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QUEENSLAND INDUSTRIAL

RELATIONS COMMISSION

BLOOMFIELD DP

THOMPSON C

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Attachments - NO

No B/2018/12

INDUSTRIAL RELATIONS ACT 2016

S458 – APPLICATION FOR GENERAL RULING

APPLICATION FILED BY QUEENSLAND COUNCIL OF UNIONS

No B/2018/17

INDUSTRIAL RELATIONS ACT 2016

S458 – APPLICATION FOR GENERAL RULING

**APPLICATION FILED BY THE AUSTRALIAN WORKERS' UNION OF
EMPLOYEES, QUEENSLAND**

BRISBANE

10.06 AM, THURSDAY, 9 AUGUST 2018

Continued from 27.4.18

DAY 2

HEARING

Any Rulings that may be included in this transcript, may be extracted and subject to revision by the Presiding Judge.

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THE COMMISSION RESUMED

[10.06 am]

5 DEPUTY PRESIDENT BLOOMFIELD: Thank you. Can we take the appearances, please. Dr Martin.

DR J. MARTIN: Thank you. If it pleases the Commission, my name is Martin, initial J. I appear for the Queensland Council of Unions, the applicant in matter B12 of 2018.

10 DEPUTY PRESIDENT BLOOMFIELD: It sounds as if you've got a bit of a cold, and you should have a talk to Mr Goode, who I understand has got a bit of an ear infection, so - - -

15 DR MARTIN: Well, I'll - - -

DEPUTY PRESIDENT BLOOMFIELD: I'm glad we're a long way away from the both of you.

20 DR MARTIN: We'll all be in good spirits, won't we?

DEPUTY PRESIDENT BLOOMFIELD: Thank you. Mr Watson.

25 MR B. WATSON: May it please the Commission, Watson, initial B., for the Australian Workers' Union of Employees Queensland, and the Australian Workers' Union is the applicant in B 2018 17.

30 DEPUTY PRESIDENT BLOOMFIELD: Yes. Thank you. Mr Braun. Brauns, rather.

MR T. BRAUNS: For the state of Queensland, Brauns, initial T., and I'll let my colleague introduce themselves for the purposes of the transcript.

35 DEPUTY PRESIDENT BLOOMFIELD: Thank you. Mr Goode.

MR A. JAMES: And for the state of Queensland, if it please the Commission, my name is James, initial A.

40 DEPUTY PRESIDENT BLOOMFIELD: My apologies.

MR A. GOODE: Please the Commission.

DEPUTY PRESIDENT BLOOMFIELD: I'm not sure why I said Goode.

45 MR GOODE: My name is - - -

DEPUTY PRESIDENT BLOOMFIELD: Mr Goode now.

MR GOODE: My name is Goode, initial A., for the Local Government Association of Queensland.

5 DEPUTY PRESIDENT BLOOMFIELD: Thank you. Before we get underway, we
might deal with some formalities. When we were together in April, there was a
possibility raised that the matter might need to be delayed and amended submissions
– I apologise – amended applications put in by both the Queensland Council of
Unions and the Australian Workers’ Union of Employees, Queensland, and I think
10 general leave to do that was given on the day. But just to formalise it, we will
formally grant leave to QCU to amend its original application by way of a document
filed on the 4th of June 2018. We will formally grant leave to the Australian
Workers’ Union to amend its application by way of a document filed after some
discussions with the registry on the 7th of August this year. And in terms of the
15 submissions, we might mark them as exhibits so that everyone has got a reference
number to work to. The initial submission of the Queensland Council of Unions
filed on the 25th of May 2018 we will mark as exhibit 1.

20 **EXHIBIT #1 ADMITTED AND MARKED**

DEPUTY PRESIDENT BLOOMFIELD: The submission of the Australian Workers’ Union filed on the 25th of May will be marked as exhibit 2.

25 **EXHIBIT #2 ADMITTED AND MARKED**

30 DEPUTY PRESIDENT BLOOMFIELD: QCU supplementary submission filed on
the 13th of July will be marked as exhibit 3.

35 **EXHIBIT #3 ADMITTED AND MARKED**

DEPUTY PRESIDENT BLOOMFIELD: The submission of the State of Queensland filed on the 20th of July will be marked as exhibit 4.

40 **EXHIBIT #4 ADMITTED AND MARKED**

45 DEPUTY PRESIDENT BLOOMFIELD: The submission of the Local Government Association of Queensland filed on the 27th of July will be marked as exhibit 5.

EXHIBIT #5 ADMITTED AND MARKED

DEPUTY PRESIDENT BLOOMFIELD: And the submissions in reply from the Queensland Council of Unions filed on the 3rd of August will be marked as exhibit 6.

5 **EXHIBIT #6 ADMITTED AND MARKED**

DEPUTY PRESIDENT BLOOMFIELD: We didn't miss any documents? Rightio. Mr Martin, QCU was the first organisation to file, so we'll start with you.

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DR MARTIN: Thank you. If it pleases the Commission. As has been pointed out, there were three submissions that we filed now described as exhibits 1, 3 and 6.

DEPUTY PRESIDENT BLOOMFIELD: Six.

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DR MARTIN: The first submission – and I'm aware that you only want us to touch upon these this morning – we identified the major concern for both the Queensland Council of Unions and the ACTU as being what has been described as a wage growth crisis, and in that context, we are asking the Commission to grant the same quantum as that was granted by the Fair Work Commission in the annual wage review. That submission included a number of references, including a recent one from Jim Stanford, an economist, and in the reasons for low wage growth, he says that, you know – or includes the relegations of awards to safety nets as one of the reasons as to why – there's various reasons as to why but includes that as one of the reasons, which is what we rely upon for what we would say is still a moderate increase but one that has the capacity to create a real wage increase in this low inflationary environment.

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Our submission went to some length to discuss the emerging gap between awards and agreements that's occurred at the federal level which also coincides with that wage growth crisis. It's submitted that the – and whilst we don't have that difficulty in this jurisdiction, it's submitted that that is one of the reasons that the capacity of an employer to withdraw from an agreement, even if it is the threat of the withdrawal from an agreement, has tilted the balance of power in the employer's favour even more so, we say, in that jurisdiction.

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Now, that matter had been dealt with in this jurisdiction by way of the Industrial Relations Act 1999. Section 129 was included for that very purpose. And I think in our initial submission, there's a quote from the Gardiner report which was chaired by then Professor Gardiner and had a range of experts, some of whom have went on to be members of this tribunal or other tribunals, and the submissions that were made, you know, we say, identified that issue which is now nearly 20 years on. It was identified in this jurisdiction. So that seems to be coincidental with one of the concerns that the full bench raised in the 2017 decision. And we say that that is not a cause for concern. We'd say with the greatest of respect that that's how we see this jurisdiction operating, that the award will be, I guess, nipping at the feet of the

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collective agreement in order to not create what we had described as a safety pit as opposed to a safety net.

5 Now, we also say, with respect, that the interaction between that award and the collective agreement is a matter for the parties. The structure of the Industrial Relations Act, as with the Fair Work Act, is that, with respect, the Commission must certify agreement so long as a number of conditions are met. We also say that the provision that deals with flowing on of collective agreements into awards also has – in certain circumstances the Commission must. So we say with the greatest of
10 respect that scenario where an award might catch the collective agreement is a matter for the parties. And - - -

15 DEPUTY PRESIDENT BLOOMFIELD: And in the case of the public sector, it's because of the directive and/or the terms of some certified agreements?

DR MARTIN: That's correct. That's correct, your Honour.

20 DEPUTY PRESIDENT BLOOMFIELD: And then the local government area depends upon the negotiations of the parties.

DR MARTIN: That's correct, your Honour. But as far as I'm aware, there's not been an application to flow on the outcome of a collective agreement into any of the local government awards. So that's the fundamental, you know, argument that we put forward in terms of where we are. We're asking for this increase which we still
25 describe as moderate but has the net effect of creating a real wage increase.

Our submissions went on to say that the economic conditions in Australia and Queensland are almost identical. There is, however, persistent unemployment in Queensland, which is sitting at around six per cent, as opposed to the five and a-half
30 per cent that you would see nationally. The commentary as well as Treasury – Queensland Treasury documentation with respect to the reasons for that is being blamed on people re-entering the workforce and interstate migration. And, in fact, recently I've heard it suggested that positions that are becoming vacant in Queensland are being filled by people from interstate, and that's, you know – there's
35 not a lot that can be done about that. We do live in a Commonwealth, so that's unavoidable. And, again, why wouldn't you, if you look at housing prices in the two biggest cities in Australia compared to Queensland? So those are the reasons we say that unemployment remains stubbornly high in Queensland, and we've also suggested in other submissions, again, with the greatest of respect, it wouldn't – this
40 decision would not impact upon aggregate numbers when it comes to unemployment, even if one was to accept the proposition, which we don't, that an increase to the minimum wage is going to cause unemployment.

45 Some of the other matters raised by the Commission went to the Queensland – the budgetary position of the Queensland Government. We were at somewhat of a disadvantage in that the Queensland budget had not been handed down. So we were relying on the midyear review, which showed a fairly buoyant position, and the

subsequent submission which is exhibit 3 went to the improved position since that midyear review. That's attributed to increased royalties from mining, which is a matter I will return to shortly, and a range of taxes that were imposed as a result of the 2018 budget, which we say should alleviate any concerns that the 2017 wage
5 bench raised that this decision, however limited its application, will not be a concern for the budgetary position of the Queensland Government. We also include some discussion with respect to ratings agencies, and perhaps there is a citation in there from Professor John Quiggin, who has perhaps - - -

10 DEPUTY PRESIDENT BLOOMFIELD: Appeared here before.

DR MARTIN: - - - an alternative view with respect to the utility of ratings agencies. I think we've heard it said they were the reason for the global financial crisis, so if we put that into perspective. But be that as it may, the ratings of the Queensland
15 Government have remained the same for both Standard & Poor's and Moody's. Then our submission discusses the position of local governments and, you know, what is happening in agreements with respect to that sector. I'm afraid we weren't able to be of much assistance with respect to the parents and citizens associations, and for that I apologise, but I understand that no one really knows the answers to
20 those questions, which is perhaps itself a concern.

One of the other issues that is raised by the 2017 bench is the prevailing standards, and I will deal with that fairly shortly in terms of our submission in reply, which is now exhibit 6. We did discuss the rates in the public service award versus the
25 agreement, which I think provides a graphic demonstration of how we say this jurisdiction should work, particularly for the public sector and the state government.

Then the only other matter that we raise is that of a statement of policy. As we've discussed previously, when the ability to seek a statement of policy was taken away
30 from us by legislative change, the sky didn't fall, and, in fact, we've been probably wondering ever since in the existing jurisdiction – in the current jurisdiction what work it does. We haven't applied for a statement of policy in this application, and, further, we've sought to rescind the last statement of policy that was made, if that is necessary to put it beyond doubt. I'm not sure whether – there's differing views as to
35 whether that statement of policy remains in place or whether it's gone the way of the dinosaur by itself by virtue of legislative change and no transitional provision to pick it up. So whether it exists or not, we're saying that it's not doing any work any more.

Exhibit 3, if I move to that, which is our supplementary submission, I've dealt with the Queensland budget. We say that the Queensland budget is in a better position
40 now than when the 2017 bench awarded a 3.3 per cent wage increase in 2017. The national wage review also was brought down. That resulted in an amended application, as was noted earlier by yourself, your Honour. And that, I guess, is the fundamental basis for our seeking 3.5 per cent is that it was the equivalent to the
45 national wage review. We did identify that no one – well, the statement that was made by the Fair Work Commission that no one could identify any of the damage that was done by the 3.3 per cent that they said was going to occur, and we would

ask the Commission to consider our application in that light, that the same increase does occur. As I've said, our earlier submissions demonstrated the similar economic conditions in Australia and Queensland to the extent that that's relevant to this jurisdiction. But I think, as we said, you know, it's a general backdrop for the
5 consideration that this bench would have that the – it would be – probably no matter what you awarded would be sustainable, given the limited nature, but beyond doubt, you know, within this jurisdiction, we say awarding the same increase is not going to create any difficulties.

10 And then exhibit 6 is our submissions in reply. Now, there was a quote from the 2014 State Wage Case which we think is particularly relevant and that this Commission has a practice of flowing on the result of the Annual Wage Review, unless there's a cogent reason. In our submission, there is no cogent reason before
15 this Commission. The Queensland Government consents to this application, and - - -

DEPUTY PRESIDENT BLOOMFIELD: Sorry. Can I just clarify. I'm not sure they consent to the application. And you've said a couple of times that you are seeking the same outcome as the Fair Work Commission. With respect, I'm not sure
20 you are, because you're seeking a flat dollar increase for employees engaged below the [indistinct] classification.

DR MARTIN: Yes, your Honour. And that's – okay. I take the point. They consent to the quantum, which is how we worded what's now exhibit 6. So yes, we are apart insofar as that flat dollar increase is concerned, and now that you mention
25 it, I may as well address that. We've made a practice of applying for that flat dollar increase in order to, I guess, best apply the terms of a case of this nature to the lowest paid, if we assume that that's why we're increasing minimum rates is to assist the lowest paid. So that's why that's been the case.

30 We also note that in previous years, in more recent years, this Commission has granted the percentage increase all the way – at every classification level down to the minimum wage. So the rationale for that is that awarding those flat increases compresses relativities, and I have to say that's impossible for us to argue against. Of course it compresses relativities. We had said, however, that the real compression
35 of relativities occurred in the 1990s when flat dollar increases were awarded. So this is probably – it's not where the damage was done, so to speak. But in any case, that – we note that that is the position of the Queensland Government. But I would also – no. I'll just leave it there. We recognise the reasons as to why recent benches have awarded the percentage increase.

40 The Local Government – we respond to that in five major ways. One is that their submission demonstrates what we've known for some time, that this has very limited application, even indirectly, that is, that those – the employees of councils who would receive an over award payment and therefore there would be some flow on,
45 and I think by our calculation the absolute maximum that that would be in local government is 6.2 per cent.

DEPUTY PRESIDENT BLOOMFIELD: Of the employees.

DR MARTIN: Of employees within that sector. Then we say that there is no evidence that wage increases awarded by this Commission will affect employment in that sector, which is a corollary of the first point that if it's got such limited application. We submit that funding has been the reason for the financial concerns that had been established – or mentioned by the Queensland Audit Office which we referred to in our earlier submissions and not wage increases that have been awarded by this tribunal. So, therefore, we would ask the Commission to ignore any suggestion that 3.5 per cent is going to cause difficulties with respect to employment.

We say that there may be other reasons for the downsizing that was – that occurred that's contained in a graph in the LGA submission. But given the rebound that occurred when funding – when the freeze on grant funding was lifted, we would say that's – you know, it's a reasonable assumption to make that that has had an influence. And, in any case, you're looking at a variation in terms of four per cent in the numbers during that period of time from 2012 to 2017. We also say that the Local Government Association's submission supports our contention in terms of the economic considerations, and that is that Queensland is largely equivalent to that of Australia, which we say goes towards the awarding of the similar increase as was applied in the national wage review.

And perhaps the final response that we make – we did note that the LGA had relied upon government statistician information for a range of councils. The way in which you download one of these regional profiles is you can either compare the people who live in the region or the people who work in the region. And we say, with respect, the comparison that needs to be drawn is with people who work in the region, because there is an extraordinarily high unemployment rate that's – Aurukun is the one that has been chosen, chosen because it's been fairly topical over many decades. But that – if we look at the figures there, very high unemployment rate and a large number of people described as not in – well, say a large number of people – there's not a large number of people living in Aurukun at all. A large proportion of that small population who are described as not in the workforce, so that would be obviously people below the age of working – working age. But we'd also suggest there'd be a fair amount of people on CDP.

So we don't say – we say that's not a valid comparison to be making, but if you do make the comparison with people who work in the electorate – sorry – in the region, then the increase that we are seeking – or where we're seeking to take rates within the Local Government Award – that's the number one award, if I can use that terminology – are by no means excessive and would fit in quite neatly with what might be described as the prevailing rates in that particular community. So those would be – that's the major thrust of our submissions. I would be happy to take any questions, if the bench has them.

COMMISSIONER THOMPSON: No.

COMMISSIONER BLACK: No.

DEPUTY PRESIDENT BLOOMFIELD: No. No. We don't have any questions for you, brackets, surprisingly, closed brackets, Dr Martin. So thank you very much.

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DR MARTIN: Thank you.

DEPUTY PRESIDENT BLOOMFIELD: Mr Watson.

10 MR WATSON: Thank you. The submissions of the Australian Workers' Union have been marked as exhibit 2, and we rely on those for this hearing today. We also support and concur with the submissions of the Council of Unions, and we rely on those as well for this hearing. As has been indicated, the Australian Workers' Union has amended our application. Originally, our application reflected the quantum
15 sought by the ACTU in the Fair Work review of wages. We've amended that to reflect the outcome of that Fair Work review, with the exception of we are still seeking a flat rate, as opposed to a total percentage. But our claim today is for the percentage to applied to certainly those classification levels above C10 and a flat rate to be applied below. But our claim clearly is for a 3.5 per cent increase to wages and
20 allowances. Without going into details, we have – well, we have put in our submission and we say it today that the Queensland economy has the capacity to cope with a 3.5 per cent increase. I won't go into any detail as per the request of procedures today. We say that the economy is not only going in the right direction, but the projections are that it's going to go further in that direction, and on that basis,
25 we say there is the capacity.

The thrust of our submission is that the application that we have made is to assist the low paid to receive a pay increase, and that's unashamedly why we say there should be a flat rate for the people at the lower end of the pay scales. We also deal with the
30 gender equity issue in our submission. We say that providing an increase to the lower paid will assist in that simply on the basis of the number of women in that lower paid area. The Commission has at the directions hearing asked the parties to provide submissions with respect to if the wage increase is granted, that means that EB rates have to be increased. That's the issue that was put to us. It might be
35 referred to as double dipping. I'm not sure if that's the term that the full bench has used, but it's certainly a term that has been bandied around about that issue. We say in our submission at 47 that – well, firstly, 458 is the section of the Queensland Industrial Relations Act that – 458(2) that:

40 *The full bench must ensure a general ruling about a Queensland minimum wage for all employees is made at least once each year.*

And 459(2) says:

45 *A ruling –*

and this is about general rulings in general:

A ruling may exclude from the operation of any of its provisions a class of employers or employees –

at (a). At (b):

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...employers or employees in a particular locality, or (c) an industrial instrument or part of an industrial instrument.

We say that the Commission has asked us to make submissions about it. We say that if a group of employees are excluded – and we're probably looking at C more than any other when we say that the Commission will then have difficulty meeting its obligations under 458(2), which says:

The full bench must ensure a general ruling about a Queensland minimum wage for all employees is made –

if some are excluded, then that creates a problem, we believe.

DEPUTY PRESIDENT BLOOMFIELD: Except that the minimum wage is different to wage rates in awards.

MR WATSON: But if an award is excluded, not everyone in that award may have a certified agreement.

DEPUTY PRESIDENT BLOOMFIELD: Correct.

MR WATSON: So we think there's problems if the Commission goes down that path. But more relatively, in our submission, we indicate that neither application, the application of the Queensland Council of Unions or the application of the Australian Workers' Union, seeks that anyone be excluded. I will rephrase that. Our application and the QCU's application doesn't seek to not extend the minimum wage – or not insert the minimum wage into each award.

Now, having read the submissions of the other parties, the Queensland Government certainly talk about a potential impact if such was to happen, but they don't oppose – they don't express a view opposing or seeking that the awards not be varied. One of the statements – or questions proposed by the Commission to Mr Martin was that the government didn't say they wanted that. Well, my view is that their submissions clearly don't seek that the minimum wage – the new minimum wage be inserted into awards, and I'm not aware that Mr Goode's submissions from the LGAQ seek that the award not – the minimum wage rate not flow on to each award. We say there's very limited impact on employees if there is a need for an adjustment at some stage in the future. And we also reiterate the point that the Commission has, as far as I can remember, always flowed the minimum wage on and inserted it into each award. And as Mr Martin said – and I concur with him 100 per cent – the Commission probably has considered that in the past and has found no cogent reason to not extend the minimum wage rate to those awards. By that, I mean not insert and update and

increase the wage rates in those awards. I have no further submissions. If there are there any questions, I'm happy to take those.

5 DEPUTY PRESIDENT BLOOMFIELD: No. Thank you very much, Mr Watson.

MR WATSON: Thank you.

DEPUTY PRESIDENT BLOOMFIELD: Mr Brauns.

10 MR BRAUNS: Thank you, Deputy President. The State has made its written submissions in relation to this matter. I don't propose to elaborate on those submissions any further, so I'd simply ask if the Commission has any questions in relation to those submissions.

15 DEPUTY PRESIDENT BLOOMFIELD: The only question I have, Mr Brauns, relates to the data that's referred to at paragraph 56 and the references to awards at 57 and 58 of your document.

20 MR BRAUNS: Yes, Deputy President.

DEPUTY PRESIDENT BLOOMFIELD: Okay. You indicate that based upon some modelling that the Office of Industrial Relations has undertaken, there will be approximately 16,600 FTE who will be impacted if a decision of 3.5 per cent is awarded because of the operation of the directive which indicates that employees are not to be paid less than the award rate.

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MR BRAUNS: Sorry, Deputy President. Could I just clarify, did you say 16,000?

DEPUTY PRESIDENT BLOOMFIELD: Eighteen thousand. My apologies.

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MR BRAUNS: Eighteen thousand - - -

DEPUTY PRESIDENT BLOOMFIELD: I apologise. I apologise.

35 MR BRAUNS: - - - six hundred and ten. Yes. Correct.

DEPUTY PRESIDENT BLOOMFIELD: I get dyslexia sometimes. I think it's a - I won't go on. So it's 18,600, and I think there's roughly 223,000 FTE in the public sector. I've got the data here. Take my word for it. I've got that one right.

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MR BRAUNS: Certainly.

DEPUTY PRESIDENT BLOOMFIELD: So it's a reasonably high number in just straight figure terms, but it's a relatively small number in percentage terms in terms of the public sector, and that's from the core area. Do you have any idea as to how many other groups of people might be impacted? I think from some work I did last

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year that corrective services might have a number of people who are going to be impacted.

5 MR BRAUNS: From the analysis, Deputy President, we centralised around looking at enterprise agreements that had those large groups of employees identified at paragraph 57. We did identify at paragraph 58 there some nominal impact in relation to the Queensland Fire and Emergency Services and Queensland Ambulance. Beyond that, we would expect that there would also be a further nominal impact in other areas, but beyond that, we haven't got any other data.

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DEPUTY PRESIDENT BLOOMFIELD: Okay. And do you have any idea as to the overall impact on the budget in dollar terms?

15 MR BRAUNS: We've done some – yes, Deputy President. We've done some modelling in relation to that with respect to those numbers at paragraph 56. The indicative costs for this year would be approximately 7.3 million. And there may be a nominal cost for those other groups that aren't identified there in addition.

20 DEPUTY PRESIDENT BLOOMFIELD: Okay. So if we grab a number out of the air almost, it's 10 to 12 million dollars but not beyond that.

MR BRAUNS: I'd be surprised if it was beyond that. Yes.

25 DEPUTY PRESIDENT BLOOMFIELD: No. That's helpful. That's helpful [indistinct] very easy – or easily, Mr Brauns. Thank you very much.

MR BRAUNS: Thank you, Deputy President.

30 DEPUTY PRESIDENT BLOOMFIELD: Mr Goode.

MR GOODE: Thank you, Commissioner. Commissioner, I was going to touch upon three specific issues, if I could, today. The first is that we believe there is cogent reason for the Commission to consider wage increases particularly to awards that differ from the recent federal – national wage case decision. Part of our reasoning will be linked to the jurisdiction of the Commission, particularly as it affects local government – I'll take quite a practical approach to that – and how local government varies from those organisations which are bound by the federal decision. And then if I could, I'd like to quickly touch upon why we settled on the percentage of a 2.5 per cent increase being appropriate.

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Obviously the national wage decision is important and it should be considered as part of the stage wage decision, given appropriate [indistinct] weightage. However, we've always argued and still believe that's just but one consideration for the Commission to consider. We would argue that the current margin that already exists between the national minimum wage and the state minimum wage points to a difference already within the jurisdictions, and every time the State doesn't just automatically adopt the federal quantum, that margin is expanded, is stretched. If we

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were not to consider it differently, we would just question why the State does not merely adopt the national minimum wage as a standard and why we'd even need to have separate standards. The mere fact of the state minimum wage being higher we would argue warrants the Commission to review the state situation and then
5 determine an applicability of the federal decision, firstly, on the minimum wage for Queensland, the minimum wage, but also separately on those particular awards that fall within the jurisdiction.

The national panel based its decision on the performance of the federal economy.
10 We have long prosecuted the position – and hopefully I can give you a couple of examples – that it's really the state economy that probably has the biggest bearing on the revenue and expenditure margins of the local government. The performance of the national economy has little direct bearing on the performance of councils and their revenue raising capability, and when there is relevance, we also [indistinct] be
15 taken there's a bit of lag time between the performance of the federal economy and the flow on benefits for Queensland local government. In our submission, we indicated that Queensland was not performing as well as other states or the federal economy. I think CommSec at the time of our submission rated us as fifth, and as Dr
20 Martin indicated, the state has performed a bit better and I think it's jumped to number 4, but we still lag behind New South Wales, Victoria, Tasmania and the ACTU.

DEPUTY PRESIDENT BLOOMFIELD: ACTU or ACT?

25 MR GOODE: ACT, I should say.

DEPUTY PRESIDENT BLOOMFIELD: That's all right.

MR GOODE: Sorry. I've got it on my mind.
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DEPUTY PRESIDENT BLOOMFIELD: You're just testing me. I know.

MR GOODE: The differential in performance between the state economy and the national economy was acknowledged by the Western Australia Industrial Relations
35 Commission when it recently handed down its 2018 position – or state wage decision of a 2.5 per cent increase. The national decision affects millions of workers across a myriad of industries, where in Queensland it's much more limited. It's restricted and much easier to define, effectively the state local government and some PNFs. Accordingly, I think the Commission is in a better position to determine what's fair
40 for the employers and their workers within that jurisdiction. The same luxury is not always available to the national panel. Many of the companies affected by the national wage case, they're private sector companies. It's not too difficult for them to pass on rises to customers or consumers. Not so local government in Queensland. There is a limitation to our revenue raising capacities, and we've indicated in our
45 submissions how that varies across councils. And there's also state government regulation on the revenue raising capacities of councils.

My point I suppose I'm trying to get is that we do believe the QIRC should certainly take into consideration the federal decision, but we don't think there is any compelling argument for the decision to be merely adopted without any due regard for its implications for the special circumstances affecting local government. There has to be a more cogent reason for the imposition of additional costs upon employers other than merely to be consistent with the Federal decision, especially when the State standard is already so much higher than that of the Federal system. The second point I do want to raise is whether or not – any increase in the Queensland minimal wage, that same level of increase needs to flow on to awards within your jurisdiction.

Certainly within local government all our employees are covered by awards or EB agreements. Hence the minimum wage, as far as we understand, is not going to have any direct impact upon workers in our local government authorities. If the argument for minimum wage is to ensure the lowest paid workers in Queensland not covered by awards are protected, certainly we agree this can be achieved by ensuring that there is a minimum wage and that minimum wage is set at an appropriate level.

As our workers are all covered by awards or the EB agreements, we are really not in a position to comment too much on what's inappropriate. So certainly increase the minimum wage by 3.5 per cent if the Commission is of the view that it needs to maintain or improve the current margin that exists between the State minimum wage for the lowest workers in Queensland not covered by an award as compared to that in the Federal jurisdiction. However, given that there is a significant disparity already between the Queensland minimum wage and that covered by the award levels of workers in the Queensland jurisdiction, we question any view that there needs to be parity in the increase between the minimum wage increase and an increase in the award.

Even the Federal Commission opined that the rise to the minimum wage is merely one consideration for the Commission to take into consideration when determining award rises. So we put it to the Commission, as we did in our submission, by all means increase the minimum wage by 3.5 per cent if the Commission wishes to maintain the parity between minimum wages between the Federal system and the State system, but we would contest that any such parity exists now or should exist between the quantum of levels in Federal modern awards and those in State awards.

So the State awards need to be superior to the prescribed State minimum wage, and they are, but how superior should be formed by other considerations, in particular the legislative requirements for wage setting. So what's fair for employees and what's fair for employers? Which is I suppose my second point, my second issue: what is fair for local government and for local government employees when it comes to wage increases?

We have only referenced local government in our submissions as that's whom we are familiar with and that's whom we represent. Councils are non-profit making organisations, so any money that we raise, any money, whether it be from grants or own source revenue, is always invested back into the operation. The amount of

operational activity of councils therefore depends upon the revenue available and the cost of and difficulties to council. Our work forces are shaped by our revenue availability and how much it costs to deliver services.

5 Now, reference was made to our graphs and I will refer the Commission to the graphs. If you look at the work force across our industry since 2010, you will notice that numbers have continually reduced till about 2017. There was a slight hiccup in – hitch I should say, not a hiccup – in 2012 but that’s when all the workers that had –
10 been moved back into local government following a change of State government.

Councils did not reduce those work forces because business demands dropped off but rather it came down to affordability. Following the 2008 amalgamation there was significant costs incurred by councils and that had to be recouped. As a result of
15 that, what we started to see was a rationalisation of work forces. Further decreases followed as grants were reduced or disappeared from State and Federal governments, a point in question.

Someone mentioned the CDP. In 2014 the Federal government removed CDP from
20 local government. At the same time they removed another funding called the Municipal and Essential Services Fund. One example of that is Cherbourg. We lost 12.5 per cent of its revenue because of the reduction of those funds from the Federal government. At the same time I should add that the national economy was in a fairly buoyant state. The national economy doesn’t always equate to more funding coming to local government. The 12.5 per cent reduction in funds resulted in the 29 per cent
25 reduction in the full-time equivalent work force of the Cherbourg Aboriginal Council, along with reductions in services to parks, closure of cafes and farming activities and others.

30 There was mention of the rise in 2017. That can be attributed to, in part, the Commonwealth Games in the south-east corner part of the State, the restoration of the State government financial assistance grants to 2012 levels. The SGFA was reduced – or stopped in 2012. Indexation was stopped. It was reduced by a significant amount and last year amount was restored to the 2012 levels.

35 At the same time we started to get the advantage of the restoration of the indexation of the Federal Assistance Grant. So FAG money. The most significant issue, however, was the Work for Queensland initiative of the State government, which the LGAQ was involved with the creation of, of which four hundred million dollars by
40 the time it expires in 2020.

The Works for Queensland initiative was purely designed to work on council projects which were shovel-ready. In other words, the demand was there but council couldn’t afford to do it. It didn’t have the funding. Work for Queensland has given
45 access for those councils to do it. It’s a job creation scheme. It’s been very effective in both creating new jobs but also allowing current employees to remain in employment.

I am not going to stand up here today, nor could any counsel stand up here today and predict how many, if any, of – I think Dr Martin and also Mr Watson alluded to – we simply cannot predict how many if any jobs would go when we talk about wage increases, the level currently being considered by this Commission today. By the
5 very nature, councils maximise local employment. It's what they do. Their job is to keep people working or to try to get people working. If money is taken off one, we try to find it somewhere else.

10 More often than not it's a cumulative effect that results in work forces being rationalised and that's the situation. This is just one thing that this Commission is looking for, but there are a lot of other bodies that also are responsible for either indicating revenue for councils or also increasing costs and that has a cumulative effect.

15 Example. Right now you may be aware of a campaign that the LGQ are running with councils against the Federal Government for the – in response to their decision to walk away from funding, housing construction in the 14 to 16 Aboriginal Torres Strait Islander councils. That was a 10 year program. It started back in 2008, 2011.
20 Ten per cent of the people involved in construction of those houses were local people. Councils decided that the construction of houses is more than just overcrowding, it was also to do with closing the gap. It was a great idea to use this money better, in a better way to stimulate a local economy and to generate local employment and to build capacity.

25 By 2017 or '16, '17, 87 per cent of the work force are now local people. The decision by the Federal Government to walk away has put 400 jobs in jeopardy, including 90 apprentices. It is not the one each case, it's a cumulative effect. You've have the Napari Program, you've got the CDP program, you've got the additional costs imposed by wages. They do have a cumulative effect.

30 Any significant cost imposed upon councils accordingly require council to consider options. We don't carry excess funds. We don't carry higher – we can't just charge extra money to consumers. Any higher wages, council will need to look at and examine services, fixed costs, vacancies and so on. In our submissions we tried to
35 provide some evidence, independent evidence, of the financial situations of Local Government. As we have said, we currently generate about 3 per cent of revenue of the 100 per cent of revenue generated by governments across Australia, 3 per cent for local government, yet we're responsible for 25 per cent of infrastructure and assets across Australia.

40 The Queensland Award Office, as indicated in our submissions, have rated a number of our councils as being high or moderate risk of financial unsustainability. It's the same councils who have the high or moderate risk who are generally reliant on grant
45 moneys because they have minimal capacity for own source revenue, but also the majority of those councils would most likely be directly impacted by the State wage increase because they are the councils who are most likely to have people on award wages.

As we evidenced in our submissions, those councils who are most reliant on award wages are also currently operating with operating deficits. They have been for a couple of years. This can be sustained for only a certain amount of time before dramatic action could be taken.

5

Some discussions have been raised about grant money. What a lot of people don't understand is certain grants that come to local government are tied grants. They can't be used for discretionary purpose, they can't always be used for wages. Some have to be used for production of certain products and services. Even some of the grants that can be used for operational dollars are somewhat limited for wages.

10

For example, in our recent submission to the Queensland Productivity Commission in this inquiry into service delivery in remote indigenous communities, we highlighted the Health Department's recent five year grant for the indigenous council to engage an environmental health officer. The initial grant would allow us to engage one environmental health officer at most. Unfortunately it's been indexed to the CPI each year. So what has happened is contrary to the wishes of the Health Department.

15

20

Much to their chagrin, some councils have had to engage people on reduced hours as the cost of those services rise. In some instances, which is really upsetting to some people in health, we've actually linked the job to other functions in order to access funds to keep a person fully engaged. So in one of two cases, our environmental health officer also happened to be our animal welfare officer, our dog catcher.

25

I suppose what we are trying to point out, Commissioners, is any increase, and that includes the 2.5 per cent proposed by the LGAQ, will place stresses on some councils, particularly the councils who are in the most distressed states already, and their capacity to maximise work force participation which is at the forefront of every one of our councils. The larger the increase, the greater the stress.

30

So I suppose I said it comes down to what is an appropriate increase. When we sat down we didn't want to pluck a figure out of the air, then try to find some way of justifying it. We wanted to look for an amount which we thought to be fair for both councils, affordable to councils, fair for workers. We looked at the history of State Wage Case over recent times, the Commission's reasoning. We also looked at other related industrial matters.

35

In the end we settled on an increase of 2.5 per cent despite some serious reservations expressed by some of our members. This amount is probably higher than any proposed State wage increase by our association over recent years. So why 2.5? In no particular order of importance, we believe 2.5 per cent represents the real wage increase for workers in those communities which are directly impacted by this decision.

40

45

It will deliver real benefits to the lower paid workers in Queensland local government. The lower paid workers are generally in our more disadvantaged communities and they are mentioned in our submissions.

When we say a real wage increase, we point to it being a good margin higher, at least 25 per cent higher than CPI in the wage price index. Two point five per cent is equal to the Western Australian State Wage Case decision of 2.5 per cent. The 2.5 per cent equates to the State Wage Policy of 2.5 per cent. The 2.5 per cent aligned with what
5 exceeds the increase to the biggest discretionary funding grants provided to our council. The SGFA grant is currently indexed at a cap of 2.5 per cent. The FAG's money is currently indexed at a maximum CPI. So again the 2.5 per cent aligns closely with that.

10 Really importantly, we looked at all the EB agreements that have been certified or ready for certification within the Queensland jurisdiction since the moratorium on enterprise bargaining has stopped and what we looked at was the 2.5 per cent aligned with the mode of the increases across those EB agreements. It's actually greater than
15 that represents agreements having been reached between unions, the councils as employers and voted on by the workers who have supported a 2.5 per cent as an appropriate increase in today's circumstances in local government.

We also note that the 2.5 per cent exceeds the previous – or exceeds the current
20 remuneration increase set for mayors in councils by the Local Government Remuneration Tribunal, or previously the Local Government Disciplinary Remuneration Tribunal. As from 1 July 2018 mayors in our councils receive a 2.25 per cent pay increase. The 2.5 per cent that we propose exceeds that.

25 Commissioners, it would be remiss of me not to also point out this my submissions, both in the written submissions and today, have mainly focused on wages and wages of those people directly impacted or affected by this decision. What I haven't addressed, and no-one has addressed I don't think, is the comment on increase in
30 allowances which will directly affect many more workers as many of our councils, even with EB's, still rely on the award for paying allowances.

A case in point, Moreton Bay Regional Council calculated that a 3.5 per cent increase in allowance would roughly cost them an additional \$70,000 per year. I
35 attempted to go through all the EB's as every EB addresses that matter separately. I have opted not to address it any further other than to acknowledge that while we've only addressed wages, increase in allowances also contribute to additional costs for employers.

I suppose I put it to you, Commissioners, that on balance our proposal of 2.5 per cent
40 we would argue is fair for employers and employees given the circumstances. It serves to improve the living conditions of affected workers in award – an affected worker covered by the award. It does contribute to assisting and maintaining a buoyant local economy and those disaffected communities who need all the assistance they can to get money travelling around their local economy.
45

And importantly, 2.5 per cent pose a lesser threat to maximising work force participation in Queensland rural and remote communities that are doing it pretty

5 tough at the moment and that's supported by the unions and the State government. I also put it that this increase meets the legislative standards imposed by the State and if the new Industrial Relations legislation's main objective is to have a framework of cooperative industrial relations, well, the benchmark of that should be what it looks at through their EB system, an EB pointing to 2.5 per cent as being more than reasonable by all the parties involved in those EB agreements. The alternative proposal is what the Fair Work Commission determined appropriate for employers and employees in their jurisdiction. We don't accept that.

10 I will just make one comment in response to something Dr Martin raised in relation to Aurukun. I don't want to get into my statistics versus his statistics because we all know what statistics can be used for. He talks about the number of people who work in the communities. One of the great challenges of indigenous communities is their chagrin at seeing the number of workers from the State public service and the
15 Federal public service and the private sector – I think they call them seagulls. I am trying to keep this fairly appropriate. Seagulls as in they circle around. They fly in, take the best and they fly out with all the goodies.

20 A lot of the people who come in, they fly in on Sunday, they fly out on Thursday. They are the highest paid workers, the State public servants and some of the contracted workers who come in. They are not people in the local community, they are not recognised as such by the local community. What local government is concerned about is local people getting local jobs and being employed locally. May it please the Commission.

25 DEPUTY PRESIDENT BLOOMFIELD: Just to clarify a couple of things from the Commission submissions.

30 MR GOODE: Yes.

DEPUTY PRESIDENT BLOOMFIELD: The LJQ seeks a different operative date from the other parties.

35 MR GOODE: Yes.

DEPUTY PRESIDENT BLOOMFIELD: And a different date to that which the Commission has been awarding for – I'm not sure what period it is but it's quite a number of years. Why the departure – I know it's just a couple of days - - -

40 MR GOODE: It's something that people have raised with us from time to time from our councils. They're mainly the people who run the payroll, saying how much easier it is, if you're going to impose increases, if you can have those increases apply from the beginning of a pay cycle rather than having to try to impose them halfway through a cycle.

45 So we looked at the timing. I only noticed the other day that the 1st is a Saturday, the 3rd is a Monday and we just thought – and we looked at the Federal decision.

We note the Federal decision also applies their pay increases from the first full pay period following the certain date. So we just thought it would be appropriate in this particular circumstance if any pay increase – particularly now that we’re going to be getting – probably by the time this decision is released and we get the advice out to
5 councils it would be made retrospective. It would be a lot more easier and more effective administratively, less resource intensive, for councils to apply any form of increases from the beginning of a pay period rather than halfway through it.

DEPUTY PRESIDENT BLOOMFIELD: Okay, my understanding is that the
10 Federal act contains a provision which requires the Fair Work Commission to issue any decisions varying awards of the minimum wage to apply from the first full pay period after a particular date.

MR GOODE: Okay.

15 DEPUTY PRESIDENT BLOOMFIELD: Queensland Legislation 459 requires us to state a date on which it has effect, so we’re constrained.

MR GOODE: I can understand that. Does it stipulate a specific date or just a date?

20 DEPUTY PRESIDENT BLOOMFIELD: A date. I state a date.

MR GOODE: Well, then, we would ask that - - -

25 DEPUTY PRESIDENT BLOOMFIELD: On and from which it has effect.

MR GOODE: Then accordingly, we would ask that date to be the 3rd, being the Monday and even though I do know some of our councils actually start pay periods from a Tuesday, the majority would start from a Monday. So we would ask it to be
30 effective from the 3rd.

DEPUTY PRESIDENT BLOOMFIELD: Right. The other question I have of you, Mr Goode, relates to the Statement of Policy that was made by the State Wage Full Bench back in 2013. Your organisation seeks to retain that. The other parties seek
35 its rescission or in the case of the State government, it asks for the rescission to make things clear but submits that based upon legislation and provision referred to in its submission, the Statement of Policy is probably null and void and you can’t turn it over and flog it again, make it come to life.

40 MR GOODE: I understand in discussions with Mr James that there’s a view that that statement of policy is null and void anyway and I can go back, say, 12 months ago I was more than happy to support it being got rid of, for want of a better term. It was only in recent times that we’ve had a fair degree of turnover with people in our industrial area in councils and also in the LGAQ and a number of them indicated to
45 us that they found it a valuable source document for people who haven’t been around the jurisdiction as long as some others at the table here, to go back and read that and help understand.

And I suppose my submissions, as I said, they've come up fairly late in my preparation for the submission and I think there's some valuable information within that Statement of Policy for practitioners who don't – if you haven't got 20 years experience in the field, to get to an understanding of how this particular jurisdiction speaks. So rather than just wipe it out, what I suppose I was asking for is an opportunity to have a bit more – look at that to see if there is something that we can do to assist practitioners going forward because there is going to be a time when people like Dr Martin and Mr Watson, myself and others are well and truly retired, sooner rather than later.

10

So, yes, it really was just a last minute decision based on advice from some new people saying how valuable – I had two people say they had actually sourced it in the last month leading up to this particular matter just to understand how things operate. They were my thoughts behind that.

15

DEPUTY PRESIDENT BLOOMFIELD: Questions? Questions?

UNIDENTIFIED SPEAKER: No questions.

20

DEPUTY PRESIDENT BLOOMFIELD: Thanks, Mr Goode. We might just go back down the table and see if there's any comments to be made about the last couple of questions I asked Mr Goode. In case of you, Mr Brauns, but more generally I give the two union representatives a right of reply.

25

MR BRAUNS: Deputy President, not in relation to Mr Goode, but there is one matter I thought I should just raise with you and when you asked about the Department of Corrections it triggered my memory and I had to go searching for the provision to find it. I just thought it would be useful to raise it for the Commission's benefit.

30

It's in relation to a provision that they have in their enterprise agreement – sorry, certified agreement. It deals specifically with State Wage increases that may be awarded. You will find it at clause 1.7.4 of the certified agreement and as I understand it, the parties reached a position in relation to some reclassifications and then how State Wage increases to award rates of pay might be offset to take account of that.

35

So while on the face it might be an impact comparing award rates of pay and certified agreements of pay, I would also say that that clause probably should be taken into account as well.

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DEPUTY PRESIDENT BLOOMFIELD: It was 1.7.4 did you say?

MR BRAUNS: 1.7.4.

45

DEPUTY PRESIDENT BLOOMFIELD: Thank you.

MR BRAUNS: Of the Corrective Services Certified Agreement.

DEPUTY PRESIDENT BLOOMFIELD: Thank you.

5 MR BRAUNS: That was all I had to say.

DEPUTY PRESIDENT BLOOMFIELD: Okay. Do you want to comment about or say anything additional to that which has been said about the Statement of Policy and the like?

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MR BRAUNS: No, I have nothing to add to that beyond our submissions, thank you, Deputy President.

DEPUTY PRESIDENT BLOOMFIELD: Right. Mr Watson.

15

MR WATSON: I just want to make one submission in response to Mr Goode's submission. He has at length provided to the Commission basically what he said in his submission, that there are funding issues for councils and that the audit report said that some were almost insolvent, which is not a good situation but my view is that when councils have got to that point, there is always some level of government that will provide some funding to keep them afloat. So I accept that it's not good that they're in a dire financial situation, but I've never seen the State of the Federal government allow them to go belly-up so to speak.

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25 The other point is, and Mr Martin made this in his submissions, that they're funding issues. They're not significant impacts that will be caused by providing a 3.5 per cent increase to the local government awards and we say they will have minimal impact. So as much as we sympathise with Mr Goode's client group, because that does impact on our members as well, we have a vested interest, but we say that, you know, crying poor is a problem but it's not a good reason, it's not a reason at all to not award a 3.5 per cent pay increase to their low paid employees.

30

Mr Goode made reference of the plight of the councils. I know that he made reference to seagulls coming in and they are the best paid people in the communities. The LGAQ have actually run businesses that have councils as clients. I mean, Peak Services, for example, they're an organisation that are set up by the LGQ that's profit driven. So, you know, some of the funding issues for councils potentially are caused by the LGAQ Peak Services. People Or Peak Services, whatever it's called.

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40 Also, there was a company that provided services to the Ipswich Council that I believe the LGAQ is a party to, that has – you know, that's a profit based company. So I just thought I'd throw those out there as – I'm not making any great point about that but, you know, there are - - -

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45 DEPUTY PRESIDENT BLOOMFIELD: You think the LGAQ should offer those services for free to councils that are in a very parlous condition.

MR WATSON: I don't know what the relationship is between – the funding relationship between the councils and the LGAQ and I am not really delving into that, but what I am saying is that, you know, councils are businesses to some extent and have to pay for services. I think the funding – I am just trying to balance up the
5 funding view put forward by Mr Goode; that saying the councils have funding problems, therefore employees shouldn't get a pay rise. Well, some of the reasons they've got funding problems might be because they have to pay other businesses to provide services to them, one of which is the LGAQ, and a couple of errors, and as I said earlier, it's our submission that the funding issues should not be the reason why
10 low paid employees should not receive a pay increase and there's various provisions in the objects section of the act that deal with the reasons why low paid employees should receive a pay increase and I know one of them - - -

DEPUTY PRESIDENT BLOOMFIELD: It may be a reason where if a highly
15 specific case were prosecuted, where it could be shown that the response by the council to the award of a pay increase might be that it would have to reduce its workforce in numbers, like one or two or whatever.

MR WATSON: I agree – sorry.
20

DEPUTY PRESIDENT BLOOMFIELD: But that specific case hasn't been articulated. It's been more of a global proposition.

MR WATSON: Sorry to interrupt, but that was the point I was going to make; that
25 the LGAQ are at liberty to provide that material to this Full Bench and they haven't done so. I have got nothing further.

DEPUTY PRESIDENT BLOOMFIELD: Dr Martin.

DR MARTIN: Thank you. Firstly, I would start with Mr Goode's speculation as to
30 my retirement date and suggest that's an overly optimistic opinion that he has. There was a couple of matters that did require a more serious response, one being – and I forgot to have a rant about the Com Sec material. How on earth South Australia was placed ahead of Queensland in that particular set of figures is anyone's guess. I
35 would speculate it was a South Australian that was writing that particular document.

A 29 per cent increase in exports from Queensland, which includes coal, which includes LNG, what is exported from South Australia? But in any case, I think the point has been made that the Queensland economy can sustain a 3.5 per cent
40 increase. There is an ongoing discussion about state awards and national awards. I would ask the Commission to consider figure 2, which is on page 17 of our - - -

DEPUTY PRESIDENT BLOOMFIELD: Of which document? Of yours?

DR MARTIN: Of submission – of what's now exhibit 6. That was comparing some rates and as I have stressed within our submission, these are base rates and the base rate for a CW3, which is trade equivalent in the Building and Construction General

Onsite Award, is comparable to the rate at which a graduate would be employed under the Queensland Local Government Industry (Stream A) Award – State 2017.

5 Just to put that into some sort of perspective and we would suggest put to bed any suggestion that the award rates that we are seeking, particularly in the Local Government area, would provide for wages that would be in excess of that prescribed elsewhere, we would also make the point that in terms of the Queensland minimum wage versus the national minimum wage, I do find it curious that the Local Government Association now chooses to make submissions with respect to the
10 Queensland minimum wage when in previous submissions to State Wage cases we've been criticised for using the QMW as a measure against average weekly ordinary time earnings.

15 So it is interesting that they – I think the Queensland minimum wage was described in a previous Local Government Association submission as being hypothetical. Again, that comparison is merely statistical. I'm not aware of how the Queensland minimum wage would necessarily have application, but I would also make the point that the difference between the two figures is put down to what we've described in our submissions as the erratic behaviour of the Fair Pay Commission, when that
20 organisation was given the task of applying national wage increases and that was an occasion on which this Commission chose not to follow the Federal jurisdiction with good reason, I would suggest.

25 DEPUTY PRESIDENT BLOOMFIELD: It shows up in table 34 of the Full Bench decision of last year. Originally they were the same, back in 2004, and the departure, as you indicate, occurred after that with the Fair Pay Commission - - -

DR MARTIN: Yes.

30 DEPUTY PRESIDENT BLOOMFIELD: - - - coming into vogue in 2006.

DR MARTIN: And we would ask you to – we would respectfully ask you to ignore that period of time, which many of us choose to do.

35 DEPUTY PRESIDENT BLOOMFIELD: I think – sorry, I didn't mean to talk over you, Dr Martin.

DR MARTIN: No, that's all right.

40 DEPUTY PRESIDENT BLOOMFIELD: I think if someone was doing a graph they would sort of see one of them going pretty much in a straight line, the other one sort of going in a straight line and then going flat and then running parallel to the other one.

45 DR MARTIN: Yes. Yes. Thank you, your Honour. Commissioner Black had raised this issue with respect to capacity to pay. Two matters. One is that Mr Goode says that he's not in a position to say this will cause this damage and I say I'm afraid

he has to be in that position. The other matter that is touched upon in our submissions is when we have dealt with capacity to pay in this jurisdiction, it's been for a delay of an increase rather than no increase at all or a smaller increase. So that would be in order to overcome something that occurs in a very brief period of time.

5

The 2.5 per cent, the argument that it both follows State wage – the State Government's wage policy and that which has been bargained within local government, to that we say those are workers who have had decades of enterprise bargaining increases before this and that's how we differentiate those two groups who represent the vast majority of employees in this jurisdiction. I think in one of our submissions I refer back to when we were invited by the Commission to speculate as to what the actual numbers were and the QCU submission was in the order of 2.2 per cent of the jurisdiction would be impacted upon by this decision and nothing much has changed since then. So the vast majority of people have had the benefit of enterprise bargaining for decades. This is, we say, catch up for those who haven't had – and by no means catch up altogether but some recompense for those who have not had that opportunity. As we've said and as Mr Watson said, you know, there are funding issues. They are funding issues and it should not be the workers covered by State awards who pay the price for those funding issues.

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In terms of the operative date, we maintain that 1 September has long been the date upon which this tribunal seeks to amend awards and I wouldn't be an expert but I understand that payroll systems are fairly significant – well, fairly capable in a modern day. We would think the need to commence from the next pay period would be unnecessary in the contemporary setting.

25

Finally with respect to the Statement of Policy, our submission remains that it does no work. So whether you rescind it or not is probably of little consequence we would say, but our submission is, for the sake of completeness, that it be rescinded so it puts it beyond doubt, if it please the Commission.

30

DEPUTY PRESIDENT BLOOMFIELD: We will formally reserve our decision and issue it as soon as we possibly can. We are conscious of the approaching dates that have been suggested, the 1st or the 3rd, but we will certainly try to have it out by that date. Thank you for your written submissions and your helpful oral submissions today. The Commission may be adjourned.

35

THE COMMISSION ADJOURNED

[11.31 am]