

REPLY SUBMISSIONS FOR THE STATE OF QUEENSLAND

THE CORRECT OUTCOME FOR QUEENSLAND

1. When deciding the State Wage Case (SWC), pursuant to s 458 of the *Industrial Relations Act 2016* (Qld) (IR Act), the Full Bench of the Commission is required to consider the evidence placed before it by the parties, and make a ruling that, amongst other things, ensures wages and employment conditions provide fair standards in relation to living standards prevailing in the community in Queensland.
2. In its 2022 SWC decision, the Full Bench put the parties to the SWC on notice of its expectations the 2023 SWC would require evidence of economic and industrial relations jurisdictional arrangements which may be unique to Queensland and relevant to the Full Bench's determination of the SWC. Those points of difference between the national circumstances and those of Queensland are highlighted in the State of Queensland's (the State) Outline of Submissions filed 14 September 2023 and below, specifically responding to the Applicants' submissions.

THE PREVAILING ECONOMIC AND EMPLOYMENT CONDITIONS

3. The State notes the Applicants' submissions about the relevant economic conditions¹ are limited to those economic factors that underpin the Annual Wage Review (AWR) and do not engage with the demographic and legislative distinctions between the two jurisdictions, including - as pointed out by Professor Peetz in his expert report² - that the Full Bench must take into account the prevailing conditions in Queensland.³
4. The prevailing economic conditions in Queensland have moderated since the AWR decision in which Fair Work Commission held 5.75% increase to award wages to be the 'most that can be reasonably justified'.⁴ Those moderations are identified and explained in the affidavit of Dennis Molloy of Queensland Treasury. Importantly, inflation has reduced in Queensland since June 2023 and is predicted to continue to

¹ Submissions of Together Queensland at [14(b)] and submissions of AWU at [11].

² Affidavit of Professor Peetz, DJ-1 at [155].

³ Sections 4(g), 141(1)(b), 142(2)(a) *Industrial Relations Act 2016*.

⁴ *Annual Wage Review* [2023] FWCFB 3500 at [10].

decline.⁵

5. The State has taken significant steps to ensure public sector employees are able to meet their basic financial needs in circumstances where they are being impacted by a high cost of living. Those steps include enhanced wage offerings in the Public Sector Wage Policy (4%, then 4% and then 3% - greater than the previously offered 2.5%) and a cost-of-living-adjustment payment (COLA) - as well as other items agreed outside that policy which may be provided in a particular certified agreement or across a number of certified agreements, such as the skill infrastructure delivery and maintenance allowance (SIDMA). In addition, the State has also taken steps to enhance conditions outside of industrial instruments through changes to the State's superannuation guarantee - which is more generous than the federal superannuation guarantee. In the same manner as the FWC,⁶ the State respectfully submits the Full Bench of the Commission should consider such moderating factors.
6. Another moderating factor considered by the FWC in the AWR was the number of award-reliant employees who would be impacted by the decision.⁷ In comparison to the numbers impacted by the AWR, in Queensland there is a very limited number of award-reliant employees, with the remaining State public sector employees looking very different to those nationally.
7. As emphasized in the State's submissions filed 14 September 2023, the State's public sector employees enjoy high rates of bargaining.⁸ That is a further significant moderating factor.
8. The FWC also considered the gender pay gap a factor relevant to their decision.⁹ The QCU rely upon¹⁰ the assessment made by Professor Peetz that the pay gap in Queensland was greater than that nationally by between 3 and 10 percent.¹¹ Peetz's assessment uses national data and is not specific to the Queensland public sector. The gender wage gap is less in the Queensland public sector than federally, as can be seen by contrasting the data provided at annexure A to the QCU submissions with that considered by Professor Peetz and the AWR. For instance, where the AWR states the gap as 13.3% full-time average weekly ordinary time earnings (AWOTE) or 13.4%

⁵ Affidavit of Dennis Molloy at [24]-[25].

⁶ *Annual Wage Review* [2023] FWCFB 3500 at [9].

⁷ *Annual Wage Review* [2023] FWCFB 3500 at [9].

⁸ At [15], [19], [42] – [48] and [53] – [56].; Affidavit of David Peetz, DP-1 at [126].

⁹ *Annual Wage Review* [2023] FWCFB 3500 at [9].

¹⁰ At [49] and [50] of the QCU submissions.

¹¹ Affidavit of David Peetz, DP-1 at [121].

(EEH Adult Ordinary Time Cash earning adjusted for casual loading), the State the gap for the Queensland public sector is at 6.55% (AWOTE) or 7.66% (including loadings).¹²

9. Furthermore, collective bargaining requires parties to consider how any agreement addresses equal remuneration, and several agreements currently contain initiatives specifically targeting gender pay equity.¹³
10. At [22] of their submissions, the QCU submit the ‘determining factors in the FWC’s decision are relevant to the particular circumstances to Queensland’ and specifically refer to the Peetz economic analysis at support their argument there is confluence between Queensland and federally such that the AWR must apply to Queensland. That approach ignores the analysis by Peetz of the peculiarities of the Queensland IR system.¹⁴
11. At [22] of the Together Queensland (TQ) submissions, there is a table setting out the factors assessed by the FWC as being relevant to its decision with Professor Peetz’s comparison of the data from the FWC Statistical Report and the Adept Economic report. The State submits such an analysis is of little value to the Full Bench of the Commission when the SWC must be determined with the prevailing conditions related to Queensland in mind, not the conditions nationally some five months or so earlier.

REALIGNMENT OF QMW WILL BE SUBJECT TO REVIEW

12. The Applicants’ support a realignment of the QMW from C14 of modern awards. At [36]-[39] of their submissions, the Queensland Council of Unions (QCU) correctly identify that the adjustment to the NMW made in the AWR is merely an interim step before a review of the NMW is undertaken before the next AWR.
13. The Applicants neither clearly articulate their position nor provide any basis for it.
14. The State contends that where further review is necessary and anticipated federally, no adjustment should be made until such review is completed.

‘NO REAL WAGE GROWTH’

15. Both the TQ and QCU submit there has been no ‘real wage growth’ in award wages in Queensland in the past two years and that a 5.75% increase will not reverse that trend.¹⁵

¹² QCU submissions at Annexure A.

¹³ As per the State’s submissions of 14 September 2023 at paragraphs 72(a)-(d).

¹⁴ Affidavit of David Peetz, DP-1 at [45]-[49].

¹⁵ Submission of TQ at [34] and [39] and submissions of QCU at [26] and [45].

16. The State is cognisant of the real value of wages and acknowledges that for those workers who are award reliant or dependent upon the Queensland Minimum Wage the prevailing economic conditions should inform any increase.
17. For State public sector workers who bargain, the State has put in place policy for the state public sector and payments to adjust wages to account for the costs of living. The Public Sector Wages Policy is set to account for the real value of wages, as is the cost-of-living-adjustment and the increase in the State's superannuation guarantee which, as stated above, now exceeds that provided for federally.

THE 'LOW PAID BENCHMARK'

18. The State notes the submission at [42] of the QCU submissions in which the awards containing wage rates lower than the Queensland low paid benchmark are listed. Those awards are only relevant to local government and the State does not assert there should be no wage increase to these awards.
19. At [43], the QCU submit the AO2.1 classification is only 2.8% above the Queensland low paid benchmark. Employees in the State public sector at this level are entirely covered by agreements (except presently community visitors, who will soon be covered). Employees at this level have an annual salary under the *Queensland Public Service Officers and Other Employees Award – State 2015* of \$53,639 (\$1,031.60 per week). Under the CORE Agreement they are currently paid \$53,890 (\$1,036 per week), under the replacement agreement currently undergoing consultation they will be paid \$56,045.60 (\$1,077 per week). Such employees also receive annual increments (to higher paypoints), the current agreement in addition provides for eligible employees at this level to receive an Australian Qualifications Framework (AQF) allowance and in some instances their position may be subject to an AO2 review. Where the employee was employed at the AO2 level under the current Agreement they would have been eligible for a \$1,250 payment (pro-rated for casual and part-time employees) in 2020. Under the replacement agreement they would be eligible for up to three cost of living adjustment payments and may be eligible for the AQF and other allowances. Such employees also receive Queensland's higher superannuation guarantee arrangements.

AWR INCREASES TO FEDERAL JURISDICTION WORKERS WHO BARGAIN

20. At [24] of their submissions, TQ submits the AWR increases apply to workers who have high award rates and also positive bargaining outcomes in the federal system.
21. The State submits that federal awards are significantly lower than those in the state

jurisdiction (with many agreements then being higher again). For example, *the Medical Officers (Queensland Health) Award – State 2015* provides for rates of pay up to \$262,090 per annum and the *Medical Officers’ (Queensland Health) Certified Agreement 2022* provides for up to \$284,437 per annum (a buffer of 8.35% above the award) and is significantly higher than the relevant federal award rate of \$148,152 per annum.

22. TQ refer to positive bargaining outcomes for doctors in the Federal jurisdiction including Mater Health Services.¹⁶ The *Mater Health Services Senior Medical Officers Enterprise Agreement 2015* has not been negotiated since 2015 and the highest rate of pay is \$238,242 per annum, putting the Queensland Health award rate and agreement rates higher. The *Mater Health Services Resident Medical Officers Enterprise Agreement 2018* has not been negotiated since 2018 and has an entry rate of pay of \$78,943 per annum where the Queensland Health Award provides for an entry rate of pay of \$83,772 per annum and the Queensland Health Agreement provides for an entry rate of \$87,517 per annum. In considering the significant difference between award and agreement rates of pay for doctors in the federal jurisdiction when compared with those in the Queensland jurisdiction, as well as the other moderating factors (inflation trending down, higher superannuation, other outcomes of collective bargaining including up to three Cost of Living Adjustment payments) it is difficult to understand the submission that there should be a 5.75% increase to the Award rate for this cohort.
23. Similarly, the *Nurses and Midwives (Queensland Health) Award – State 2015* provides for rates of pay of up to \$215,991 per annum and the relevant agreement provides for rates of pay up to \$242,573 per annum, at present an entry level graduate Nurse receives a rate of pay of \$80,342 up to three Cost of Living Adjustment payments. In contrast the federal award provides for wages up to \$134,789 per annum. The *Mater Nursing and Midwifery Enterprise Agreement 2022-2025* provides for a maximum rate of pay of up to \$147,853, and an entry level graduate rate of pay of \$76,259 per annum. The *St Vincent’s Private Hospital Nurses Enterprise Agreement 2014-2017* has not been renegotiated since 2014, the highest rate of pay provided for under that Agreement is \$2,234.20 (per week) or \$116,178.40 per annum, and provides for an entry level graduate nurse rate of pay of \$1,182.90 (per week) or \$61,510.80 per annum. In contrasting the rates of pay in the private sector with those of Queensland public sector nurses who bargain, and taking into account the moderating factors

¹⁶ Submission of TQ at [24].

highlighted above, it is likewise difficult to accept such workers should receive a 5.75% increase to the relevant Award rate.

24. At [25] of their submissions, TQ refer to the Victorian public sector awards which receive the AWR wage increase. It is worth noting there are disparities in terms of rates of pay between the Victorian public sector awards and those of Queensland's public sector. For example, an entry level (admitted) lawyer under the *Victorian Public Service Award 2016* would have a minimum rate of pay of \$64,597 per annum, and would receive a rate of pay of \$68,836 per annum pursuant to the *Victorian Public Service Enterprise Agreement 2020*. Whereas an entry level (admitted) lawyer under the *Queensland Public Service Officers and Other Employees Award – State 2015* would have a minimum rate of pay of \$90,529 per annum. Under the State Government Entities Certified (CORE) Agreement they would currently have a rate of pay of \$90,916 per annum. Further, Victoria's public service has previously had a more stringent wages policy cap of 1.5 percent per annum from 1 January 2022,¹⁷ and currently has a headline wages policy offering lower than Queensland at 3 percent effective 3 April 2023.¹⁸
25. As stated above, the State submits there are significant differences between the State public sector employees and those nationally who receive the benefit of the AWR increase. The State respectfully submits its public sector employees who successfully bargain in good faith for fair and just wages and other beneficial employment conditions should not also receive the benefit of the AWR increase. The Full Bench of the Commission should exercise its discretion under section 459(2) of the IR Act and exclude those workers from any increase it determines to be fair and just.

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28 September 2023

¹⁷ Victorian Wages Policy 2022 (Appendix TJ-1) to the affidavit of Tony James sworn 28 September 2023.

¹⁸ Affidavit of Tony James sworn 14 September 2023, TJ-3.