a projected continuation of good economic performance;
 - the social benefit of the wage adjustments for those workers who continue to rely on awards or the Queensland Minimum Wage for their rates of pay; and
 - the promotion of the objects of the Act.

9.3 QCCI

- [239] QCCI's position is that the Queensland economy is performing solidly along with the labour market. There is, however, evidence that the Queensland economy is slowing probably due to previous high levels of demand. The labour market has indicated a fall in employment numbers with a number of industries indicating a slow down in the number of employees employed. The Queensland unemployment rate is expected to rise slightly during the 2005-06 period. However, overall it is expected that the labour market will remain stable during the next twelve months.
- [240] The Queensland economy has shown that it can sustain reasonable and fair wage increases. Between the period 2001 and 2005, the highest wage increase awarded by the QIRC was \$19.00 per week. The current QCU claim for wage increases of between \$19.00 and \$32.00 could not be justified on the prevailing economic conditions.
- [241] QCCI submits that in *The Australian Workers' Union of Employees, Queensland and Anor v Queensland Chamber of Commerce and Industry and Others* (2005) 179 QGIG 879 this Commission ordered a \$17.00 per week increase and the QCU has not provided any additional information on the indicators that would show that the Queensland economy has improved so markedly that it would warrant this Commission granting a wage increase of between \$19.00 and \$32.00 per week.
- [242] QCCI also points to the fact that the Queensland Government supported a \$20.00 per week increase before the AIRC in 2005 and the AIRC rejected that position, instead awarding a \$17.00 per week increase. The QCCI observes that the Queensland Government is still proposing a \$20.00 per week increase in 2006 even though the Queensland economy is not as strong as it has been in previous years.
- [243] **Costing:** The costing methodology used by the QCU is the same as that used by the ACTU in recent national wage cases before the AIRC. In the 2005 national wage case, the QCU conceded that its costing did not take into account business on-costs and does not include the cost of flow ons to employees who are not award-reliant. Consequently, QCU's costing underestimates the aggregate cost.
- [244] QCCI's assessment of the costing of its \$15.00 per week position is that at the C14 level it equates to a 3.1% increase and at the C10 level it represents a nominal percentage increase of 2.6%. This is said to compare favourably with previous state wage increases.
- [245] A \$15.00 per week increase, it is said, would allow the lowest paid employees to keep in touch with employees achieving higher wage increases under other types of arrangements including workplace agreements. QCCI submits that there will always be a gap between the minimum wage rates and the rates that employees negotiate. The QCCI submit that a \$15.00 per week wage increase without any bargaining is fair and reasonable and, whilst it will not close the disparity gap, it will not disadvantage employees.
- [246] **Queensland Minimum Wage:** QCCI supports the increase in the Queensland Minimum Wage by \$15.00 per week which would increase the Queensland Minimum Wage from \$484.40 per week to \$500.40 per week. An increase like that sought by the QCU of \$19.40 per week will go beyond what is fair and reasonable. The \$15.00 per week increase would amount to an increase of 3.1% in the Queensland Minimum Wage.
- [247] QCCI also refers to s. 3(g) of the Act, arguing that the provision requires the Commission to "ensure that wages and employment conditions provide fair standards in relation to living standards prevailing in the community". It does not require the Commission to grant an increase which is in excess of community standards. Further, any wage increase must be made taking into consideration s. 3(c) of the Act i.e. an effective and efficient economy,

with strong economic growth, high unemployment, employment security, improved living standards, low inflation and national and international competitiveness.

[248] Thus, the Commission must be careful not to award wage increases which may impact upon the economy and jobs.

[249] **Allowances:** The QCCI supports an increase to work related allowances and service increments of 2.6% which is based on its proposal of \$15.00 per week as a percentage of the C10 rate.

[250] **Wage Fixing Principles:** The QCCI supports the continuation of the current wage fixation principles subject to the necessary amendments to reflect the outcome of this decision.

[251] **Operative Date:** The QCCI supports the continuation of the QIRC practice of awarding wage case increases no earlier than twelve months from the previous decision i.e. no earlier than 1 September 2006.

[252] The QCCI's position is supported by the QRTSA, the QHA, the QFVG, the BIA and the QCGA.

9.4 Commonwealth Minister

[253] Whilst we have addressed the Commonwealth Minister's basic position in Part 3 of this decision the Commonwealth's submission also deals with aspects of the QCU claim. The Commonwealth Minister submits that the material before this Commission is inadequate for a state wage case determination. The inadequacies are said to be:

- there is no discussion on the economic effects of the QCU claim on low paid employees and the unemployed; and
- there is no discussion of the economic impact of the claim, including the employment impact, on industries with different mixes of employees of incorporated and unincorporated enterprises.

[254] Further, the Commonwealth Minister attacks the QCU costing methodology arguing that it simply costs its claim in terms of its impact on aggregate wages and CPI whereas the claim will only impact on a specific section of the Queensland labour market i.e. employees of unincorporated enterprises within the Queensland jurisdiction who are award-reliant. The Commonwealth Minister submits that an appropriate costing of the claim would focus only on the impact of the competitiveness and effective operation of unincorporated businesses and employment opportunities for employees in those enterprises.

[255] The Commonwealth Minister further submits that the Queensland Government's costing contains the same shortcomings.

[256] Mr Watts, in his evidence, dealt with the Commonwealth Minister's attack on the QCU's costing methodology. Mr Watts disputes that by dealing with the aggregate cost impact the QCU costing is of no assistance to the Full Bench. His evidence is that it is the economy wide impact of the claim that the Commission should consider when determining such applications.

[257] Mr Watts says that the Commonwealth Government, in its questioning of the cost impact of the QCU claim, seems to be working under the assumption that an increase in award rates of pay to Queensland low paid workers will result in a negative impact on employment i.e. the Commonwealth Government subscribes to the theory that there is a negative elasticity on the demand for labour flowing from pay increases. Mr Watts says that he does not subscribe to that theory, pointing to the fact that employment and participation levels have continued to rise in Queensland in parallel with moderate and steady real growth in minimum wages.

10. CONCLUSION

10.1 Conclusion on the Matters to be considered

[258] **Legislative Parameters:** In determining this application the Full Bench has discretion, however, the discretion must be exercised within the general legislative requirements of the Act. We accept the Queensland Government's submission that the relevant provisions of the Act require this Commission to balance economic and social factors in deciding state wage cases. In particular, the Act focuses on the importance of ensuring fair wages and conditions in that this Commission is required to ensure that wages and employment conditions provide fair standards in relation to living standards prevailing in the community: see s. 3(g) and s. 126(f) of the Act. The Commission is not restricted to providing a safety net for wages and conditions.

- [259] We are also required by s. 3(b) of the Act to concern ourselves with an effective and efficient economy, with strong economic growth, high employment, employment security, improved living standards, low inflation and national and international competitiveness and by s. 3(f) to promote the effective and efficient operation of enterprises and industries.
- [260] **International Economy:** The RBA supports a positive outlook for the global economy with most economic indicators pointing to ongoing healthy growth in the world economy which is now in its fifth year of expansion. There is nothing in the condition of the international economy which would lead us to the view that the Queensland economy could not support a reasonable and fair wage increase to the Queensland Minimum Wage and award rates of pay.
- [261] **Australian Economy:** The Australian GDP rose 2.5% in 2004-05, after growth of 4.0% in 2003-04. GDP is expected to increase by 3% in 2005-06 and 2006-07. Business investment in Australia is forecast to remain solid in 2005-06 and 2006-07. Employment growth is expected to slow through 2005-06 from 3% in 2004-05 to around 2.0% in 2005-06. Jobs growth is expected to remain strong enough to maintain the 2005-06 unemployment rate at approximately 5% i.e. similar to that recorded in 2004-05.
- [262] Nationally, aggregate wages growth has strengthened over the first half of 2005-06 reflecting tighter conditions in the labour market. The WPI rose 4.2% over the year to December quarter 2005 reflecting the highest annual growth recorded since the WPI commenced in 1997. Wages growth is expected to peak at 4.25% in 2005-06 before easing to 4% in 2006-07. Headline inflation is expected to be 3% in 2005-06 and is expected to fall to 2.5% in 2006-07.
- [263] There is nothing in the condition of the Australian economy which would lead us to the view that the Queensland economy could not support a reasonable and fair wage increase to the Queensland Minimum Wage and award rates of pay.
- [264] **Queensland Economy:** All parties providing a position on the Queensland economy agreed that it continued to deliver a solid performance and that the forecast was for generally positive economic prospects over the next twelve months. Those parties, other than RCEA, submit that the Queensland economy can support a reasonable and fair wage increase.
- [265] The Queensland economy grew by 4.2% in 2004-05 i.e. more than double the 2.0% growth in the rest of Australia. Whilst the economic growth of Queensland remains strong, it is noted that the rate of growth has been reducing since 2001-02 when it was 5.4%. The forecast is for the Queensland economy to grow 4.25% in 2005-06.
- [266] The labour market in Queensland is also performing solidly. Jobs growth reached a ten year high of 5.6% in 2004-05 i.e. more than twice the rate of job creation in the rest of Australia (2.4%). Queensland contributed to over 40% of full-time jobs growth nationally. Jobs growth in 2005-06 is forecast to be 2.75%. That forecast is supported by the decrease in employment in the period between February 2005 and February 2006. Queensland's year-average unemployment rate reduced to 4.9% in 2004-05 i.e. a thirty year low, and that position is forecast to remain relatively unchanged in 2005-06. In January 2006 the unemployment rate for Queensland was 5.0% i.e. 0.2 percentage points below the national average.
- [267] Whilst it has been suggested by some parties that there are a number of potential risks and uncertainties in the Queensland economy, the overall remains positive and we do not accept that the lowest paid Queenslanders should bear the burden of any perceived uncertainties. To do so would, in our view, be inequitable. We concur with the generally accepted view that the Queensland economy can support a reasonable and fair wage increase to the Queensland Minimum Wage and award rates of pay.
- [268] **Wages:** General wage movements, as measured by the wage cost index are running at 4.3% whilst inflation is 2.75% which means that there is a real wage growth across the workforce generally. Employees who rely upon state wage cases to obtain increases in wages should also receive the benefit of real wages growth. Real wage growth would give effect to s. 3(b) and (g) of the Act. Growth in the minimum wage and award rates of pay has not kept pace with the growth in average weekly earnings for full-time adults. Consequently, there is a continuing issue of wage disparity that needs to be addressed in the interests of ensuring fair wages in line with standards generally prevailing in the community.
- [269] As for wage trends, the QCU in its claim relies upon the WPI which has increased by 4.2% for the year to December 2005. The WPI is the RBA's preferred measure of wages growth. We agree that the WPI is the most useful indicator of wage trends for the purposes of determining this application, as the AWOTE and the AAWI are not adjusted for compositional change. The WPI for Queensland grew by 4.3% in the year to December quarter 2005 with an average annual growth rate of 3.3% between the September quarter 1997 and the December quarter 2005. The AWOTE averaged 4.5% over a similar period.

- [270] The average annualised wage increase per employee for agreements certified in the December quarter 2005 was 4.1% with the average over the four quarters to December 2005 also being 4.1%. The average annualised wage increase per agreement registered in the September quarter 2005 was 4.1% with the average during the four quarters to September 2005 being 4.2%. The Queensland Government's material on agreements certified by the QIRC in the December quarter 2005, showed an average wage increase per agreement of 4.57% although it was noted that tradeoffs with conditions of employment may have been associated with such increases.
- [271] We have not been provided with any evidence that would support the proposition that a reasonable increase in the Queensland Minimum Wage and award rates of pay will adversely impact on employment in Queensland or award-reliant workers or any other persons out of work in Queensland.
- [272] In many of its safety net decisions, the AIRC has considered the argument that increases in minimum wage standards creates unemployment and has been unable to find any credible link between reasonable minimum wage adjustments and employment. There is nothing in the material before this Full Bench which would cause us to conclude that such a link exists. After almost a decade of safety net adjustments, the analysis of employment data in Queensland shows that reasonable increases have not had adverse implications and have in fact been associated with strong macro-economic performance in the Queensland economy, including strong employment growth and lower unemployment.
- [273] The rate of increase in income levels generally is something that should be taken into account in deciding what adjustment is necessary to ensure that wages and employment conditions provide fair standards in relation to living standards prevailing in the community. There is no evidence that recent increases in award wage rates of pay have slowed the growth in bargaining. There is nothing in any of the various measures of wage growth to indicate a threat to macro-economic balance, either nationally or at a state level, if a reasonable adjustment is made to the Queensland Minimum Wage and award rates of pay.
- [274] **Social Factors:** We accept that the legislative obligations placed on us mean that award rates should be adjusted with some reference to general movements in wages across the community. One of the major indicators of general movements across the community are the wage increases that have been achieved through enterprise bargaining and in the community generally. As we have said previously the legislation does not require us to establish a safety net of wages and conditions. In that regard we are required to address the disparity between award rates and enterprise bargaining rates, as well as general wage movements across the community.
- [275] We endorse the submission of the Queensland Government that improvements in wages and conditions should not be restricted to those employees who are best placed to bargain for themselves in negotiations with their employer. The concept of fair wages and community standards also contains some notion of ensuring that wage increases improve living standards and address issues of poverty and inequality. Fair wages should not have the effect of reducing real wages across the board for the lowest paid employees in the workforce i.e. the award-reliant and minimum wage employees.
- [276] We intend to address the continuing disparity between award rates and those in the general community including enterprise bargaining rates. At the same time we are concerned that any increase does not dissuade employees from seeking enterprise bargaining outcomes.
- [277] As the QCU submits, fairness is also about the maintenance of the real value of wages and therefore regard must be had to the expenditure of low income wage and salary households and the cost of living increases as measured by the CPI. The QCU material reveals that the areas of highest expenditure for low income wage households reflect expenditure groups for which costs have increased at rates higher than the CPI rate e.g. housing, food and transportation.
- [278] **Costing:** We accept that an estimate of the cost of the QCU claim of 4% in award wages for award only employees is 0.15% with the net impact on total ordinary time earnings being 0.05% and a CPI effect of 0.03%. We also accept the costing methodology undertaken by the Queensland Government of a \$20.00 per week increase. That costing reveals that a \$20.00 per week increase to award-reliant employees in the Queensland jurisdiction would increase average weekly earnings growth in Queensland by just 0.003%. The same increase is expected to add between 0.4 and 0.6 of a percentage point to average weekly ordinary time earnings growth of private sector unincorporated businesses.
- [279] It is of course the employees of unincorporated businesses who will be the direct beneficiaries of this decision.

10.2 Conclusion on the QCU Claim

- [280] At the outset we make a few general comments. Firstly, we are somewhat surprised that the QCU has sought, in this application, a percentage increase in wages. The history of Queensland state wage cases reveals that in the

past thirteen years a flat dollar increase has been granted. The last time a percentage increase was awarded in Queensland was in 1992: see *Queensland Trades and Labour Council v The Crown and Others* 139 QGIG 369.

[281] Secondly, we are mindful that the QCCI, in particular, and the other organisations supporting the QCCI position, have adopted a reasonable position in respect of this claim. This is in contrast to the positions adopted by the respective organisations in past safety net reviews of the AIRC. The position of supporting a \$15.00 per week increase is one that does at least provide employees with a real level of increase in wages albeit a very small increase in real wages.

[282] Thirdly, we intend to continue the practice of award flat dollar increases as this has the benefit of targeting lower paid workers with a proportionately higher increase.

[283] Fourthly, we note that the economic data on unincorporated businesses in Queensland was limited. Whilst the collection of economic data on such unincorporated businesses may not have been important in previous state wage cases it now assumes considerable relevance. It is to be hoped that by the 2007 state wage case, more economic data on such businesses may be available to that Full Bench.

[284] **Queensland Minimum Wage:** There are four positions on the claim to increase the Queensland Minimum Wage currently before this Full Bench:

- the QCU's claim is for a 4% increase to the Queensland Minimum Wage which would take the minimum wage from \$484.40 to \$503.80 i.e. an increase of \$19.40 per week. The claim also seeks a 4% increase on all award rates of pay. The calculation of that increase ranges from \$19.40 per week at the level of the Queensland Minimum Wage to \$32.00 per week;
- the Queensland Government's position is that the Queensland Minimum Wage should be increased by \$20.00 per week;
- QCCI, QRTSA, QHA, QFVG, BIAQ and QCGA support a \$15.00 per week increase i.e. an increase of 3.1%; and
- RCEA's position is that no increase should be awarded.

[285] The claim before us is for a \$19.40 per week increase in the Queensland Minimum Wage. Our Declaration of Intent issued on 20 February 2006 and published shortly thereafter announced the QCU claim of a 4% increase to the Queensland Minimum Wage. It would be inappropriate for this Full Bench to grant something in excess of the claim. Whilst the Queensland Government supports a \$20.00 increase in the Queensland Minimum Wage, it is not the applicant in this proceeding. In all the circumstances we award a \$19.40 per week increase to the Queensland Minimum Wage.

[286] **Award Rates of Pay:** Similarly, there are four positions on the claim to increase award rates of pay:

- the QCU's claim is for a 4% increase to all award rates of pay. At the adult level that claim would result in increases of \$19.40 per week to something in the vicinity of \$32.00 per week;
- the Queensland Government's position is that all award rates of pay should be increased by \$20.00 per week;
- QCCI, QRTSA, QHA, QFVG; BIAQ and QCGA support a \$15.00 per week increase in all award rates of pay; and
- RCEA submits that no increase to award rates of pay should be awarded.

[287] We have already indicated that we intend to continue the practice of awarding flat dollar increases. Having decided to grant the claim sought by the QCU in respect of the Queensland Minimum Wage, we have decided to increase award rates of pay by a flat amount of \$19.40 per week.

[288] **Allowances:** Once again there are four positions on the claim to increase award allowances which relate to work or conditions which have not changed and service increments:

- the QCU's claim is for a 4% increase to existing award allowances and service increments;
- the Queensland Government supports a 3.5% increase to such allowances and service increments;

- QCCI, QRTSA, QHA, QFVG, BIAQ and QCGA support a 2.6% increase to such allowances and service increments; and
- RCEA's position is that no increase to allowances and service increments should be awarded.

[289] As we have granted the 4% increase on the Queensland Minimum Wage we have decided to increase award allowances which relate to work or conditions which have not changed and service increments by 4%.

[290] **Operative Date:** Generally, the parties appearing in this application have supported an operative date of 1 September 2006. We intend to continue the practice of awarding any increases arising from state wage case decisions as and from 1 September 2006.

[291] **Wage Fixing Principles:** The parties were in agreement that the current statement of principles, through a statement of policy, should remain with the necessary amendments to reflect the changes to the operative date, the quantum of wage and allowance adjustments awarded in this decision and any other consequent amendments to be made. We will issue a new statement of policy with respect to the wage fixing principles with this decision.

[292] Also released at the same time as this decision is a declaration of general ruling to reflect the outcome of this decision.

D.M. LINNANE, Vice President.

Mr J. Goos for the Queensland Hotels Association, Union of Employers.

A.L. BLOOMFIELD, Deputy President.

Mr K. Law for The Restaurant and Caterers Employers Association of Queensland Industrial Organisation of Employers.

I.C. ASBURY, Commissioner.

Ms K. Venning for the Queensland Fruit and Vegetable Growers, Union of Employers.

Hearing Details:

2005 1 December

2006 16 January

15, 16 May

Mr G. Muir of Employer Services Pty Ltd for Bowls Queensland, Private Hospitals Association of Queensland, Australian Dental Association of Queensland, Queensland Professional Childcare Centre Association, the Queensland Community Services Employers Association, the Consulting Surveyors Industrial Organisation of Employers, Warwick Bacon Pty Ltd and Darling Downs Foods Pty Ltd.

Mr P. Warren for the Australian Sugar Milling Association, Queensland, Union of Employers.

Mr S. Lucas of Miles Witt Partnership for Churches of Christ Care.

Mr G. Trost for Queensland Cane Growers' Association, Union of Employers.

Ms C. Mibus For Queensland Motel Employers Association, Industrial Organization of Employers.

Mr G. Hamilton for The Baking Industry Association of Queensland - Union of Employers.

Mr E. Cole instructed by Blake Dawson Waldron for the Commonwealth Minister for Employment and Workplace Relations.

Appearances:

Ms D. Ralston for the Queensland Council of Unions.

Mr T. Shipstone with Ms K. Stephen for the Crown.

Mr M. Crimmins with Ms J. Flinn with Ms S. Donkin for the Australian Industry Group, Industrial Organisation of Employers (Queensland).

Mr S. Nance with Mr B. Petley for the Queensland Chamber of Commerce and Industry Limited, Industrial Organisation of Employers.

Ms V. James-McPhee for National Retail Association Limited, Union of Employers.

Mr J. Price for Queensland Retail Traders and Shopkeepers Association (Industrial Organization of Employers).

Released: 27 July 2006