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QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

**BLOOMFIELD DP
KAUFMAN DP
FISHER C**

**RELEASED TO
THE PUBLIC AND
PARTIES**

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Date: 7 August 2017

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**B/2017/16
INDUSTRIAL RELATIONS ACT 2016
S458/462 – GENERAL RULING AND STATEMENT OF POLICY
APPLICATION FILED BY QUEENSLAND COUNCIL OF UNIONS**

**B/2017/19
INDUSTRIAL RELATIONS ACT 2016
S458/462 – GENERAL RULING AND STATEMENT OF POLICY
APPLICATION FILED BY THE AUSTRALIAN WORKERS' UNION OF
EMPLOYEES, QUEENSLAND**

BRISBANE

10.19 AM, MONDAY, 7 AUGUST 2017

DAY 1

HEARING

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DEPUTY PRESIDENT BLOOMFIELD: Yes, please be seated. Appearances, please. Mr Martin.

5 MR J. MARTIN: If it please the Commission, my name is Martin. I appear for the Queensland Council of Unions.

DEPUTY PRESIDENT BLOOMFIELD: Thank you.

10 MR B. WATSON: May it please the Commission, Watson, initial B. I appear for the Australian Workers' Union of Employees, Queensland.

DEPUTY PRESIDENT BLOOMFIELD: Thank you, Mr Watson.

15 MR B. FELDMAN: Good morning, your Honours. Feldman, initials B. I appear for the Queensland Government. With me here today is Mr James, who I'll allow to introduce himself for the record.

DEPUTY PRESIDENT BLOOMFIELD: Thank you.

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MR A. JAMES: If it please the Commission, my name is James, initial A. I'm assisting Mr Feldman for the State.

DEPUTY PRESIDENT BLOOMFIELD: Thank you very much.

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MR A. GOOD: May it please the Commission, my name is Good, initial A., appearing for the Local Government Association, LGAQ.

DEPUTY PRESIDENT BLOOMFIELD: Thank you very much. Mr Martin, we'll hand across to you.

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MR MARTIN: If it please the Commission, we'd rely upon our written submission in these proceedings in which we have – we have made application for the same increase that was sought by the ACTU in the annual wage review within the Fair Work Commission. We do so for a number of reasons. Primarily, there has been significant legislative change in this jurisdiction since the last State Wage Case and previous State Wage Cases. In our submission, that has changed dramatically the way in which we say, respectfully, that this Commission should approach the setting of wages within modern awards. The jurisdiction has changed from that of providing a safety net to now providing wages which are described as fair and equitable within the scheme work – within the – within the framework of the legislation.

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On the economic front we go to some detail as to what has been described as a wage growth crisis. Not often would unions be relying upon the Governor of the Reserve Bank or the International Monetary Fund to justify our position, but that's where we find ourselves, and that has been the result of, we would suggest, the – well, there's a

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whole range of reasons, but what's within the power of this tribunal, we'd say, with respect, is the awarding of increases – wage increases across the board.

5 So what has the wage growth crisis resulted in? It's resulted in the – probably the most significant income inequality that this country has seen for a long time. It's resulted in wealth inequality, all driven by the wages share of the economy reducing at the expense of profit. So this – to the extent that this – this decision would remedy those scenarios that I paint, we're – we're urging you to take that step towards - - -

10 DEPUTY PRESIDENT KAUFMAN: And to what extent is that, Mr Martin?

MR MARTIN: Well, we've – we've dealt with that in previous submissions at – at your request, your Honour, and I think it was in the order of 2000 employees we – we'd come to the conclusion within the local government area, so not – not a
15 significant amount. In terms of the other than local government, I'm just – I may need to – can I take some time to try and locate that. I – I think I should be able to find it.

DEPUTY PRESIDENT KAUFMAN: Yes. Well, the thrust of my – the reason for
20 my asking that question is how is awarding the increase that you seek for a small number of people in Queensland going to address the crisis in wage inequality?

MR MARTIN: Well, it – it obviously won't resolve it, your Honour. That's – you know, if you're – if you're expecting me to say that this one decision would resolve
25 that crisis, then clearly it wouldn't. It wouldn't - - -

DEPUTY PRESIDENT KAUFMAN: Well, I - - -

MR MARTIN: You wouldn't have the capacity to do so.
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DEPUTY PRESIDENT KAUFMAN: I wasn't really expecting you to say that, but doesn't it rather put your submission into - - -

MR MARTIN: Context?
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DEPUTY PRESIDENT KAUFMAN: - - - perspective?

MR MARTIN: Context. Yes, certainly, your Honour, that would be – you're well within your rights to say this has limited application. I guess never has so much
40 effort been made for so few in an industrial sense.

DEPUTY PRESIDENT BLOOMFIELD: You've been to see Dunkirk recently, I see.

45 MR MARTIN: No. Not yet. Not yet, your Honour. It's on my list of to do things. I've been writing submissions for the State Wage Case. But in – in previous – in

previous submissions the estimated number within the – estimated number within the – I’m just trying to think of - - -

5 DEPUTY PRESIDENT BLOOMFIELD: It’s a thousand in the public sector - - -

MR MARTIN: Was it that – that - - -

10 DEPUTY PRESIDENT BLOOMFIELD: - - - 2000 in the local government, about 3000 with the P&Cs.

MR MARTIN: Yeah, I’m – I – I’m not entirely sure about the thousand in the public sector, but is that – thank you, your Honour. I’m - - -

15 DEPUTY PRESIDENT BLOOMFIELD: That’s traditionally anyway.

MR MARTIN: Yeah, I appreciate that. So the P&Cs is – is fairly much an estimate, and I understand that – through various submission that that 2000 within the local government sector is fairly well recognised as a reasonable estimate.

20 So in terms of – yes, this – this decision will not of its own rectify what’s been described as a wage growth crisis, but in our submission, certainly from the policy perspective being advocated by the Queensland trade union movement we are urging this tribunal, and we’ll be urging employers, obviously, to do something in terms of increasing the wages – wages portion of – of growth, which gets to the next point, and has been the subject of submissions to this tribunal and to the Fair Work Commission in annual wage reviews, has been the decoupling of wages growth from labour productivity growth, which has led to the level of inequity that we’re starting to see emerge. The reasons for that may be many and varied. Perhaps the – it becomes circular to a certain extent.

30 So we’ve – we’ve made, in our – in our primary submission, suggestions as to why wages growth has been – has been stunted, one of which has been a proliferation of labour hire. That’s certainly within the private sector, which has been – and that proliferation is driven by reducing wages cost. So that – that’s one potential explanation, and another is the increase in termination of certified agreements at a federal level, which has had – had a number of knock-on effects, one of which is obviously stunting the capacity of unions to pursue wages claims.

40 DEPUTY PRESIDENT BLOOMFIELD: Yes, but that’s in the federal jurisdiction.

MR MARTIN: That’s right. That’s right.

45 DEPUTY PRESIDENT BLOOMFIELD: It doesn’t – it’s got no relevance, arguably, in the state system.

MR MARTIN: I’d – with the greatest of respect, your Honour, I’d – I’d beg to differ. I’m attempting to demonstrate as to why – similarly, nor has labour hire to

any great extent within this jurisdiction, but the reasons as to why there is low wage growth, that – they are the explanations as to why. Yes, there probably hasn't been a – and there – there can't be in terms of the legislation that's now in place terminations at will, as might be the case within the – the federal jurisdiction.

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DEPUTY PRESIDENT KAUFMAN: But the submission that you seek won't affect the factors that his Honour just asked you about at all. They don't bear upon the people we're dealing with. If we grant your increase it won't affect the proliferation of labour hire. It might increase the proliferation of it if anything. And it won't have any bearing upon any terminations of certified agreements.

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MR MARTIN: No, your Honour, but - - -

DEPUTY PRESIDENT KAUFMAN: It's all very interesting from a philosophical point of view, but I don't really understand how it assists our deliberation.

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MR MARTIN: I – I'm not entirely sure it's philosophical. We're talking about economic facts. There is low wage growth, there is an explanation for low wage growth. We are saying, with respect, that low wage growth provides you, in terms of the new obligations that you have in terms of the Industrial Relations Act of 2016, that provides you with the reason, or the rationale for granting the wage increase that we're seeking. So, yes, they are not – not cause and effect within the same jurisdiction. The discussion about low wage growth requires some explanation. Or perhaps it doesn't. Perhaps it doesn't. Perhaps with the wisdom of hindsight that sort of discussion may have been – well, has provided some distraction this morning, but if – if – you know, the point that I'm willing to concede is, yes, none of that is – well – no, I won't say that. Some of that low wage growth has occurred within this jurisdiction, which is as a result of, for a variety of reasons, bargaining stalling within the local government sector.

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So, yes, there – there's been a contribution in – in this – in this jurisdiction, but there's a whole range of reasons as to why low – why – why wage growth has been so low, and putting that in historical context, wages have generally moved with labour productivity. Well, that was generally how people thought that there was that combination. There was that – that positive correlation between labour productivity and wages growth, and that's, as we've seen, has been decoupled over the last – certainly the last decade, which is resulting in the levels of inequality that we're now seeing. So that – that's in terms of a broader explanation.

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Yes, to the extent to which – see, the – we – I can't rely upon that to say that your decision's got – not going to have considerable impact on inflation or unemployment, because I say that also, so I've also got to concede that, yes, because of the limited size of this jurisdiction, likewise it – it can't by itself remedy the increasing level of inequality within our community.

45

Perhaps one of the – one of the other aspects that we rely upon is the – promoting bargaining, which, in our submission, has been going back to the – the early

introduction of enterprise bargaining as the primary means of wage fixation, that decisions of the then Australian Industrial Relations Commission, which were followed by the Queensland Commission, were very much for moderate wage increases. One would remember the three lots of \$8, the safety net adjustments that occurred in the mid-1990s, which, incidentally, have led to the suppression of relativities, which we discuss in relation to whether there should be a percentage increase or a flat dollar increase. But we also say that notwithstanding that – those efforts which have been – well, which were a consideration federally, notwithstanding those efforts, we are not seeing, you know, an increase in bargaining. In fact, at a federal level award reliance is increasing, and this was a feature of the Fair Work Commission decision where they relied upon a research paper by Peetz and Yu which indicated there’s been a move away from – move away from bargaining at a federal level.

So if the reason for – reason for not awarding substantial increase – well, reasonable increases, we would suggest, in proceedings of this nature had been to promote bargaining, it’s not working. That’s – that’s the first point that we say with respect to that, and that’s – do so at a – at a federal level.

Within this jurisdiction, again with its limited nature, we know who they are, whereas federally it’s this – you know, I guess, nebulous group of individuals and organisations that operate, you know, could be here today, gone tomorrow, new – new and emerging industries. We’re not dealing with that in the Queensland jurisdiction. We’re dealing with a finite number of employers. We know who they are, and we also know that after a quarter of a century of industrial relations policy and legislation aimed towards collective bargaining, or enterprise bargaining as it’s been described, that if you’re not picking up on that opportunity by now, we’d submit the chances are you never will. That’s notwithstanding some arguments that the Local Government Association have provided in terms of good faith bargaining provisions that have been introduced to the 2016 Act, but I’d suggest that those arguments from the point of view of the LGA are somewhat self-defeating.

If it’s suggested that good faith bargaining provisions will now make those – those employers who’ve chosen not to bargain now bargain, then, again, that’s not a consideration this tribunal has to concern itself with, we say, with respect. So that – had there been a – had that been a reason not to award the increase in the past, then we say that reason no longer exists.

The economic conditions, our – our submission is that the Queensland economy is in good condition, save and except for what we’d consider to be stubborn levels of unemployment, and as has been submitted to this bench, your – your decision is unlikely to contribute to that one way or another. But notwithstanding the – the high level – or reasonably high level of unemployment compared to the other economic indicators, all of which are looking good, and one wonders whether there’s an inverse relationship with the low levels of inflation that have been experienced for considerable amount of time now, and that graph’s contained in – in our primary submissions, which demonstrates that since the RBA has introduced a target, with

very few exceptions, the one caused by bananas, I believe, that the inflation rate has remained within that – within that particular target. So that begs the question is – is that the reason as to why unemployment is – well, we describe as stubborn, particularly – particularly in Queensland.

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That leads to – there was a fairly significant discussion in our submission in response comparing Queensland to Western Australia, which may have been somewhat tangential to – to this particular matter before you, but we believe, particularly given the – the commentary from the Local Government Association – believe that that required – well, there was the necessity to address it, and if you look at unemployment over the long-term, then Queensland is in no worse position than it normally is, and perhaps the – you know, there are structural reasons as to why unemployment is traditionally higher in Queensland compared to Western Australia. And why do we compare Queensland to Western Australia? Because they are both resource-rich states, and whilst there's been a rebound in Queensland, that's not – that's yet to be experienced in Western Australia, largely because of the diverse nature of the Queensland economy by comparison to Western Australia. So that – it seemed to be necessary to address that, particularly in terms of the decision that was arrived at by the Western Australian Commission.

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In terms of social considerations, we've often compared the Queensland minimum wage to average weekly or ordinary time earnings. We do so as a measure of poverty, given that, you know, that relationship is, you know, a fairly rough sort of guess as to how does it stack up with what everyone else is earning, which is useful for a couple of reasons. One is that for your deliberations as to where that minimum wage sits, and what we see is that the minimum wage is that – its relationship to AWOTE is basically flatlining because of the aforementioned discussion in terms of wages growth. So that – that pretty much explains why you see the flat line with the Queensland minimum wage and AWOTE is that neither are going anywhere in an awful hurry, which is the problem we're urging you to address, albeit by a relatively small factor.

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One of the matters that we did raise in our initial submission was with respect to debt ratio – household debt ratio, which is also at crisis levels. Now, that – that can be explained by house prices, also the – what – what's now being described as – as the – the pressure from rent is getting to be what one used to describe in terms of – in terms of mortgages. So mortgage pressure is being replaced by rent pressure for low income earners.

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Now, that obviously – particularly the mortgage aspect of that does not find its way into the inflation figures, so – the CPI excludes purchase of a house, except if it's a new build. So when we say there's been that low inflationary environment, that has also been associated with rising levels of debt, which are in turn also leading to the income and wealth inequality to which we earlier referred. Then our – our submissions in response deal with primarily the – the LGA's submission in terms of them seeking what we would consider to be a fairly below par wage increase.

45

Now, the suggestion has been made that there is financial stress within a number of councils. That needs to be conceded, but as has been said over the decades within State Wage Cases, that's not the same as an incapacity to pay. Now, incapacity to pay has largely been dealt with delaying increases that otherwise the tribunal would have arrived at. In our submission, there's not justification to provide for – provide for a low wage increase, and looking at the material that was provided in the – in the LGA's own submission with respect to the Queensland Audit Office report, we're able to ascertain, and do so at Table 1 of our submission in response, that the picture may not be as – as bad as – as suggested at first blush.

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DEPUTY PRESIDENT BLOOMFIELD: In connection with Table 1, I'm glad you've got your pen in your hand, because you need to cross out a number of the councils that are shown there as not having a certified agreement because, in fact, they do have a certified agreement. So if you can cross through Barcoo, Bourke, Cloncurry, Cook, Longreach, Mornington, Palm Island, Quilpie, Torres, Torres Strait, and over the page Western Downs, they all do have enterprise agreements, and some of them have had them for quite a number of years, and in Table 2, while you've got your pen still in your hand - - -

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20 MR MARTIN: Just – with – if – if I could, are they current or - - -

DEPUTY PRESIDENT BLOOMFIELD: All of those certified agreements are current.

25 MR MARTIN: Okay. Thank you.

DEPUTY PRESIDENT BLOOMFIELD: Depends what you mean by “current”. Depends what you mean by “current”.

30 MR MARTIN: Oh, okay. Past their normal expiry date, I guess, was the – yeah.

DEPUTY PRESIDENT BLOOMFIELD: Like it – doesn't suggest that they're not enterprise bargaining, doesn't suggest that they're not passing on increases by administrative action - - -

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MR MARTIN: I'd – yeah.

DEPUTY PRESIDENT BLOOMFIELD: - - - which a number of them have.

40 MR MARTIN: That – that – if I could, your Honour, yes, that was the – when this was asked of us, that was the response we received from the council. I think that was in – was that in 2012, that that was – their response was they are passing on administrative wage increases. They weren't bargaining.

45 DEPUTY PRESIDENT BLOOMFIELD: And in terms of Table 2, Barcoo, Cloncurry, Longreach, Quilpie, Western Downs all have certified agreements.

MR MARTIN: That are past their normal expiry date. I should – I apologise for that, your Honour.

DEPUTY PRESIDENT BLOOMFIELD: I think Cloncurry is more recent.

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MR MARTIN: Is it?

DEPUTY PRESIDENT BLOOMFIELD: Yes.

10 MR MARTIN: Okay.

DEPUTY PRESIDENT BLOOMFIELD: I think it's a two-15 agreement. I'm not sure about Barcoo. I think Longreach is a two-15.

15 MR MARTIN: I see. Your Honour, these – these have occurred since the – that information was provided in 2014, and I do beg your pardon for that. But thank you for bringing that to our attention.

20 So the – as – as was also stated earlier, the relationship, or the comparison between Queensland and Western Australia is also addressed in our – in our submissions in response, and in Figure 2 in that submission you will see that there is no economic indicator in which Queensland is not faring considerably better than – well, no, sorry. There's no economic indicator in which Queensland is not faring better than Western Australia, and in some of those considerably better. So, again, this is all a rebound,
25 so you're comparing economic indicators with historically high comparators for that previous decade that – that decade that – that would have included a mining boom and the lead-up to the global financial crisis. Nonetheless, if you look at that, there is not one – not one in which the – in which the – the – in which Queensland is not faring better, and the growth of unemployment – whilst the unemployment rate is
30 lower in Western Australia, the growth of unemployment is higher than Queensland.

So we do – as I said previously, we do that for a couple of reasons, and one is which – one of which is to differentiate this decision from the – the Western Australian decision which, by the way, also has application to unincorporated private sector
35 employers, who presumably would be located in that award-reliant – that award-reliant area. Now, Figure 3 even looks at what the – what the trends are and, again, you will see that with the exception of home starts Queensland is in the positive or only a slight negative, whereas with the exception of population growth West Australia is going backwards.

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And just on that question of population growth, whilst it has a positive population growth by comparison to the previous 10 years, the population growth in Western Australia is 70 per cent less than it used to be, which may give some explanation to the lower level of unemployment that – by the way which is traditionally the case
45 comparing Queensland to Western Australia – may well give some explanation by way of people either not going to Western Australia any more or returning to – from whence they came.

5 So those – as I said, we’d – we’d rely upon our written submissions. I do apologise for the – those matters that have changed between 2014 and now. Unfortunately, in the time that was available, we weren’t able to get – do the evidence – or find the evidence that we were able to for 2014. So I’m grateful to the Commission for assisting.

10 DEPUTY PRESIDENT BLOOMFIELD: I might just ask one of the Associates to hand you a document, and along the bar table as well. In the application that the QCU has lodged and in the application that the AWU has lodged there is a request for the increase to be split between a flat rate and a percentage based upon the Level 3 classification in the Parents and Citizens Associations Award – State 2016. I’ve given you a copy of the wages clause for that award. Just so we can all be clear, which level three are you talking about?

15 MR MARTIN: I beg your pardon.

DEPUTY PRESIDENT BLOOMFIELD: I think there’s about six of them.

20 MR MARTIN: Yeah, it would be that which is the trade equivalent, which – just – if you could – can you bear with me?

DEPUTY PRESIDENT BLOOMFIELD: Yes.

25 MR MARTIN: It actually would be the top of – that’s the current one, admin.

DEPUTY PRESIDENT BLOOMFIELD: Someone’s got a document with my handwriting on it, have they?

30 MR MARTIN: No. This is, I guess, the – there wasn’t a C10 available at the time of making the application so there was – it – it would equate to – yes, look, I’m assisted by my friends here. It would be Level 3 Retail Manager within the retail operations stream, which is - - -

35 DEPUTY PRESIDENT KAUFMAN: On what page is that?

MR MARTIN: On the document it’s – it says page 18 of 57.

DEPUTY PRESIDENT KAUFMAN: Thank you.

40 MR MARTIN: So I do apologise for that. That would have been the – that was the – yeah, that was the trade equivalent which was ascertained – the reason that we used that – that particular award was because it had – I think his Honour Deputy President Kaufman had requested some data on the previous – on previous applications, and that was the point at which the flat – in our submission, the flat dollar increase went
45 up to in terms of that particular award. So that’s – that’s why it was chosen.

DEPUTY PRESIDENT KAUFMAN: Okay. Because that’s equivalent to the C10.

MR MARTIN: That's right. That's right. We – we couldn't.

COMMISSIONER FISHER: They're put on to the C10 in terms of moneys – the amount paid - - -

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MR MARTIN: Yep.

COMMISSIONER FISHER: - - - as opposed to qualifications.

10 MR MARTIN: Yeah, I'm not sure that a Certificate 3 is necessary for that position, but, yeah, that – that was the – so in the absence of a C10 we looked for a rate of pay contained in an award that had been based on C10 for whatever reason.

15 COMMISSIONER FISHER: Except the child care worker, I think as you know, Mr Martin, has deemed to be equivalent to trade qualifications. So I'm just curious as to why you might choose a retail manager as opposed to a child care worker, except that the rates paid to the child care worker are slightly in excess of the C10 rate. So you just looked at it in terms of the wages paid.

20 MR MARTIN: That's right, your Honour. Perhaps we would have been better served applying the – the flat amount up to the – to the child care rate of pay. I'm – I – as you were – you are asking me to recall a matter from - - -

25 COMMISSIONER FISHER: The dim, dark past, yes.

MR MARTIN: - - - a considerably long time ago, Commissioner, and there may well have been some changes to awards and qualifications within that particular industry since the child care Full Bench to which you refer in this jurisdiction.

30 DEPUTY PRESIDENT BLOOMFIELD: Mr Martin, you just happen to be the first person to give submissions, so you perhaps get asked a series of questions first.

Can I take you to your reply submissions. Page 4, pretty much half-way down, in the fourth line part the way across you'll see purpose G:

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...requires the Commission to ensure that wages provide fair standards in relation to living conditions prevailing in the community.

40 Now, if the Commission is to provide fair standards in relation to living conditions in the community, why is it that we should be looking at a 5.7 per cent increase, which the QCU are seeking, in circumstances where Queensland awards are already higher than federally and in the other states, and that's – that comment about them being higher is taken to reflect the minimum wage levels in those other jurisdictions. The Queensland Government submission on its first page, I think, records what the
45 current minimum wage figures are. New South Wales equivalent to the federal jurisdiction, which has just become \$694.90, and in Queensland it's already \$704.50

before we look at anything arising out of the state wage increase. South Australia's 694 from 12 months ago, Tasmania's quite outdated, Western Australia just - - -

MR MARTIN: Do you mean their minimum wage, your Honour?

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DEPUTY PRESIDENT BLOOMFIELD: - - - \$709.80.

MR MARTIN: Tasmania, do you mean their minimum wage is quite outdated?

10 DEPUTY PRESIDENT BLOOMFIELD: Quite outdated, yes. And in Western Australia it just reached 708.90. So in Queensland we're already at 704.50, so how does a 5.7 per cent increase which you claim enable the Commission to comply with the obligation on it to provide fair standards in relation to living conditions prevailing in the community?

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MR MARTIN: The earlier submissions upon which I would rely is that the different legislative framework that – within which you're now operating would be the primary reason for that, is that other jurisdictions are dealing with awards as minimums – safety net minimums. That language no longer exists in the Industrial Relations Act in – the 2016 Industrial Relations Act. So that's our primary argument.

20

Secondly, the departure from the – the departure from the federal jurisdiction occurred at a time in which the fair pay Commission was making decisions. Now, this has been dealt with in previous submissions to this – well, to the State Wage Bench – not necessarily this one, but to previous State Wage Benches, and it's also been dealt with in previous decisions. So what you saw during that period of time when the fair pay Commission was in – was in place and was awarding wage increases or not was what you might describe as fairly erratic behaviour, whereas the increases granted by this tribunal remained at a more, shall we say, moderate level. So on one case they awarded more than the Queensland Commission, the next case – the next year they awarded nothing, which I guess came as a surprise to everyone, including the Queensland State Wage Bench who departed from the – the – well, certainly the reasoning and, secondly, the result of those – those fair pay commissions.

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So what we are saying is that was probably an historical anomaly that, you know, you had a jurisdiction, you had a tribunal that had 100 years of experience in setting minimum rates of pay and the then federal government decided to take the jurisdiction away from that tribunal, created another tribunal that we would suggest lacked the necessary experience and the results that demonstrated that absence of experience and reasoning, and that is the reason as to why you see a higher minimum wage in Queensland and - - -

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DEPUTY PRESIDENT KAUFMAN: Mr Martin, I'm not sure that you've actually addressed his Honour's question. Perhaps I can try to rephrase it. What are the living conditions prevailing in the community against which you say we should

benchmark our decision so that we can provide fair standards in relation to them?
What are they? The living conditions prevailing in the community?

5 MR MARTIN: Okay. Let's – let's look at average weekly ordinary time earnings.

DEPUTY PRESIDENT KAUFMAN: So you say that we should - - -

MR MARTIN: Yes, and - - -

10 DEPUTY PRESIDENT KAUFMAN: - - - benchmark against that.

MR MARTIN: And that has – that has flatlined. You have the capacity to increase
minimum wages, albeit by – to a small population, but you have the capacity to
increase that relative to average weekly ordinary time earnings.

15 DEPUTY PRESIDENT KAUFMAN: So we should bring the minimum wage up to
that average weekly ordinary time earnings.

20 MR MARTIN: Well – no, that – that's not this application. That's – you know, that
would - - -

DEPUTY PRESIDENT KAUFMAN: No, but doesn't that follow from what you
say?

25 MR MARTIN: That would be – that would be - - -

DEPUTY PRESIDENT KAUFMAN: Doesn't that logically follow from what
you're saying – submitting?

30 MR MARTIN: But that's – that's not this application. That – I say, with respect,
that's – that's absurd to compare our application to what would be - - -

DEPUTY PRESIDENT KAUFMAN: I'm trying to - - -

35 MR MARTIN: What would be a 40 per cent increase. We're – we're not applying
for that.

40 DEPUTY PRESIDENT KAUFMAN: I'm trying to understand what those words
mean and what we should look at.

MR MARTIN: Well, yes, yes. The - - -

45 DEPUTY PRESIDENT KAUFMAN: You point – you rightly – just a minute. You
rightly point out that the legislation has changed. There are new words in the object
and purpose G has a certain requirement. I'm just trying to ascertain that what you
submit those words mean.

MR MARTIN: What – look, I have submitted that previously, but I’m happy to reiterate that our – our view is there is the capacity to increase minimum wages to return them to a level at which the relativity between the Queensland minimum wage and AWOTE has been in the past. Now, in previous – like, if – if you look at Table
5 6 in our submissions in chief - - -

DEPUTY PRESIDENT KAUFMAN: On what page do I find that, please?

MR MARTIN: That’s page 18. As – as I’ve described earlier, there’s been a
10 flatlining of the relationship between the Queensland minimum wage and AWOTE. Now, that flatlining is not because of an increase to the Queensland minimum wage, it’s because of AWOTE stalling. What there is the capacity to do, and has been done in – previously is – is try and return that Queensland minimum wage to a relativity
15 which is further away from poverty than currently exists, and I’d defy anyone – anyone in this room, I’d say with respect, to try and live on the Queensland minimum wage when the – the level of prices, and particularly – as we rely upon in our submission in chief, the – the stress that is on families with respect to not mortgages in this case, but would be rent. So the opportunity exists to try and increase
20 minimum wages to a level beyond poverty level.

COMMISSIONER FISHER: So just to also pick up on that point, but dealing with the word “community”, are you looking at the community being the broader community as opposed to the community that might be within the state jurisdiction?

MR MARTIN: I’m not sure that – I – well, I – it – the wording doesn’t say within
25 the state jurisdiction, I guess. That’s - - -

COMMISSIONER FISHER: But it is the object of an act which applies in the state
30 jurisdiction.

MR MARTIN: Yes.

COMMISSIONER FISHER: So I’m just trying to understand what you’re saying
35 we should look at, and if your view is that it’s broader than the state jurisdiction, that’s fine. It’s your submission.

MR MARTIN: Yeah. Well, if I’m asking you to look at AWOTE, they’re ABS
40 statistics which would, yes – by definition would be – would be broader than the Queensland jurisdiction. I doubt that that – I doubt that those numbers would even exist. Presumably they’re – given the public sector nature of this jurisdiction, presumably that would be higher than that which is recorded by the ABS, which would cover a range of lower paid private sector jobs. So we could only presume that.

45 If it was the case that we were able to ascertain what was average weekly ordinary time earnings within the public sector and local government, then I’d hazard to guess that it would be higher than the AWOTE figures. I may be wrong because the

AWOTE also takes into consideration some fairly highly paid private sector industries as well.

5 DEPUTY PRESIDENT BLOOMFIELD: Just one other question, Mr Martin, and I
ask this purely on my own account. Are we agreed that the only impact that any
decision we might have – or, sorry, that we might make, that the impact will only be
– bracket at this time close bracket – on those people who are award reliant, or who
might be in some way linked to award increases by way of a certified agreement
outcome or something like that? That’s the only – they’re the only people who will
10 receive an actual wage increase as a result of this decision.

MR MARTIN: There may – there may be the capacity – and perhaps my friends
would be better served to – to answer this one, but there may be some certified
agreements that provide for – and this has happened in the past – that provide for a –
15 if – if there is a higher outcome, and by that I mean at the wage level, not necessarily
the wage increase – if there is a higher level at the – the wage level then that might
flow on to some – some employees.

Now, that has previously happened to my knowledge within, I understand, the core
20 certified agreement, that a – and, again, we would suggest some fairly different
circumstances existed there that there hadn’t been a wage increase for some time in
the core which probably led to this occurring, but there were some – some at the
lower level, I understand, that there was actually a flow-on into the – into the public
sector.

25 DEPUTY PRESIDENT BLOOMFIELD: What prompts me to ask the question is
State Government submissions – if I can ask you to turn those up – paragraph 18,
which is on page 5. So at the very bottom of page 5 – I’ll just ask you to read that to
yourself for a moment, Mr Martin, just to refresh your mind.

30 MR MARTIN: Yes, your Honour.

DEPUTY PRESIDENT BLOOMFIELD: So what the State Government is saying
in that part of its submission is that there will be 12,300 state public sector
35 employees, and that’s to be compared to the traditional 1000 that’s been referred to
in previous State Wage Cases, who will be impacted and would receive an increase if
the decision of the State Wage Case Full Bench is to grant an increase at or above 3.1
per cent. So we’ve got 12,300 who will get an increase if it goes above 3.1, and that
would be the case whether it’s – well, I apologise. It would be the case, one would
40 assume – and we’ll get Mr Feldman to answer this in a minute – would be the case if
there’s a 3.3 per cent increase granted.

MR MARTIN: Yes, your Honour.

45 DEPUTY PRESIDENT BLOOMFIELD: If it’s 5.7 one would assume that the
number of people affected is going to be greater still. So we’re not awarding

increases now to people who are award reliant, we're granting increases, on the State Government's submission, to people who are covered by a certified agreement.

MR MARTIN: Yes, your Honour, and that's occurred before, yes.

5

DEPUTY PRESIDENT BLOOMFIELD: Okay.

MR MARTIN: Yeah.

10 DEPUTY PRESIDENT BLOOMFIELD: And in terms of your submission earlier, you were talking about one of the obligations of the Commission under the new act is to continue to promote bargaining. If we give a 5.7 per cent increase, and the State Government's been agreeing to increases of 2.5 and that's the wages policy, aren't we, in fact, undermining a bargaining, leaving it open for people to come to the State
15 Wage Bench and say, "We want a 5.7" or a 3.3 per cent increase?

MR MARTIN: Yeah, my submission was that that's no longer a consideration in this jurisdiction is what I say, respectfully. That – that bargaining – I would think that it would be highly unlikely that that event would cause bargaining not to occur
20 within the public sector, within the core agreement or elsewhere. I would think that that would be – so the reason – the reason – and, as I suggest in our earlier submissions, the reason for awarding some of the – particularly the earlier increases to minimum wages was in order to encourage the parties to bargain. You know, bargaining within the Queensland public sector is – is well established and – and
25 continues to occur. I - - -

DEPUTY PRESIDENT BLOOMFIELD: So if that's the case – I'm sorry to chop you off – why should we grant increase to anyone who's covered in terms of awards – anyone who's covered by a certified agreement, because they can bargain. We
30 should only be looking at the award-reliant people.

MR MARTIN: Well, that - - -

DEPUTY PRESIDENT BLOOMFIELD: Traditionally it's a thousand in the state sector, 2000 out in an area of local government that can be identified and the P&C Associations.

MR MARTIN: That would - - -

40 DEPUTY PRESIDENT BLOOMFIELD: We leave everybody else untouched.

MR MARTIN: That would be a matter for the parties to determine in terms of the certified agreements that cover them, your Honour. That – so, you know, you ask why – why should we. Well, the parties have entered into agreements that allow that
45 to occur is the reason as to why.

DEPUTY PRESIDENT BLOOMFIELD: Okay.

MR MARTIN: What we'd say, with respect, is that should not prevent you from doing it. Like, if the parties have entered into these agreements that say, "If the State Wage Bench is disposed to award such an increase, we the parties have decided that in these circumstances that should flow on to the lower paid."

5

DEPUTY PRESIDENT BLOOMFIELD: Well, it flows on for everyone.

MR MARTIN: Well - - -

10 DEPUTY PRESIDENT BLOOMFIELD: Because the award rates for everyone change. So next time you come down to sit and bargain, you've already got – if you're giving 2.5 per cent and 2.5 per cent, then you've already used up .8 of the second 2.5 because the award rate's gone up more than you've bargained for.

15 MR MARTIN: Yes, other than the rates probably contained in the – in those awards may have been determined by folding in previous agreements as well.

DEPUTY PRESIDENT BLOOMFIELD: They have.

20 MR MARTIN: Yes. Yes.

DEPUTY PRESIDENT BLOOMFIELD: So in those circumstances, if we're trying to protect the lower paid, why should we not be looking at the type of situation that you've been advocating in reverse, that there could be a percentage increase up to a particular amount and then a flat amount above that?

25

MR MARTIN: That's very interesting question. I guess I'd rely upon your decision last year in which you determined – in which the Full Bench determined that the suppression of relativities was of such concern that you departed from previous – the previous practice of awarding a flat dollar increase up to the C10 equivalent. It would be somewhat inconsistent then to turn it on its head from the – the following – the following decision.

30

DEPUTY PRESIDENT KAUFMAN: Won't even awarding an increase of the magnitude spoken about in the State Government submissions affect relativities in respect of those awards where people on the lower incomes receive a greater increase?

35

MR MARTIN: Yes, that's the case and, your Honour, as you know, we've – in our – our consistent position is that we've shied – we've not shied away from that on the basis of relativities. We – the purpose of this application is an attempt to increase rates of pay for the lowest paid within our community, and particularly within this jurisdiction, and in that regard we don't apologise for making applications that might suppress those relativities.

40
45

DEPUTY PRESIDENT BLOOMFIELD: But can we not do that – or do that by only setting a minimum wage level? Why do we have to put in 5.7 per cent on level

8s – AO8s on engineers, on everyone that’s covered by an award? Why don’t we just move the base – or the lowest rates and let enterprise bargaining set the rates for those above it?

5 MR MARTIN: I guess we would rely again on a wages crisis existing, so it’s - - -

DEPUTY PRESIDENT BLOOMFIELD: Well, it’s not existing.

MR MARTIN: - - - you know, rates – well, yes, it has, your Honour.

10

DEPUTY PRESIDENT BLOOMFIELD: Nationally it might have, but not within the state system.

MR MARTIN: Well, I – yeah, okay. There’s been wage increases, yes, but those –
15 whether those wage increases, even at the higher paid occupations to which you refer, whether they’re – whether they’re providing for real wages growth at this stage would be – would be doubtful, in our submission, and that’s – I guess we rely, again, upon the – you know, the – the price of housing as – as one aspect of the affordability of living. So I’d say that, yes, the – the – we are asking you to
20 contribute to wage growth and don’t seek to discriminate in that regard. But I – I take the point it would be a possibility, but we’d ask you not to go down that particular direction.

DEPUTY PRESIDENT BLOOMFIELD: Thank you, Mr Martin.

25

MR MARTIN: Thank you.

DEPUTY PRESIDENT BLOOMFIELD: Mr Watson.

30 MR WATSON: Thank you, your Honour. The Australian Workers’ Union of Employees, Queensland is the applicant in B2017/19 and I ask that the matters be joined. I think that’s the tradition. I don’t know that’s happened as yet.

DEPUTY PRESIDENT BLOOMFIELD: I’m not sure we’ve ever taken the formal
35 step of joining them, but if it be necessary to join them then we will.

MR WATSON: Well, I think you only release one decision so – I don’t think you [indistinct] different one so – I’ve taken a fair few notes during Mr Martin’s submission, and I’ll do my best to deal with some of those that I think I need to, but
40 no doubt there might be other questions.

Firstly, the Australian Workers’ Union of Employees, Queensland has made submissions and submissions in reply, and we rely on those today. I concur with the submissions made by Mr Martin and support those submissions, but there are some
45 points that were discussed that I need to raise, and not in any particular order, because there’s a lot of questions asked.

J Just starting at the latter discussion, there has been a time in the past when, in the Queensland Government – and I’m referring to the Core EB, and I don’t have any details of which agreement it was with me here today, because I didn’t realise this would be an issue – where the rates had to be adjusted for employees at the lower
5 end of the pay scales. I’ve got no doubt Mr Feldman is well aware of that and may even be able to come up with those. So with respect to your Honour’s question about part – page 5 of the Queensland Government’s submission, I simply point out there has been a previous occasion when the State Wage Case actually had an impact, and I’m pretty sure there’s a Public Service Commission directive on the Queensland
10 Government website to deal with the circumstance where that happens. So the point I make is that it’s not unusual, and I think the line of questioning your Honour – that’s Deputy President Bloomfield was going down was that you may not want to create that problem again, and I just simply point out that that’s not unique, it has occurred in the past, and I don’t see it as a problem. It probably means the
15 Government may need to put a better offer to unions when they negotiate enterprise bargaining. Another question was asked of Mr Martin about why should we put a three – 5.9 per cent increase to AO8s.

DEPUTY PRESIDENT BLOOMFIELD: Actually, you’re talking about 5.9, and I
20 just – and I want to correct you.

MR WATSON: Five point 8, I think it might have been.

DEPUTY PRESIDENT BLOOMFIELD: You’ve mentioned 5.9 at paragraph 7 of
25 your reply submission, and that’s where you might have picked it up again. It’s 5.7 you’re seeking.

MR WATSON: It’s 5.7. I was relying on the – well, I just trotted out what you
30 said, your Honour, so if it’s 5.7 – and I’m happy to check that, but either way - - -

DEPUTY PRESIDENT BLOOMFIELD: Yes, you’ve got – in your reply you’ve
got 5.9 - - -

MR WATSON: Okay.
35

DEPUTY PRESIDENT BLOOMFIELD: - - - at paragraph 7.

DEPUTY PRESIDENT KAUFMAN: While you’re talking about that I meant to
40 ask Mr Martin, how was that struck, the 5.7?

MR MARTIN: Five point 7, that’s just simply the equivalent to what was applied
for - - -

DEPUTY PRESIDENT KAUFMAN: By the ACTU?
45

MR MARTIN: Yes, that’s right.

DEPUTY PRESIDENT KAUFMAN: So there's no rationale given for why 5.7 rather than 5.8 or six or 5.5?

MR MARTIN: No, your Honour. No.

5

DEPUTY PRESIDENT KAUFMAN: It just seemed like a good idea at the time, did it?

MR MARTIN: Well, it was consistent with the application that was made by the ACTU.

10

DEPUTY PRESIDENT KAUFMAN: Yes, thank you.

DEPUTY PRESIDENT BLOOMFIELD: Yes, Mr Watson.

15

MR WATSON: There was a question made about why should bargaining happen if we award a higher pay increase. I just want to – Deputy President Bloomfield would be well aware of this, but through award modernisation every award in the Queensland jurisdiction has been modernised and had pay rates inserted into that award, and my very distinct recollection is that the rates that are inserted into those awards are expired EB rates, by that I mean that they're the last pay rate in the expired EB agreement.

20

DEPUTY PRESIDENT BLOOMFIELD: Public sector, yes, invariably that's the case, but not always, and Local Government's different again.

25

MR WATSON: Okay.

DEPUTY PRESIDENT BLOOMFIELD: Local Government's based upon the award rate.

30

MR WATSON: Based on - - -

DEPUTY PRESIDENT BLOOMFIELD: BEMS award is based upon the award rate.

35

MR WATSON: Okay. But the point I'm making is that they're not the current EB rates that are in the award, so the questioning that Deputy President Bloomfield asked about .8 of – if we go 3.3 rather than 2.5 – .8 of that next pay increase will already be in there, well, I say that it won't be, because it's an EB behind. I think if the current rates were in there your argument – your reasoning I would agree with, but because they're not the current rates in the award, they're from an EB behind, the one before, there's a 2.5, 2.5, 2.5 gap before the .8 comes into the occasion – equation, so I just want to point that out so that there's some – there's a couple of issues there. This is - - -

40

45

DEPUTY PRESIDENT BLOOMFIELD: Well, can I just ask you some questions about that. If there's a gap of this magnitude that you say, I'm just struggling to understand why the State Government's submission is that there will be 12,300 people impacted if the increase is above 3.1?

5

MR WATSON: In the first year, I think their submission is. I - - -

DEPUTY PRESIDENT BLOOMFIELD: Immediately, as I understand it.

10 MR WATSON: Immediately, but that - - -

DEPUTY PRESIDENT BLOOMFIELD: Yes.

15 MR WATSON: I think that'll dissipate with the advent of the second increase, and then depending on what's awarded next year.

DEPUTY PRESIDENT BLOOMFIELD: Well - - -

20 DEPUTY PRESIDENT KAUFMAN: Your concern was this year, Mr Watson.

MR WATSON: I appreciate that, but what – my point at the moment is that the current award rate in the public service award, for example, is the EB rate that's expired back in 2012, and that – and with the two administrative increases, so it's probably the EB rate - - -

25

DEPUTY PRESIDENT BLOOMFIELD: Well, no, it's the 2012 EB rates which State Wage Case increases to float all the way through.

30 MR WATSON: Yes, so it's certainly behind is my point. I'm not – and I think it's significantly higher than to have any impact at the higher levels. It'll only have an impact at the lower levels, as the Queensland Government submission points out.

DEPUTY PRESIDENT BLOOMFIELD: Well, we'll perhaps have to ask them about that.

35

MR WATSON: Yes, but that's – I – because I didn't realise that was going to be asked I haven't got any material to put to the Full Bench today, but that certainly would be my response to the – that is my response to that question. There was another question asked of Mr Martin about the community, and that deals with the Act provisions about the principles up front, or whatever they're called.

40

COMMISSIONER FISHER: The living standards.

45 MR WATSON: There's the living – and (g) – 13 – it talked about (g), which was:

ensuring wages and economic conditions provide fair standards in relation to living standards prevailing in the community

I just want to point out that (a) actually says:

5 *supporting a productive, competitive and inclusive economy of strong economic growth, high employment, employment security, improved living standards and low inflation*

10 So whilst there's a debate about what community means and whether it's the community covered by this jurisdiction or the community as a whole, I say that there is another reason why the employer – why this Commission, sorry, can make a pay increase, and that – without having to concern itself totally of the issue of the community, and that is that (a) says the – this – it's about:

15 *supporting product – productivity, compet – competitive etcetera and improved living standards*

20 So there's another part of the requirements for the Commission to look at under section 3, which is the main purpose of the Act, beyond ensuring that community standards are met. So it's also the requirement of the Commission to look at improving living standards. That's what the – that's what (a) says, so I point that out in response to that question and line of questioning by the Commission.

DEPUTY PRESIDENT KAUFMAN: What are we at, (a), subsection 4, with subsection 3, which says that:

25 *The main purpose of the Act is to provide for a framework of cooperative industrial relations that's fair and balanced and supports the delivery of high quality services, economic prosperity and social justice for Queenslanders.*

30 So that's the main purpose of the Act, the “framework for cooperative industrial relations”, and that framework, that main purpose, is primarily achieved by all of the matters set out in (a). They're not ends in themselves. They're - - -

MR WATSON: No.

35 DEPUTY PRESIDENT KAUFMAN: - - - steps to achieving the primary purpose.

MR WATSON: I agree. I just say that (a) is equally as important as (g). (g)'s the one that talks about community. I don't – the point I'm making is that the Commission, if it only – if the Commission only looks at (g), which talks about:

40 *ensuring wages and employment conditions provide for fair standards in relation to living standards prevailing in the community*

45 then I don't think they've taken note of (a), which requires them to look at improving living standards. That's my point. I don't say that (a) or (g) is – have any greater weight and should be given any greater consideration by this Commission, but I certainly say they've got equal weight and they should be given equal consideration

by this Full Bench when – in making this decision. The other point is that I just want to provide some information on – is with respect to the jurisdiction about who's covered. I certainly have been involved in these cases for the Council of Unions in the past, and now the Australian Workers' Union for probably the last seven or – six
5 or seven or eight years – I can't recall the exact number – and the jurisdiction has been fairly consistent, or consistent all the way through that time that there are some public sector workers who – I can't work out who they are – and there's 1,000 – and perhaps someone will get asked that question momentarily, which won't be me because I can't answer it.

10

DEPUTY PRESIDENT BLOOMFIELD: It was about 20 out at the RAB Court, but that's all I know about.

MR WATSON: That's the only answer I've heard as well. But – so there's those
15 thousand, and in my former job I probably would have been tapping on the Government's door and trying to negotiate for them, but I'd have to work out who they were first. But anyway, that's another point. The Local Government employees, and the P&C associations – I'm not aware of any agreements with the P&C associations – and with respect to the councils, we certainly have coverage in
20 councils, and there are a lot of councils in the gulf, and the cape, and the Aboriginal and Torres Strait Islander community area, and a couple out west that don't have agreements, and there's never been any conjecture about that, so I don't know if they've had them in the past, but there certainly are councils that refuse to bargain at the moment, and I'm not suggesting that this is the advice to the LGAQ, but certainly
25 those – a lot of those councils do take advice from the LGAQ. What we are noticing is that since the advent of the current legislation – that more and more councils are saying to us that they're not going to bargain with us, they're not going to have an agreement. So our – my view is that that might increase the number of employees who are covered by this decision that won't have an EB in the future, but I've got no
30 – I'm only just saying that's anecdotally what's been provided to our union. Perhaps Mr Good might have a view on that. I don't know. I've got nothing further if that's of assistance to the Commission.

DEPUTY PRESIDENT BLOOMFIELD: Thanks, Mr Watson. Yes, I think there's
35 probably 18 or 19 out of 76 councils that do not have an agreement. I think something like 14 or 15 of those are what are called Aboriginal and Torres Strait Islander - - -

MR WATSON: Yes.
40

DEPUTY PRESIDENT BLOOMFIELD: - - - or indigenous councils.

MR WATSON: Yes.

DEPUTY PRESIDENT BLOOMFIELD: There's probably three other councils that
45 don't have EBs.

MR WATSON: My recollection is they're out west, though.

DEPUTY PRESIDENT BLOOMFIELD: Boulia and places like that.

5 MR WATSON: Yes.

DEPUTY PRESIDENT BLOOMFIELD: The total population's 400, probably
about 30 council workers. It's a bit hard to get out there to negotiate for that group,
and the 30 is spread out across an area probably half the size of Tasmania, so it's a
10 bit hard to organise to negotiate.

MR WATSON: Thank you.

DEPUTY PRESIDENT BLOOMFIELD: We might just take a seven or eight-
15 minute toilet refresh break, and come back perhaps 20 to. That's all right. I'll just
adjourn it.

THE COMMISSION ADJOURNED [11.31 am]
20

THE COMMISSION RESUMED [11.42 am]

25 DEPUTY PRESIDENT BLOOMFIELD: Yes, please be seated. Mr Feldman.

MR FELDMAN: Thank you, your Honours. I've taken the liberty of remaining
standing. I thought I'd be next. Your Honours, the Queensland Government will
largely rely upon its submission in this matter for the three per cent – 3.3 per cent
30 increase in the Queensland minimum wage and modern award wages and relevant
work allowances. That is the Government's submission and, as I say, we'll largely
rely upon those. Your Honours, if I could take you to number 14 of our submission
in regard to number of employees affected by the State Wage Case. There have been
some questions in this regard and, if I may, I'd like to, perhaps, assist the
35 Commission further in terms of that matter, and I seek leave to just hand up some
supplementary information which I'd take you through.

DEPUTY PRESIDENT BLOOMFIELD: Fourteen or 18?

40 MR FELDMAN: Fourteen.

DEPUTY PRESIDENT BLOOMFIELD: Okay.

MR FELDMAN: Please, your Honour.

45 DEPUTY PRESIDENT BLOOMFIELD: Thank you.

MR FELDMAN: And you have in front of you there now some documents with some transcribed information on the front, and then a couple of tables from the Australian Bureau of Statistics. I just wanted to take your Honours to the Total Queensland Workforce. So if you like, on the front there, category number 6020, Labour Force Australia, table 4, Labour Force Status States and Territories June 2017, and Queensland Total Workforce Seasonally Adjusted. If you go to the second page there, your Honours, in that table 4, in the second lot of data is the seasonally adjusted figure, third line down, Queensland, 1.6 million fulltime, but what we're looking for is the total workforce, which is 2,388,800. So I've transcribed that number there. The data that we provided in our submission category number 6248, Employment and Earnings Public Sector Australia 2015 to '16, table 1, Public Sector Employees, Levels of Government, State and Territory, if we go to that one, the figures on the left of June '15, the June '16 figures, third line down, Queensland, forget about the Commonwealth numbers because they're not in this jurisdiction – so we've got State 310,300, local 4,900, and if our maths were correct, hopefully that comes to 351,200. Now, as a proportion of the total Queensland workforce, State and Local Government employees represents 14.7 per cent of the total Queensland workforce – would be the jurisdiction of this Commission. Not included in those numbers are the Parents and Citizens Association numbers, but we get to – at or a little bit less than 15 per cent, I would think, with those numbers included.

DEPUTY PRESIDENT BLOOMFIELD: But the State Government figures would include a number of bodies that would be deemed to be national or in the federal jurisdiction because they're a national system employer like Queensland Rail, Energex Power Stations.

MR FELDMAN: I don't believe that they're included in those total numbers. I'm not sure, your Honour. The – generally the – they talk about the jurisdiction there. The corporation – generally, as you know, in the federal jurisdiction the Government owned corporations, but there are a number of declared bodies, so that – maybe corporate bodies that have been declared not to be national system employers, that remain in the State jurisdiction. There's some of the statutory authorities in that regard. I can't think of one off the top of my head, but - - -

DEPUTY PRESIDENT BLOOMFIELD: Well, if that's – if 310,000 is the State number, that just seems a bit high. Traditionally the State employees, as run in the P&C statistics – a bit over 250/260, based upon a FTE of just over 200/205, or something like that, so – but anyway, that's the figure that – sorry, they're the figures that you've got and they're the ones you've referred to.

MR FELDMAN: Yes.

DEPUTY PRESIDENT BLOOMFIELD: Okay.

MR FELDMAN: The purpose, your Honour, was just to give you some indication, I guess, in terms of the indicative size of the jurisdiction - - -

DEPUTY PRESIDENT BLOOMFIELD: Yes.

MR FELDMAN: - - - that you're looking at.

5 DEPUTY PRESIDENT KAUFMAN: But your submission is that of those 350-odd thousand people, only 12,300 will be impacted by a wage increase of 3.1 per cent or above?

10 MR FELDMAN: Not – that would be correct for 3.1, but not necessarily at any amount above that. The indicative modelling we've done would indicate that at 3.1 is the tipping point, and perhaps if I might go into this in a little bit more detail later, and I think Deputy President Bloomfield was asking some specific questions about that, but if I may, we've modelled that 3.1 per cent would be the tipping point where
15 some agreement covered employees would start to have the award rate go above their certified agreement rate. Three point 3 per cent is our submission for the order, and we did modelling at that, and it's the same number of employees, but obviously the dollar value increases because the comparative wage increase is slightly different, but 3.1 to 3.3 per cent is about all of the AO1 and AO2 equivalent under the Core Agreement, so we do have OOs and TOs that have equivalent wage rates, and if you
20 go to 3.3 it's the same to the lowest level of AI – AO3, sorry, as well, so AO1, AO2 equivalent and the lowest level of AO3, but the higher the percentage increase the more levels and more people are impacted.

25 DEPUTY PRESIDENT KAUFMAN: So it's about three and a-half per cent of the – of those within our jurisdiction who will be impacted by this decision. Is that right?

MR FELDMAN: I haven't done the maths, your Honour, but - - -

30 MR WATSON: That's correct, your Honour.

DEPUTY PRESIDENT KAUFMAN: I never trust my own maths. I always ask.

35 MR FELDMAN: Now, Deputy President Bloomfield had asked us to go to, I think, 18 of our submission in regard to the numbers, and I think, perhaps, I've covered part of that in answer to Deputy President Kaufman now. So were there any further questions on that?

40 DEPUTY PRESIDENT BLOOMFIELD: Just in relation to the comment that Mr Watson made to the effect that there should be a reasonable gap between the modern award wage rate and the Core wage rates because supposedly the Core – my apologies, the modern award is behind the Core in terms of a couple of increases.

45 MR FELDMAN: Your Honour, our modelling shows, as I say, that at 3.1 per cent is the - - -

DEPUTY PRESIDENT BLOOMFIELD: Yes.

MR FELDMAN: - - - tipping point - - -

DEPUTY PRESIDENT BLOOMFIELD: Yes.

5 MR FELDMAN: - - - where agreement rates start to fall behind the award rates, and that's because of the year on year comparison, some up, some down.

DEPUTY PRESIDENT BLOOMFIELD: Yes.

10 MR FELDMAN: But we've got a wages policy that we work to, that you mentioned before, of 2.5 per cent. The Core agreement increases 2.5 per cent, the last of which is due on 1 September. That's what we see as the tipping point of 3.1 per cent on top of award rates compared to the 1 September 2017 rate – so we're not comparing to '16 rates – and then that would depend on the year on year comparison between the
15 Core and the increases to award rates.

DEPUTY PRESIDENT BLOOMFIELD: So is there a particular dollar number weekly or fortnightly wage rate at which the outcome starts to cause you concern?

20 MR FELDMAN: I don't think it's really a dollar number, your Honour. I think it relates to the bandings within the Core, and the higher the percentage increase the greater the bandwidth of the people impacted. So as I say, at 3.1 to 3.3 we say that AO1 to AO3 pay .1 are affected, and every percentage or part of a percentage increase above that the band width of the people impacted increases.

25 DEPUTY PRESIDENT BLOOMFIELD: I understand.

MR FELDMAN: We haven't modelled numbers for, you know, each level, or anything like that. That's extraction of the Moree data for each of the levels, and
30 taking out transport and main roads and Queensland Health, and there's a substantial amount of effort that goes into that, but at the 3.3 we've modelled, those approximately 12,300 and a cost of approximately a million dollars, but the numbers and the dollars, as I say, would again expand as and when a percentage increase might expand.

35 DEPUTY PRESIDENT BLOOMFIELD: Okay.

MR FELDMAN: I have nothing further in specific submissions as such, but happy
40 to assist the Bench in relation to any other questions that you might have in relation to the submissions.

DEPUTY PRESIDENT BLOOMFIELD: If you might, can I take you to page
45 number 3 of the State Government submissions, right down at the very foot. There's a paragraph there underneath the dot point, and the submission says, and I'll read it out:

The Queensland Government's support for this position applies solely in the context of considering an appropriate safety net increase for the discreet group of low paid and award reliant workers who continue to rely on a State Wage Case each year for an annual wage increase.

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Now, if I just leave it there. That submission is suggestive of the fact that the State Government is of the belief that the only people who will benefit from this increase, whatever it might be, will be what are described as low paid and award reliant workers.

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MR FELDMAN: I think in the context of the submission, your Honour, what we're saying is that at 3.3 per cent the impact of that would be for a discreet group of low paid and award reliant workers. In that context we've got a large number of agreement employees within the sector, almost blanket coverage, but there are some at the lower end that obviously an order of that nature would impact and that – they would be entitled, you know – we – as Mr Watson indicated, you know – we do have a directive in that regard, that, you know, if the award rates do increase above the agreement rates at any point in time to ensure that those people do enjoy the benefit of the increase to the award rate.

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DEPUTY PRESIDENT BLOOMFIELD: Okay, and given that the submissions – and I again speak on behalf of myself – given that the submissions that have been put by pretty much everyone up until now, going back into the past, has been that the State Wage Case is designed to set realistic minimums, we're no longer setting minimums, we're being asked to set wage rates which are, to quote the submission of the QCU:

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fair and reasonable in the context of living standards prevailing in the community

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or words to that effect, why should we be granting any wage increase in award terms for people who are other than low paid and award reliant? What's to be achieved by doing that, except to create downstream problems when you start to enterprise bargain in the future?

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MR FELDMAN: I have no specific instructions with regard to the first part of your question, your Honour, with respect to the, you know – the intent in that regard, but we would say that the whole thrust of the Queensland Government's submission is that Queensland Government recognises and says that an increase in the minimum on award wages to maintain real living wages and living standards and provide reward for measured productivity gains. Our submission is 3.3 per cent does that and we've identified that there are a small number of people that are impacted. We certainly do understand and acknowledge that if the increases are higher than that then there is going to be a greater impact across our employees, you know, at higher levels and that's, I guess, certainly not an outcome that we were seeking. In terms of the award wages, yes, your Honour is right in the sense that those award wages are no longer a minimum safety net in the sense that they were previously in legislation, but we

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would say that, in our submission, the Commission making an order that we've sought would deal with all of those issues.

5 DEPUTY PRESIDENT BLOOMFIELD: This is what troubles me. If we start to
apply 3.3 per cent on the wage rates generally in the awards, and if we look at the
general employees award and go to the admin stream, level 8, \$2,000-odd a week –
just let me work it out – the increase will be \$67 at AO – level 8, AO1 – my
apologies, level 8.1 would be \$67 per week increase. Well, that will go into the
award rate and impact the next time that the Government wants to sit down and
10 negotiate wage increases, because the equivalent rate under the agreement at the
moment is 438, so it's going to be 2190. So you'll start off with 2190 compared to
an award rate which will be pretty much the same.

15 MR FELDMAN: We certainly acknowledge your concern, your Honour, in the
sense that obviously without, you know, providing numbers of employees and the
dollar of the impact, we have modelled that the higher percentage increase the higher
the impact in terms of the bands within the Core that are impacted where the award
wage rate increases above the agreement rate.

20 DEPUTY PRESIDENT BLOOMFIELD: Yes. I told you a wrong figure before. It
would actually be \$200 or \$199 difference, but - - -

MR FELDMAN: I recognise - - -

25 DEPUTY PRESIDENT BLOOMFIELD: - - - across a fortnight.

MR FELDMAN: - - - your Honour's concern in relation to the changed bargaining
position for next time around, but I don't have instructions with regard to your
Honour's question about how the Bench may consider that and make an order in that
30 regard, but, you know, we certainly wouldn't dispute that it's open to the Bench to
make a decision.

DEPUTY PRESIDENT BLOOMFIELD: I'd also be interested, again just speaking
at a personal level, what are we going to do if there's a bargaining award made? A
35 bargaining award lets – well, actually requires the Commission to prove it if the
parties come before the Commission and say, "We, instead of putting together a new
enterprise agreement, have come up with a bargaining award." So we go across to
Queensland Health and look at the medical officers, or we go to Corrective Services,
or we go to Disability Services. If the unit and the agency comes to the
40 Commissioner and says, "Instead of having an enterprise agreement, we want to have
a bargaining award, so the actual rates in there are the paid rates" – if we come to
next year's State Wage Case and we're being asked to put in 2.5 per cent, we're
putting in 2.5 per cent on the bargaining award on top of the bargain that the parties
have already entered into if we follow traditional practices.
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MR FELDMAN: I haven't looked at the specific legislative provisions in that
regard, your Honour, but I would say that, with respect, a bargaining award, should

they become apparent – they’re obviously provided for in the legislation. I think we’d probably seek to have them excluded from this type of order with regard to - - -

5 DEPUTY PRESIDENT BLOOMFIELD: Well, the legislation doesn’t exclude them.

MR FELDMAN: Yeah, other than that, your Honour, it’s just something we would need to take into consideration with the negotiation of those instruments.

10 DEPUTY PRESIDENT KAUFMAN: Mr Feldman, I want to take you back to that passage on page 3 of your submissions [indistinct] the Government’s submissions where you say that the support for the 3.3 per cent applies solely in a context of considering an appropriate safety net increase for the discrete group of low-paid and-
15 award-reliant workers who continue to rely on a State Wage Case each year for an annual wage increase. Mr Martin’s submissions repeatedly put it to the fact that the legislation no longer talks about a safety net increase. Why are you still referring to a safety net increase? And further, how does your support for the 3.3 per cent sit within the requirements of section 4 of the Act, specifically those subsections to which reference has been made, (a), (d) (f) and (g)?

20 MR FELDMAN: With regard to the safety net, your Honours, I have to say the safety net words probably should not appear there. But we’re of the view that the structure of the legislation and the framework of the legislation remains largely the same in terms of the QES providing the absolute minimum legal safety net awards
25 providing for wages and conditions within certain occupation groups and then the opportunity to bargain for certified agreements and/or bargaining awards over and above that. In that context, you know, we say that that framework and, you know, that structure is largely the same. Perhaps the utilisation of the words safety net may not have been entirely correct in that context.

30 In terms of the 3.3, we would say that in the context of our submission the living standards and what is happening in the community is provided in the economic information and outlook from both the Australian budget papers and also the
35 Queensland budget papers for ’17/18. And we say in the context of those things that a 3.3 per cent increase, which we submit for the Commission’s consideration, does what the Queensland Government seeks, which is an increase in the minimum award wages to maintain real wages and living standards and provide reward for measured productivity gains and also satisfies those sections of the Act that your Honours referred to.

40 DEPUTY PRESIDENT KAUFMAN: Yes. Thank you.

MR FELDMAN: We certainly acknowledge and understand that, as always, there are, you know, principles and circumstances that need to be considered that
45 sometimes look in conflict, and I guess that’s the difficulty of the consideration deliberation. But we say in our submission that the position that we’ve put to the bench will deal with those matters.

DEPUTY PRESIDENT BLOOMFIELD: Just one final question. If the Government's desire is to provide an increase for the discrete group of low-paid and award-reliant people who continue to rely upon State Wage Case outcomes each year, what would be wrong with us simply setting a Queensland minimum wage and leaving it up to employers to have to meet that minimum wage? Hasn't the Government's ideal been then satisfied? We're not interfering with bargained outcomes – they can continue to occur – but we're not creating a rod for our own back, as it were, in terms of how we deal with these things in the future by artificially interrupting – sorry, artificially increasing award rates when that's not we're supposed to be here about in your submission.

MR FELDMAN: Your Honours, I believe that such a decision or order would be open to you, but, you know, that's not what we are instructed to seek. But it's possible that my colleagues from QCU and AWU may have more to say about that, your Honour, in answer to a question rather than us.

DEPUTY PRESIDENT KAUFMAN: I'm just surprised that you're leaving it to the unions when you're the employer.

MR FELDMAN: Well, I mean, the low-paid and award-reliant workers: if we look at that in isolation of people who are only covered by an award and not covered by a bargain, the number 1000 was sort of bandied earlier. But I think that goes back to some previous time, certainly with the last core agreement, which I think is 2015 from memory, and certainly with this core agreement that's coming up. We're seeking to sort of put any and more of any of those people who are award-reliant and haven't had bargaining in the past to make them included in that. I mean, the Government's policy is that collective negotiation of wages and conditions are the appropriate method of establishing those things, and we're identifying, you know, those small places where those issues have existed in the past and getting them into the core negotiation, where they haven't been involved previously.

DEPUTY PRESIDENT KAUFMAN: See, these extra people of whom you speak that bring it up to the 12,300: they're strictly not award-reliant. They're agreement-reliant, but the award is now – if we award increases of the magnitude sought, the award will overtake the agreement. To define them as award-reliant is a misnomer, isn't it?

MR FELDMAN: That's technically correct, your Honour, yes. We were looking at that on the basis that if we looked at those increases to the minimum wage and award rates purely for the impact purposes at the lower end of those people who have had bargaining and are covered by a certified agreement – but we're not saying that those people who are covered by the certified agreement are totally and only award-reliant, yes. That's right.

DEPUTY PRESIDENT BLOOMFIELD: Thank you, Mr Feldman. Mr Good.

MR FELDMAN: Thank you, your Honours.

MR GOOD: Thank you. May it please the Commission. The LGAQ did make some written submissions, and we'll primarily rely upon those written submissions today. I would want to touch upon a couple of things that had been raised here today, your Honours. In particular, the requirement of the Commission pursuant to section 3(g) of the Industrial Relations Act has been raised.

DEPUTY PRESIDENT BLOOMFIELD: Four-g?

MR GOOD: Three-g, the - - -

DEPUTY PRESIDENT BLOOMFIELD: Four-g hopefully.

UNIDENTIFIED SPEAKER: Four-g.

MR GOOD: Sorry?

DEPUTY PRESIDENT BLOOMFIELD: Four-g hopefully.

MR GOOD: Oh, after - - -

DEPUTY PRESIDENT BLOOMFIELD: Three-g is the - - -

MR GOOD: - - - travelling the - - -

DEPUTY PRESIDENT BLOOMFIELD: Three's only got (a) and (b), so - - -

MR GOOD: Yeah.

DEPUTY PRESIDENT BLOOMFIELD: - - - it must be 4.

MR GOOD: Four-g, is it?

DEPUTY PRESIDENT BLOOMFIELD: I know some councils still only on 3G network but others are on 4G.

MR GOOD: Oh, right. Sorry, I'm one off. I spent the week last week up in the Cape, and 3G and 4G when it comes to telecommunication was - - -

DEPUTY PRESIDENT BLOOMFIELD: Three-G won't work up there. I know that so - - -

MR GOOD: Absolutely. So I will make some reference to the new IR Act, and it's probably fair to acknowledge upfront that we probably don't hold the new Act in the same esteem as some of our – my colleagues at the table here. Having said that, it's the legislation that rules us, and that's the legislation we'll comply with. I note in the State Government's submission, page 5, paragraph 11, they talk about the strong focus on the importance of ensuring fair wages and make reference to prevailing

community standards, which have been discussed here today to some extent. In the absence of any evidence to the contrary, we are working on the premise that the current award wages awarded by the Commission in its previous State Wage Decisions – in other words, the Commission have been very diligent, and as a result, we've got current award levels which are reflective of the living standards that were present at the time of the previous decision. So the position we took with this whole process was, well, given that presumption, that wage levels existing were reflective of the community standards at the time of the last decision, what has changed since for employers, mainly Local Government, and what has changed for employees covered by State industrial relations jurisdiction since that last decision?

Obviously, the key thing we looked at was CPI, and currently the CPI in Queensland has been acknowledged as being less than two per cent. In fact, since our written submission, ABS have released their June CPI figures, and it states there that June CPI – that it rose 1.9 per cent over 12 months to the June quarter 2017, compared with a rise of 2.1 over the 12 months to the March quarter 2017. Now, that proposal of the LGAQ at 2.1 per cent increase is therefore above the CPI increase. It's certainly above the wages price index. We would argue it allows for real wage growth, and it minimised the risk of de-employment, if I can use that term, of existing staff due to a diminished capacity of some of our councils to pay by the employer.

We notice there's also been a fair bit of discussion of the term community today. The Commission would be well aware that the economic capacities of communities in Queensland vary. Communities such as Pormpuraaw, Lockhart River, Bulloo, Barcoo, Bedourie: they face far different challenges than would Brisbane, Sunshine Coast, Moreton Bay, yet the decision the Commission has been asked to make here today is to apply equally to all communities. The question, I suppose, in our mind was how does the Commission determine what is the appropriate community standard to apply?

QCU particularly pointed to the predictions for the economic future of Queensland. They point to economic indicators. I would argue that it's not inconceivable for some of the forecasters of the economic future of Queensland – it might necessarily be in their interest to talk up the economy. After all, they wish to attract investment. They want to encourage businesses to spend [indistinct] invest in infrastructure to employ more people. They want people in the community to be confident in the future, to spend more, not to [indistinct] put it away in the bank. Our argument is predictions of economic growth are always fraught with risk, and that's without the – in consideration of the regular natural disasters that feature on the Queensland landscape that have such a huge impact on our councils' capacities. Councils don't have the luxury of always relying on future predictors.

We'd argue that [indistinct] the best predictor of the future is the recent past. In that regard, if you look at Queensland over recent time, what we've seen is very steady low growth. You look no further at levels of unemployment, particularly in far North Queensland. CPI or the wage price index: we'd argue that these figures

support the quantum proposed by the LGAQ as appropriate. When the economy picks up and benefits begin to flow – real benefits and real pick-ups, we’d argue – then Local Government, as always in the past, will lead the charges in offering wage increases that attract and retain staff and value staff in their local communities.

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Your Honours, we had a lot of talk today about the number of people affected by it. Even if there is a small number, I would submit that it’s still not sufficient reason not to give due importance to this decision today. To an individual, the impact is very real, and particularly in some of our remote councils, there’s little comfort to know when their job is cut or the number of hours they work are cut that they only form part of a small minority. The system should be designed to support all as it is, not just a majority.

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There’s been discussions about the numbers, and I can agree with my colleague from the QCU that there are a number of councils whose actual EB agreements are predicated on existing award wages. I believe North Burnett is one where their EB agreement provides for \$100 above the existing award, so every time there’s a wage increase at the State level, it automatically flows on. I think [indistinct] another one that set a certain thing and then accepts any future wage increases from the State Wage Case.

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DEPUTY PRESIDENT BLOOMFIELD: Can I just interrupt you? There are some agreements [indistinct] that provide for a fixed percentage above the - - -

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MR GOOD: Above.

DEPUTY PRESIDENT BLOOMFIELD: - - - award rate, which means - - -

MR GOOD: Exactly.

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DEPUTY PRESIDENT BLOOMFIELD: - - - if it goes up by three per cent, and they’re saying, “We’ll pay seven per cent above,” they’re - - -

MR GOOD: Above that.

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DEPUTY PRESIDENT BLOOMFIELD: - - - paying seven per cent on top of three per cent.

MR GOOD: Absolutely. I’d like to mention that the parties – a number of parties here do give a fair bit of credibility to what comes out of the Commission in relation to a wage increase. And indeed, one union has already made it very clear to their members they’re not going to accept any EB increase anything less than the State wage increase. So if the union’s successful in achieving their desired increase in this matter, I think we can anticipate a fair degree of industrial activity in our industry going forward in the very near future.

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I looked at the State's submission. Obviously, the State's in the position to be able to pay staff as big or as small an increase it wishes. It is the largest employer in the State jurisdiction, and I understand the vast majority, if not all, of their employers are covered by an EB agreement or EB agreements which are negotiated by the State. In their mind, they must be able to afford the pay increase that they're seeking. The question for me is can Local Government? And our view is simply no, without reducing their capacity to employ.

Your Honours, predictions are just that, best guess estimates based on a mix of trends, formulas, risk assessments and optimistic forecasting in many respects. Facts, however, are real. When the economy demonstrably delivers benefits: that's the when the capacity to share in any windfall with employees will rest with councils. That time to the extent suggested by the unions and to a lesser extent to that suggested by the State is not now. We believe the 2.1 per cent that we've requested does recognise recent growth. It also does have a good reflection of the living standards that currently exist in Queensland communities.

I want to reinforce what we said in our submissions. Local Government is a good employer. Local Government, by their very nature, want to maximise the number of their workforce. There was some discussion here today about labour hire. It's not something that Local Government necessarily seeks. Council would prefer to keep local employees working, have the economy – any money invested and labour spent within their local community not leaving their community. The only exception to that that I'm aware of that is two of our indigenous communities who are actually trying to build an economy within their communities where, in their case, they're encouraging local people to start their own small businesses. In one particular case, Lockhart, where we – a lot of the road maintenance workers are now being encouraged to start their own small business, and not only can they supply work then to councils, but then they can also bid for work to the private sector as well as the State Government. But that's the exception. Other than that, most of our councils, 99 per cent of our councils, would be trying to maximise the size of their workforce.

There was some other discussions about promotion of the role of the Commission in promoting EB. As we have stated in our submissions, we believe the new legislation has put paid to any of that argument whatsoever. Our councils now are required – if they want to have an agreement, they must negotiate an agreement with unions. They're not in a position to say no. A couple of the parties have indicated that councils are refusing to do EB agreements. My belief is under the IR Act now as it stands, once they've been served a notice of intention to bargain, they are in effect bargaining, and so they're not in the position to now refuse to bargain. So I'm a bit somewhat confused by that. Unless there [indistinct] specific questions from the Commission, we really have nothing else to add because we believe most of the matters that have been raised here today have been well and truly addressed in our submissions. May it please the Commission.

DEPUTY PRESIDENT BLOOMFIELD: Do you have a view, Mr Good, about the questions I've been asking of the other parties about if the award rates go up for

people who are not award-reliant in the sense of their wage rates because the wage rates are covered by an enterprise agreement, how's that likely to impact future enterprise bargaining activities if the award rate increases by the 5.7 per cent or the 3.3 per cent that's – which have been proposed?

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MR GOOD: It was an interesting question you posed, your Honour, and, to be honest with you, I hadn't even contemplated till you posed it here today. And I've tried to put my head around it. On one hand, it does seem somewhat attractive to us from a Local Government point of view, but I don't know if the industry is quite ready for that yet. Given the number of our councils who still have yet to negotiate their first EB, they do rely a fair bit on what the awards say in terms of relativities. So going forward, I kind of like that notion of minimising the impact on future EBs by automatically flowing on that increase to all levels of awards. I'm not quite sure yet whether the industry is ready for that yet, have that level of sophistication. Many of our, as you know, indigenous councils are just about to embark on their first ever enterprise bargaining agreements because they have no choice if [indistinct] they've already been served notices by a number of unions, and they've started that process. And I think they will be relying a fair [indistinct] degree in the short term on those relativities within the award as they stand now and with an increase.

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DEPUTY PRESIDENT BLOOMFIELD: So if I heard you correctly, you seem to be saying that the councils would become more award-reliant and less enterprise bargaining-reliant.

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MR GOOD: One of the – we've had this moratorium on bargaining over the last two or three years and - - -

DEPUTY PRESIDENT BLOOMFIELD: Legislatively imposed - - -

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MR GOOD: Sorry?

DEPUTY PRESIDENT BLOOMFIELD: - - - moratorium. A legislatively imposed moratorium.

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MR GOOD: A – moratorium. And one of the interesting consequences of that which we hadn't anticipated was the number of councils and workers who found that just applying administrative increases has led to the same positive relationships that used to [indistinct] risen out of EB but none of the conflicts associated with it. So there has been a level of build-up in some of our council questioning the value of enterprise bargaining going forward altogether, if that makes sense.

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DEPUTY PRESIDENT BLOOMFIELD: Yes. And I'm sorry to hog the questioning, but just to continue with that point, you seem to be saying again that you would not favour a situation where the Commission just set the minimum wage and let the market look after itself in terms of anyone who is in receipt of above the minimum wage.

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MR GOOD: Yeah.

DEPUTY PRESIDENT BLOOMFIELD: You seem to be wanting the Commission to set wage rates for the workforce.

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MR GOOD: I'm suggesting that I'm not sure whether the industry is ready for that significant change right now. I haven't [indistinct] contemplated before I came here this morning. My initial reaction was it made eminent good sense from what you were saying, but then when I look at the number of councils and where they stand at the moment and their historical reliance on the award as a base, I just don't know whether the industry is quite ready for that. One of the things that the industry is [indistinct] our councils the level of reform has gone on, and most of them just want to get [indistinct] their business now of serving Local Government, so I'm just not quite sure. This time, maybe not. Next time, now that it's been raised, I certainly would like to put some more thoughts to it. Thank you, your Honour.

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DEPUTY PRESIDENT BLOOMFIELD: Mr Martin, a reply?

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MR MARTIN: If it pleases the Commission, I do rise to say I am somewhat terrified of the prospect that you're contemplating letting the market determine rates of pay.

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DEPUTY PRESIDENT BLOOMFIELD: Oh, it's wrong to suggest that I'm contemplating. I'm just asking questions to get an answer.

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MR MARTIN: If the Commission pleases, I would urge you against any sort of consideration which would be completely contrary to the obligations placed on the – I say with respect – on this tribunal by virtue of the legislation which now applies. Just a couple of matters that do require some response. It is clear that the Queensland Government is willing to tolerate a level of flow-on, if you wish, to the – those employees who would be described perhaps as low-paid, if not award-reliant and, if I could assist my colleagues from the Queensland Government with respect to a potential interpretation of their submission, the discrete group of low-paid and award-reliant employees, which does not necessarily mean that they have to be both, but it has to be recognised, I'd say, with respect, that they would be low-paid for that to have application.

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Now, your Honour referred to the potential for an AO8, which, I guess, by community standards is not what one would describe as low-paid. Some might describe it that way, but by the community standard, yeah, we'd be hard-pressed saying someone on \$120,000 per annum is low-paid. But nonetheless, there is financial strain on someone who is in that income bracket. We would rely upon previous decisions somewhat ironically in terms of the necessity to maintain relativities, which, as I said, the State wage bench was so disposed to that necessity that it moved away from the fairly well-established policy of awarding flat dollar increases. So I'd ask the Commission not to consider that particular policy for those reasons.

And also, I'd also draw the comparison to that which was the discussion within the reason for low-wage outcomes, and in a more general sense – and one of those factors that was attributed to low-wage growth and again rely on that research paper by [indistinct] was the increase in capacity for employers to withdraw from certified agreements, therefore the base upon which agreements are being made and the potential for substantial reduction in income. That has been a contributing factor to the low-wage growth which, in our submission, justifies our application. So we would urge the Commission not to consider that to be a factor. So even at the higher rates of pay that would be contained in this jurisdiction – and I would think they would have reasonably limited application – I submit that's not a reason not to award a decent wage increase across the board, simply that it will put some upward pressure on wages. That is what we want to occur. That is the purpose of our application. That is the purpose of the State Wage Case, which is enshrined in the 2016 Act, the – it doesn't say what you've got to award, but it says that this – these proceedings take place. And we would strongly submit to the Commission that any departure from making a general ruling that may have the consequence of putting upward pressure on wages generally – we would urge you that that is why we're here.

The other discussion that – and I think, if I heard you correctly, your Honour, you describe artificially increase wages. Well, that's – we would not think this is in any way artificial. It's a reasoned decision that is based on the factors that are before you. That's by no means artificial. If bargaining is not providing the outcomes that are necessary to keep the low-paid out of poverty, then we say, with respect, that then becomes the role of this particular decision. So we're not overly concerned that there's anything artificial about the decisions that are made here. They're made for good reason.

DEPUTY PRESIDENT BLOOMFIELD: It was 15,000 people who are in the category that you talk about or maybe 16,000, perhaps even 17, but the people at the AO8, the O7s and the like don't fall into the category that you're talking about.

MR MARTIN: No.

DEPUTY PRESIDENT BLOOMFIELD: So adjusting those wage – sorry, adjusting the wage rates and the awards for those levels of employee doesn't do anything to help and increase - - -

MR MARTIN: Or harm.

DEPUTY PRESIDENT BLOOMFIELD: - - - their wage rates.

MR MARTIN: Or harm, I'd say, with the greatest of the respect.

DEPUTY PRESIDENT BLOOMFIELD: Well, except when it comes to the next round of bargaining and so on.

MR MARTIN: That the employer has to look to provide real wage increases as opposed to rely on a substandard award which – I'll go back to the earlier discussion with respect to what's happened post-Aurizon in the - - -

5 DEPUTY PRESIDENT BLOOMFIELD: Well, we're not in the federal jurisdiction.

MR MARTIN: No, but, your Honour, we are dealing with a wages – a wage growth crisis - - -

10 DEPUTY PRESIDENT BLOOMFIELD: Well, not a - - -

MR MARTIN: - - - and - - -

15 DEPUTY PRESIDENT BLOOMFIELD: We can only consider the people that are in our jurisdiction. We're not making any decisional impact upon anyone other than the State Government or Local Government or the [indistinct]

MR MARTIN: But the principle remains the same, in my submission, that if you wish to exclude the AO7 or AO8s in order to provide some incentive for them to bargain, I think that that would be, you know – first of all, I would think it would be unnecessary but – and to what end, I would suggest, is – I, you know – if it is that we are looking to increase wages by this decision, then that's what we're looking to do.

25 DEPUTY PRESIDENT BLOOMFIELD: Well, no, you're - - -

MR MARTIN: And - - -

30 DEPUTY PRESIDENT BLOOMFIELD: - - - you're only looking to increase the ones who are low-paid, award-reliant. If you are looking to increase wages, then you need to talk to Mr James because you're, as I understand it from Mr Feldman's submission, in the process of negotiating a new certified agreement or core agreement with the Government. So if you're looking for a decent actual increase - - -

35 MR MARTIN: Yeah, that's right. That's correct. But what I'm asking the Commission in the strongest terms not to do is exclude any classifications from the – any decision that you may make or unnecessarily reduce the application of this – for this decision. The only other matter that I would perhaps suggest is that the forecasts aren't good, that, you know, that is a matter of fact. And I guess whether or not to talk up the economy or not, they still got to be based on reasonable assumptions. So
40 – and we do note that natural disasters do occur because that is what wiped two billion off gross state product in the last financial year. It was Tropical Cyclone Debbie. So, yes, it does occur, but notwithstanding that massive hit to GSP, the Queensland economy is in good condition and, we say, sufficient to justify the
45 increase that's – that we're seeking. If the Commission pleases.

DEPUTY PRESIDENT BLOOMFIELD: Thank you, Mr Martin. Mr Watson.

MR WATSON: I just had a couple of matters, your Honours and Commissioner. Firstly, the LGAQ submission: there was a statement made about, I think, contracting out, that perhaps it's limited to some at work in the Gulf and the Cape, where the Aboriginal and Torres Strait Islander communities are. I would say that's
5 not the case. The Ipswich council, for example, outsources payroll and some finance functions to a private company so – and there are other councils where some grounds care type arrangements are outsourced, but I daresay that it's not limited to the work Mr Good – and I'm not sure Mr Good said it was limited to that, but he certainly made that comment. I just want to put those other comments there as well.

10 The issue of an – the minimum wage being higher than the rates in certified agreements is one that's not unusual. After the – in the federal jurisdiction, for example, there are many employers that will have to increase the pay rates for their employees as a consequence of the decision made in the federal jurisdiction with
15 respect - - -

DEPUTY PRESIDENT KAUFMAN: Is it the minimum – sorry to interrupt you. Is it the minimum wage or the increase to award wages that causes that?

20 MR WATSON: It's the increase to award wages. I'm not [indistinct]

DEPUTY PRESIDENT KAUFMAN: Yes. You said minimum wage.

MR WATSON: Well, it's a minimum wage that is applied to award - - -
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DEPUTY PRESIDENT KAUFMAN: Yes.

MR WATSON: - - - rates. I certainly wasn't suggesting otherwise, your Honour.

30 DEPUTY PRESIDENT KAUFMAN: Yes. Thank you.

MR WATSON: So we see it all the time, that there are – when we come to negotiate with employers, the first thing that our union does is check the rate that's currently being paid to the employee versus the award. And in a lot of cases, the EB
35 rates are – sit that – they're only marginally above the award rate, but when there is an increase in the national wage rates, and the awards are increased, the wage rates fall behind, and there's a legal obligation under the Fair Work Act to pay people as per the wage rates and the awards. So this - - -

40 DEPUTY PRESIDENT KAUFMAN: But although it hasn't been discussed in these proceedings, enterprise agreements, of course, are more than just the minimum rates. There are terms and conditions as well. And there's been absolutely no discussion
- - -

45 MR WATSON: And BOOT test comes into it, your Honour. I agree.

DEPUTY PRESIDENT KAUFMAN: - - - about how an increase for the wage rate impacts upon terms and conditions, if at all. I suspect it probably would, and they're all those balancing and countervailing factors that – I don't know how we take it into account.

5

MR WATSON: That's an interesting point you raise, your Honour, because it's a two-way street. I mean, it's not just are you artificially or – inflating the rates of pay and the award by doing – by awarding the increase. It works both ways. So I would suggest that the fact that the State Government has a directive to deal with it – that it's not unusual in the State jurisdiction as well. They've got a Public Service Commission-issued directive that says if the rate and the award increases above the EB rate, then your rate of pay increases so that the point I made earlier and the one I'm making again now is that it's not unusual to have what the Commission would put it – a rate of pay the Commission would put into a modern award or into an award would at various times be higher than what people pay [indistinct] under enterprise bargaining. You know, enterprise bargaining, by its very nature, is negotiated at an enterprise level, and there are varying different – varying outcomes, and, you know, that's subject to the negotiation.

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Similarly, the issue raised by Deputy President Bloomfield about – a bargaining award, I think, was the jargon – what happens with the – or the bargaining award – parties have an opportunity to put submissions to the full bench on that. And I would suggest that if a bargaining award was made that one of the matters that would have to be dealt with would be pay raise vis-à-vis the modern award rates or whatever they're compared with. So I would think that's a question for that matter when that happens rather than to be dealt with in the State Wage Case when there's perhaps a prediction of that's – whether something happens or doesn't happen in the future.

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DEPUTY PRESIDENT BLOOMFIELD: The exception being there, Mr Watson, that if the parties come forward with a bargaining award, the Commission must make it.

35

MR WATSON: And to that extent, it's the same as an EB. It's not that the Commission has to – have to approve the EB, but certainly there's a bargain between two parties that determines the outcome. To that extent, it's the same. The other matter that I do want to raise: in our submission at 46, and at this – we talk about the statement of policy.

40

DEPUTY PRESIDENT BLOOMFIELD: Oh, sorry.

45

MR WATSON: The application made by the – by both the – by the QCU and the AWU seeks a statement of policy as well. The legislation from 2013 up until the new Act of this year prevented a statement of policy being made. I notice in all the submissions that have been put forward, the AWU's been the only – is the only organisation that perhaps made a submission, and we said that an update would need to be made to the last one that was issued in 2013. And I thought we'd have a discussion about that today, and that's why I didn't.

DEPUTY PRESIDENT BLOOMFIELD: Yes, I apologise to you and my colleagues. That was the number 1 thing on my list to deal with. I've got a note that Mr Martin asked that the issue be parked. You suggested that the 2013 document be available and updated, and the other parties didn't comment on it. But I'll let you go.
5 I apologise for [indistinct]

MR WATSON: My view is that – and this relates to the discussion about varying awards – the statement of policy has a – in the – 2013 at 3 has the heading “State Wage Case adjustment”, which talks about adjusting a wage – awards by the
10 minimum wage or the outcome of the application. So I would think that without any submissions otherwise that would probably be the correct way to go forward. I've got nothing further. Thank you.

DEPUTY PRESIDENT BLOOMFIELD: I forgot – because I forgot to discuss that point, Mr Martin, do you want to say something about - - -
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MR MARTIN: Yes, if I could, your Honour. Thank you for that. I specifically didn't address that because I thought we had enough – or other matters to consider today. But the – my instructions are, as are in our submissions, to ask that that be
20 dealt with at another time. I guess to, you know, fairly conversationally describe what's happened is that yes, the capacity to make the statement of policy disappeared, and no one's come knocking on my door saying, “Whatever happened to the statement of policy?” So whether or not it still in this jurisdiction still performs the work that it once did, I guess, is the question and one that in the time
25 available we didn't have to discuss with the Crown or the Local Government Association – or the AWU, for that matter.

So that's why we made the submission that we did and notwithstanding that the AWU seeks its re-introduction. That may well be the outcome of discussions, that it,
30 you know, the parties form a view that it does perform a useful function, but it was something that was – you know, the question was asked, you know, “What does it do?” When the types of ways in which wages would move in accordance with wage fixation principles, I'd, you know – in our submission, we've gone well beyond those wage fixation principles to the extent that they probably don't achieve anything but
35 be that as it may.

COMMISSIONER FISHER: Sorry, can I just clarify with you, Mr Martin, in terms of that part of your application dealing with the statement of policy, are you asking for the Commission to adjourn that matter to - - -
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MR MARTIN: Yes.

COMMISSIONER FISHER: - - - allow the parties have discussion and - - -

45 MR MARTIN: Yes.

COMMISSIONER FISHER: - - - leave it to you as the applicant to seek a re-listing of that should it become necessary?

5 MR MARTIN: That was – yes, your Honour, that was specifically what we had requested, yes.

MR WATSON: Just to assist the Commission, I'm happy for that to be the way forward with that part of our application as well.

10 DEPUTY PRESIDENT BLOOMFIELD: Anyone want to be heard on that, or I just - - -

15 MR FELDMAN: We've made no preparation in that regard, your Honours, because of the QCU's request.

MR GOOD: We're happy to discuss it with the other parties. I'm not really enamoured by it but, yeah, happy to have a discussion.

20 DEPUTY PRESIDENT BLOOMFIELD: I think it goes without me necessarily saying it but I need to say we will reserve the decision and issue it obviously as soon as we can. With that, I thank you for your attendance. The Commission may be adjourned.

25 **THE COMMISSION ADJOURNED**

[12.43 pm]