

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *Declaration of General Ruling (State Wage Case 2024)* [2024]
QIRC 244

PARTIES: **Queensland Council of Unions**

and

Together Queensland, Industrial Union of Employees
(Applicants)

v

State Of Queensland (Office of Industrial Relations)

and

Local Government Association of Queensland Ltd
(Respondents)

FILE NOS: B/2024/50; B/2024/51

PROCEEDING: Application for Declaration of General Ruling

DELIVERED ON: 9 October 2024

HEARING DATE: 3 September 2024

MEMBERS: Hartigan DP, Power IC, Gazenbeek IC

- ORDERS:
1. **The wages or salaries for full-time adult employees in all state awards shall be increased by 3.75%.**
 2. **Monetary allowances (other than expense related allowances) in all state awards that relate to work or to conditions which have not changed, and service increments, are to be increased by 3.75%.**
 3. **The minimum wage rate per week for all full-time employees in Queensland is \$915.90.**
 4. **The above increases operate on and from 1 September 2024.**

LEGISLATION: *Industrial Relations Act 2016*, ss 3, 4, 141, 142, 143, 458, 459, 459A, 460

CASES: *Annual Wage Review Decision 2023-24* [2024] FWCFB 3500
Declaration of General Ruling (State Wage Case) 2014 [2014] QIRC 129
Declaration of General Ruling (State Wage Case 2020) [2020] QIRC 131
Declaration of General Ruling (State Wage Case 2022) [2022] QIRC 340
Declaration of General Ruling (State Wage Case 2023) [2023] QIRC 263
Declaration of General Ruling (State Wage Case 2023) (No 3) [2024] QIRC 111

APPEARANCES: Mr. N Tosh for the Queensland Council of Unions
Mr. M Thomas for Together Queensland, Industrial Union of Employees
Mr. S Donovan for the State of Queensland
Ms. E Ackland for the Local Government Association of Queensland Ltd

Reasons for Decision

State Wage Case 2024 – Introduction

- [1] The Queensland Council of Unions ('QCU')¹ and Together Queensland, Industrial Union of Employees ('Together'),² have each applied to the Queensland Industrial Relations Commission ('the Commission') seeking the following:
- (a) a general ruling³ to amend all state awards to increase wages by 3.75%;
 - (b) a general ruling to amend all state awards to increase the existing allowances which relate to work or conditions, which have not changed by 3.75%;
 - (c) an increase to the Queensland Minimum Wage ('QMW') as it applies to all employees to \$915.90 per week or \$24.10 per hour; and
 - (d) a determination that the operative date for these amendments be 1 September 2024.
- [2] The applications were heard together. The State of Queensland ('the State') and the Local Government Association of Queensland ('LGAQ') are respondents to both applications.
- [3] The State's response to the applications sets out that it is supportive of the following:⁴
- (a) a fair and reasonable increase to all State award rates of pay;
 - (b) a fair and reasonable increase to modern award allowances which relate to work or conditions which have not changed in service increments;
 - (c) a fair and reasonable increase in the QMW; and
 - (d) an operative date of 1 September 2024.
- [4] At the hearing, the State accepted that the terms of the applications insofar as they considered a quantum increase of 3.75% to be fair and reasonable.⁵
- [5] The LGAQ set out its position as follows:
13. The LGAQ seeks a fair and reasonable wage adjustment, specifically:
- A fair and reasonable increase to the Queensland Minimum Wage of 3.75 per cent, but not greater than;
 - An increase to award wage rates of 3.75 per cent;

¹ Application of the Queensland Council of Unions, filed 4 June 2024.

² Application of Together Queensland, Industrial Union of Employees, filed 4 June 2024.

³ *Industrial Relations Act 2016* (Qld) s 458 ('IR Act').

⁴ Submissions of the State of Queensland, filed 20 August 2024, 2.

⁵ Transcript of proceedings (3 September 2024) 20, 46-48.

- An increase of 3.75 per cent to existing and applicable allowances across the local government awards which relate to work or conditions that have not changed or that do not have mechanisms within the awards for varying the allowances; and
- The continuation of the existing custom and practice of the timing of the QIRC General Ruling being 1 September of the relevant year, which is relied upon by the local governments, supporting an operative date of 1 September 2024.

[6] After considering the material before the Commission, including the material that was filed by the parties following the hearing, we have determined to issue orders granting the applications and to issue a declaration of general ruling.

[7] Relevantly, no party has sought that the Full Bench exercise its' discretion to issue an order pursuant to s 459A of the *Industrial Relations Act 2016* (Qld) ('IR Act').⁶ Further, there are no factual matters that have been put before this Full Bench which would enliven the exercise of the discretion to limit the application of the general ruling pursuant to s 459A of the IR Act.

The legislative framework

[8] Section 3 of the IR Act identifies the main purpose of the IR Act to be as follows:

3 Main purpose of Act

The main purpose of this Act is to provide for a framework for cooperative industrial relations that -

- (a) is fair and balanced; and
- (b) supports the delivery of high-quality services, economic prosperity and social justice for Queenslanders.

[9] Section 4 sets out how the purpose of the IR Act is to be achieved in, relevantly, the following terms:

4 How main purpose is primarily achieved

The main purpose of this Act is to be achieved primarily by -

- (a) supporting a productive, competitive and inclusive economy, with strong economic growth, high employment, employment security, improved living standards and low inflation; and
- ...
- (d) providing for a fair and equitable framework of employment standards, awards, determinations, orders and agreements; and
- ...
- (f) providing for a guaranteed safety net of fair, relevant and enforceable minimum employment conditions through the Queensland Employment Standards; and

⁶ *Declaration of General Ruling (State Wage Case 2023)* [2023] QIRC 263, 20.

- (g) ensuring wages and employment conditions provide fair standards in relation to living standards prevailing in the community; and
- (h) promoting collective bargaining, including by -
 - (i) providing for good faith bargaining; and
 - (ii) establishing the primacy of collective agreements over individual agreements; and
- ...
- (o) being responsive to emerging labour market trends and work patterns; and
- (p) providing for effective, responsive and accessible mechanisms to support negotiations and resolve industrial disputes; and ...

[10] Section 141 of the IR Act provides the general requirements for the Commission in exercising its powers under Chapter 3 as follows:

141 General requirements for commission exercising powers

- (1) In exercising its powers under this chapter, the commission must ensure a modern award –
 - (a) provides for fair and just wages and employment conditions that are at least as favourable as the Queensland Employment Standards; and
 - (b) generally, reflects the prevailing employment conditions of employees covered, or to be covered, by the award.
- (2) For subsection (1), the commission must have regard to the following –
 - (a) relative living standards and the needs of low-paid employees;
 - (b) the need to promote social inclusion through increased workforce participation;
 - (c) the need to promote flexible modern work practices and the efficient and productive performance of work;
 - (d) the need to ensure equal remuneration for work of equal or comparable value;
 - (e) the need to provide penalty rates for employees who –
 - (i) work overtime; or
 - (ii) work unsocial, irregular or unpredictable hours; or
 - (iii) work on weekends or public holidays; or
 - (iv) perform shift work;
 - (f) the efficiency and effectiveness of the economy, including productivity, inflation and the desirability of achieving a high level of employment.

[11] Section 142 identifies the general requirement about minimum wages as follows:

142 General requirement about minimum wages

- (1) To the extent the commission's powers under this chapter relate to setting, varying or revoking minimum wages in a modern award, the commission must establish and maintain minimum wages that are fair and just.
- (2) For subsection (1), the commission must have regard to the following—
 - (a) the prevailing employment conditions of employees covered by the modern award;
 - (b) the matters mentioned in section 141(2)(a) to (d) and (f);
 - (c) providing a comprehensive range of fair minimum wages to—
 - (i) young employees; and
 - (ii) employees engaged as apprentices and trainees; and
 - (iii) employees with a disability.

[12] Section 143 prescribes what is and is not to be included in the content of a modern award, relevantly, s 143(1)(i) states:

143 Content of modern awards

- (1) The commissioner must ensure a modern award-

...

 - (i) provides fair standards for employees in the context of living standards generally prevailing in the community; and

...

[13] Section 458 of the IR Act sets out the power of the Full Bench to make general rulings as follows:

458 Power to make general rulings

- (1) The full bench may make general rulings about -
 - (a) an industrial matter for employees bound by an industrial instrument if multiple inquiries into the same matter are likely; or
 - (b) a Queensland minimum wage for all employees.
- (2) The full bench must ensure a general ruling about a Queensland minimum wage for all employees is made at least once each year.
- (3) Before conducting a hearing about the ruling, the full bench must -
 - (a) give reasonable notice, in the way it considers appropriate, of its intention to conduct the hearing; and
 - (b) give all interested persons an opportunity to be heard.

[14] Section 459 of the IR Act identifies the requirements for a general ruling in the following terms:

459 Requirements for general rulings

- (1) A ruling -
 - (a) must state a date (the *stated date*) on and from which it has effect; and
 - (b) has effect as a decision of the full bench on and from the stated date.
- (2) A ruling may exclude from the operation of any of its provisions -
 - (a) a class of employers or employees; or
 - (b) employers or employees in a particular locality; or
 - (c) an industrial instrument or part of an industrial instrument.
- (3) As soon as practicable after making a ruling, the registrar must publish a notice of the ruling and the stated date on the QIRC website.
- (4) The notice, on and from the stated date, replaces a notice of a ruling on the same subject matter previously published.
- (5) The ruling continues in force until the end of the day immediately before the stated date for a subsequent ruling on the same subject matter.

[15] Section 460 of the IR Act provides as follows:

460 Relationship with industrial instruments

- (1) If a ruling takes effect while an industrial instrument, other than an industrial instrument or part of an industrial instrument excluded under section 459(2), is in force -
 - (a) the industrial instrument is taken to be amended so it is consistent with the ruling on and from the stated date; and
 - (b) the amendment has effect as an industrial instrument on and from the stated date.
- (2) The registrar may amend an industrial instrument taken to be amended under subsection (1) as the registrar considers appropriate -
 - (a) on an application made under the rules; or
 - (b) on the registrar's own initiative.
- (3) This section applies despite chapter 3.

The approach to be taken to the State Wage Case

- [16] Historically, the parties to these proceedings have submitted that the principles from the Fair Work Commission ('FWC') Expert Panel's Review ('AWR') decision be adopted in respect of the QMW, and that any award rate increases should also reflect the FWC approach.⁷
- [17] In the *Declaration of General Ruling (State Wage Case 2022)*,⁸ it was recognised that whilst the Full Bench will have regard to the FWC conclusions, in exercising its statutory function, the Full Bench is required to bring an independent mind to the task of determining whether, in all the circumstances, the FWC's determination ought to be properly adopted. As the Full Bench observed:⁹
- [55] There is no principle of law that the FWC's ruling must be accepted unless there are cogent reasons for departure. There is no principle of law that the correctness of the FWC's ruling must be accepted at all in a Queensland State Wage Case.
- [56] Australia's constitutional arrangements are such that the Commonwealth controls significant economic power. Income tax is controlled nationally. By the use of the corporation's power commercial activity is largely centrally controlled. The Work Choices case is an example. The result is that many economic factors have nationwide influence.
- [57] Therefore, evidence of the economic impact of factors upon the national industrial environment will generally be relevant to determination of the Queensland State Wage Case. The FWC considers these matters and consequently its determination will be relevant to the State Wage Case.
- [58] It is a mistake to assume that the FWC's determination can be a substitute for a proper forensic inquiry into the impact of economic factors upon the wages of workers in Queensland who are not national system employees.
- [59] If the forensic exercise is to commence with receipt into evidence of the FWC ruling, then it is necessary to receive evidence identifying relevant differences between the national workforce and Queensland workers who are not national scheme employees. It is also necessary to identify economic and perhaps social conditions which may be peculiar to Queensland and relevant to the Full Bench's determination of the State Wage Case. Once those things are identified, proper evidence (expert if necessary) should be led as to their impact upon the issues in the State Wage Case.
- [18] As is evident from the reasons given in *Declaration of General Ruling (State Wage Case 2023)* ('the 2023 SWC'),¹⁰ the 2023 SWC required the parties to embark upon a forensic process with respect to the presentation, nature and substance of the evidence to be relied on for the purpose of assisting the Full Bench to determine the state wage case. This

⁷ *Declaration of General Ruling (State Wage Case)* [2014] QIRC 129, 12 – 13.

⁸ *Declaration of General Ruling (State Wage Case 2022)* [2022] QIRC 340 ('2022 SWC').

⁹ *Ibid.*

¹⁰ *Declaration of General Ruling (State Wage Case 2023) (No 3)* [2024] QIRC 111 ('2023 SWC').

process led to the Commission setting parameters for the proper conduct of future state wage cases as follows:¹¹

[154] As discussed above, the Declaration of General Ruling (State Wage Case 2023), recognised that whilst the Full Bench will have regard to the FWC conclusions, in exercising its statutory function, the Commission is required to bring an independent mind to the task of determining whether, in all the circumstances, the FWC's determination ought to be properly adopted.

[155] It would be a mistake for the Full Bench to accept that the FWC's determination can be a substitute for a proper forensic inquiry into the impact of economic factors upon the wages of workers in Queensland who are not national system employees.

[156] In undertaking the forensic task associated with the 2023 SWC, it has become apparent to the Full Bench that there is no significant difference in the economic patterns for Queensland and nationally. Indeed, the evidence of Professor Peetz observes that:

... [I]t would take quite a large difference between a Queensland estimate and the national estimate on any particular matter for me to conclude that there was potentially something specific about Queensland that raised doubts about the relevance of the FWC's analysis of the economic situation to Queensland.⁶⁹

[157] The evidence before the Full Bench does not suggest that there is a basis for considering that the analysis undertaken by the FWC does not have application to Queensland. We accept that the FWC determination encompasses a consideration of the economic impact of a variety of factors upon the national industrial environment. The assessment of those factors as reflected in the FWC determination will generally be relevant to determination of the Queensland state wage case. It follows therefore, that the FWC will be a significant factor considered by the Full Bench in determining the state wage case.

[158] Whilst future state wage cases will not be attended by the same level of detail it will nevertheless be necessary for the Full Bench to undertake an evaluative function having regard to the matters in ss 141 and 142 of the IR Act and assessing the qualities of the safety net by reference to the statutory criteria to ensure that the Commission establishes and maintains wages that are fair and just. Equally, the Full Bench will need to be in receipt of evidence identifying relevant differences between the national workforce and Queensland workers who are not national system employees. It is also necessary to identify economic and perhaps social conditions which may be peculiar to Queensland and relevant to the Full Bench's determination of the state wage case. Once those things are identified, proper evidence (expert if necessary) should be led as to their impact upon the issues in the state wage case.

(emphasis added).

[19] Accordingly, whilst the FWC determination is a significant factor to be considered, it is not the only factor relevant to the Commission's determination. At the first mention of this matter, the Commission referred to the 2023 SWC decision and requested that the parties consider the nature and substance of the evidence to be submitted having regard to the decision of the 2023 SWC.¹²

The evidence

[20] At the hearing, the evidence relied on by the parties was limited to an affidavit of Ms Jacqueline King, General Secretary of the QCU, and an affidavit of Ms Katrina Copland, acting Director of the Industrial Relations Policy and Legislation Unit within the Office of Industrial Relations ('OIR') on behalf of the State. Neither Together nor the LGAQ

¹¹ Ibid, 154 – 158.

¹² Transcript of Proceedings (26 July 2024) 3, 1-14.

tendered any affidavit evidence, although Together sought to rely on the affidavit of Ms King.

- [21] Ms King’s affidavit indicates that she caused two “comparative analyses” to be undertaken. Ms King, after referring to each of the analyses conducted, then expresses an opinion with respect to the conclusions that are available to be drawn from the analyses.
- [22] The first “analysis” purports to be an analysis of the national economic conditions and the current economic conditions in Queensland. In fact, the first “analysis” takes the form of a table and sets out comparative data with respect to certain federal and state economic factors. There is no analysis of the federal and state economic factors undertaken, other than that subsequently expressed in the opinion of Ms King in her affidavit.
- [23] Ms King deposes to the first analysis as relying on the following evidence:¹³
- (a) AWR decision;
 - (b) Commonwealth Government, *Federal Budget Strategy and Outlook Paper 2024-25*;
 - (c) Queensland Government, *Queensland State Budget Strategy and Outlook Paper 2024-25*;
 - (d) Reserve Bank of Australia, *Statement on Monetary Policy (May 2024)*;
 - (e) National Bank of Australia, *Quarterly Business Survey (Q1 2024)*;
 - (f) Australian Bureau of Statistics (ABS) data for i) *Consumer Price Index, Australia*; and ii) *Labour Force, Australia*; and iii) *Wage Price Index, Australia*; and iv) *Counts of Australian Businesses, including Entries and Exits*.
- [24] However, the documents referred to “as evidence” were not attached to the affidavit nor was there any attempt at the outset of the hearing for those documents to be tendered into evidence. Consequently, the documents (and the information contained therein), that the parties purportedly relied on in support of the applications, were not put into evidence.
- [25] In addition to the absence of those documents, the “analysis” that was conducted did not identify:
- (a) the author of the analysis;
 - (b) the author’s relevant experience, qualifications or expertise to enable them to conduct the analysis;
 - (c) whether the author understood the analysis was being conducted for the purpose of assisting the full bench of the Commission for the State Wage Case 2024; and
 - (d) the methodology or process that was adopted in conducting the analysis.

¹³ Affidavit of Ms King, filed 7 August 2024, [7].

- [26] The second analysis referred to in Ms King’s affidavit considered the modern award classifications that fell below the Queensland low-paid benchmark. This analysis was also absent the matters referred to at paragraph 25 above.
- [27] Ms Copland’s affidavit tendered on behalf of the State, is limited to two paragraphs. The second paragraph of Ms Copland’s affidavit states that she, “caused to be created by Queensland Treasury the economic evidence put forth in Exhibit marked A of this affidavit.”
- [28] Exhibit A to Ms Copland’s affidavit was a three and half page document titled “Appendix A – Economic Evidence prepared by Queensland Treasury” (‘Appendix A’).
- [29] Appendix A did not identify:
- (a) the author of the report;
 - (b) the author’s relevant experience, qualifications and expertise to enable them to conduct the report;
 - (c) whether the author of the report understood that the report was prepared for the purpose of assisting the full bench of the Commission for the State Wage Case 2024; and
 - (d) what process and/or methodology was adopted in preparing the report.
- [30] The deficiencies in the evidence identified above raise issues regarding the reliability and weight to be placed on the evidence. Further, the deficiencies in the evidence left an evidentiary void in support of the foundations of the applications and was of limited assistance in the evaluative function the Full Bench must undertake. As noted by the 2023 Full Bench, there are two bodies of evidence the Full Bench will require in considering a state wage case. Firstly, there will need to be a body of evidence that will permit the Full Bench to undertake an evaluative function having regard to the matters in ss 141 and 142 of the IR Act and assess the qualities of the safety net by reference to the statutory criteria, to ensure the Commission establishes and maintains wages that are fair and just.¹⁴
- [31] Secondly, the Full Bench will also need to be in receipt of evidence identifying relevant differences between the national workforce and Queensland workers who are not national system employees. This requires the identification of economic and perhaps social conditions which may be particular to Queensland and relevant to the Full Bench’s determination of the State Wage Case.¹⁵
- [32] Given these matters, during the hearing the Full Bench directed that the parties file and serve further evidence addressing matters relevant to the Full Bench’s consideration including by providing evidence that may be said to form a factual foundation to the

¹⁴ 2023 *SWC* (n 10) 158.

¹⁵ *Ibid.*

applications. The Full Bench also directed that following receipt of the further evidence, the applications would be determined on the papers unless any party sought a further oral hearing. No further oral hearing was sought by any of the parties.

- [33] On 10 September 2024 a bundle of documents titled “Trial Book and supplementary Affidavits” was jointly filed¹⁶ by the parties.
- [34] This material includes the source documents referred to in the earlier affidavits and also additional affidavits including the affidavits of Mr Gregory Uptin, Executive Director of the Economic Information, Monitoring and Forecasting, Economic Strategy, Economic and Fiscal Division, Queensland Treasury, a supplementary affidavit of Ms Copland and an affidavit of Mr Nathan Tosh, Legislation and Policy Officer, QCU.¹⁷
- [35] Mr Uptin’s evidence addresses his experience and qualifications. Mr Uptin also confirms that he caused the information referred to in paragraphs 1 to 19 of Appendix A¹⁸ to be sent to OIR. This will be discussed further below.
- [36] Mr Uptin also gives evidence as to the methodology and process adopted for preparing the information, together with identifying the source documents that were relied on to prepare the information (these documents are now included in Exhibit 1).
- [37] Ms Copland’s further affidavit attempts to correct errors which she states were included in her first affidavit. Of particular significance, Ms Copland states that Appendix A (titled, “Economic Evidence prepared by Queensland Treasury”) was not in fact prepared by Queensland Treasury as she had deposed to in her earlier affidavit. Rather, Ms Copland now states that Appendix A was compiled by Officers from OIR who collated and included information from Queensland Treasury, creating paragraphs 1 to 19, and information prepared and provided by OIR, creating paragraphs 20 to 25.
- [38] It is alarming that this “error” would not have come to the attention of the Full Bench had the Full Bench not issued the Further Directions on 3 September 2024. Such a significant “error” highlights the importance of parties turning their minds to what is required to prepare accurate, probative and admissible evidence in a state wage case.
- [39] Ms Copland’s further affidavit also sets out the methodology and process that was adopted, and the primary source documents relied on (now included in Exhibit 1), to prepare paragraphs 20 to 25 of Appendix A.
- [40] Mr Tosh, who represented the QCU as its’ advocate at the hearing, also provided an affidavit.
- [41] Mr Tosh’s affidavit states that he conducted the two analyses that were attached to the affidavit of Ms King.

¹⁶ Exhibit 1: “The Trial Book and supplementary affidavits”.

¹⁷ Ibid.

¹⁸ Affidavit of Mr Uptin, filed 10 September 2024, Appendix GU-1.

- [42] Mr Tosh describes the first analysis he conducted to be a “rudimentary comparison of the national and Queensland economies using publicly available information ... about selected economic conditions and indicators.”¹⁹
- [43] Mr Tosh states that he does not hold qualifications in economics²⁰ and that his analysis “is not intended to be expert evidence” rather it is “a layperson’s comparison to demonstrate similarities and differences in selected economic conditions and indicators.”²¹
- [44] Mr Tosh states that he performed a similar analysis for the 2023 SWC however, that analysis was filed with the submissions in reply.
- [45] Mr Tosh’s affidavit also confirmed that he conducted the analysis of the modern award classifications that fall below the Queensland low-paid benchmark which is attached to Ms King’s affidavit as Exhibit JK-2.
- [46] The analysis conducted by Mr Tosh whilst purporting to be “evidence” in truth takes the form of submissions insofar as it is an attempt by the QCU to summarise the primary source evidence, which is now before the Full Bench.
- [47] It will be considered by the Full Bench on that basis.
- [48] It is hoped that the above outline of the evidence together with the clear guidance provided in the decision for the 2023 SWC will ensure that future state wage cases are conducted in a more efficient manner with the parties now on notice with respect to the nature and substance of the evidence required to be adduced.

State Wage Case 2024

Prevailing economic conditions

- [49] An assessment of the prevailing economic conditions is required to be undertaken in the discharge of the Commission’s functions pursuant to the legislative scheme. As noted above, the Commission must conduct an evaluative function pursuant to ss 141 and 142 of the IR Act and assess the qualities of the safety net by reference to the statutory criteria. The Commission must also identify and determine any relevant differences between the national and state economy that is relevant to the Full Bench’s determination of the state wage case. To undertake this assessment regard must be had to the prevailing economic conditions in the national economy and the state economy.

¹⁹ Affidavit of Mr Tosh, filed 10 September 2024, [9].

²⁰ Ibid, [10].

²¹ Ibid, [11].

National economy

FWC Annual Wage Review 2023-24

- [50] The FWC handed down its AWR decision on 3 June 2024 ('the 2024 AWR') providing increases to the National Minimum Wage ('NMW'), award wages and allowances. In conducting the AWR, the FWC assesses the economic conditions relevant to the national economy. The assessment of those factors will generally be relevant to the determination of the Queensland state wage case.²²
- [51] The 2024 AWR determined to increase the NMW and all modern award minimum wage rates and allowances by 3.75%.²³ This resulted in an increase in the NMW to \$915.90 per week, or \$24.10 per hour.
- [52] After reviewing the relevant economic conditions of the Australian economy, the FWC provided the following general conclusions with respect to the economy:²⁴

[140] Our overall assessment of economic conditions is that the Australian economy is ending 2023–24 with good prospects of realising a 'soft landing': avoiding a recession while lowering inflation and preserving the labour market at or near full employment. A sharp tightening in monetary policy commenced in May 2022, with the official cash rate target rising from 0.10 to 4.35 per cent. While interest rates have not risen as much in Australia as in comparable economies, the effect of monetary policy is more pronounced here because of comparatively high levels of household debt and the high proportion of that debt which is subject to variable interest rates.¹⁶⁷

[141] Higher interest rates have forced many households to reappraise their financial circumstances and find means of containing or reducing their spending. During 2023, household consumption growth steadily fell and is forecast to be near zero over 2023–24, which is notable when set against a backdrop of very high population growth. Weak consumption growth is the main factor that explains the slowdown in economic activity, from 2.4 per cent in 2022 to 1.5 per cent in 2023. This slowdown is likely to have reached a trough in the first half of 2024, with forecasts of a pick-up in economic activity in 2024–25.

[142] Whether the monetary policy tightening cycle has peaked depends upon the trajectory of inflation over coming months. Annual inflation reached a high of 7.8 per cent over the year ending December 2022, its highest rate since 1990, and has since fallen each quarter to reach 3.6 per cent over the year ending March 2024. While inflation has fallen by more than half from its peak, it remains above the RBA's target band of 2–3 per cent. There are some concerns that it may persist above the band for longer than set out in official forecasts. The government is forecasting that the CPI could reach 3 per cent or lower by the end of 2024, assisted by Budget measures which lower the out-of-pocket costs to consumers of electricity and renters in receipt of Commonwealth Rent Assistance. However, we note that the RBA's latest forecast made ahead of the Budget is that inflation will persist above its target band for longer.

[143] A falling rate of inflation for goods has been countered by persistently high inflation for services. Rising nominal labour costs, the highest in many years, have been a major factor contributing to higher services inflation. That said, the concern expressed by some commentators that Australia was heading for a wage-price spiral episode did not eventuate, and recent evidence is that wages growth may have peaked. In aggregate, wage increases have lagged inflation until very

²² 2023 SWC (n 10) 157.

²³ *Annual Wage Review Decision 2023-24* [2024] FWCFB 3500 ('AWR').

²⁴ *Ibid*, 140-145.

recently, with annual wage growth nudging above inflation only in the past two quarters. Most workers have experienced a steep decline in real wages whether covered by awards, collective or individual agreements, and irrespective of their position in the wage distribution.

[144] In normal circumstances, the inflationary impact of increases in labour costs are attenuated by productivity growth, but recent productivity patterns have been abnormal. There were solid gains in GDP per hour worked during 2020 and 2021, but these were more than fully eroded over the course of 2022 and 2023, returning productivity levels to what they had been prior to the pandemic. The pandemic explains some of this abnormal pattern, as lockdowns saw a reduction in hours worked by lower-productivity workers pushing up productivity growth, which was then thrown into reverse as restrictions were lifted. More recently, the spurt in population growth following the reopening of the borders to migrant workers has made the economy less capital-intensive, lowering productivity. Official forecasts are for productivity growth to return toward its long run trend of 1.2 per cent a year, but there is a greater degree of uncertainty around these forecasts than is common.

[145] The slowdown in economic activity has, to date, not come at the cost of appreciably higher unemployment. There has been some softening in labour market conditions, with the adjustment coming in the form of a decline in hours worked — 0.8 per cent less over the year ending April 2024 — rather than in jobs. Employment has grown at a similar rate to the labour force — 2.8 per cent and 3.2 per cent, respectively. As a consequence, the unemployment rate has drifted up slowly to reach 4.1 per cent in April 2024. There are, as always, differences across industries, with some industries that are more award-reliant than others having seen a sharper drop in labour demand. There were cuts to employment as well as hours in Accommodation and food services, and a decline in employment in Retail trade. These two sectors alone employ over a third of all modern award-reliant employees. Official forecasts are for employment growth to slow in 2024–25, with the unemployment rate to drift up further but remain at a rate near full employment. (citations omitted).

- [53] Relevantly, the analysis in the 2024 AWR decision indicates that the Australian economy has slowed considerably over the course of 2023 and into early-2024 in response to rising interest rates and the higher cost of living. In this respect, Gross Domestic Product (‘GDP’) for 2022-2023 was 1.5%. However, due to high population growth per capita GDP declined in 2023 by 1%.
- [54] The AWR refers to an expectation from the International Monetary Fund that economic growth is to increase by 1.5% for 2024 and 2% for 2025.
- [55] With respect to household consumption, it appears that there was a growth in household consumption of 1.3% to the December quarter 2024. However, this was in circumstances of strong population growth. Household consumption is expected to grow to 2.8% over 2025.
- [56] It was noted that the labour market had weakened since the 2023 AWR but remained resilient over the course of 2023-2024. The national unemployment rate was 4% in the June quarter 2024. The RBA forecast the unemployment rate to rise gradually to 4.2% in the December quarter 2024 and 4.3% in the December quarter 2025.
- [57] Wage growth appears to have peaked in the December quarter 2023 at 4.2%. The AWR refers to the Reserve Bank of Australia (‘RBA’) and Budget forecasts which indicates a moderation of wage growth to 3.8% in the December quarter 2024 and 3.4% in the December quarter 2025.

- [58] Inflation was noted to remain the most significant challenge currently facing the Australian economy, although it had eased from the 2023 AWR. The ABS data indicates that the headline Consumer Price Index ('CPI') rate for the 12 months to the March quarter was down to 3.6%. The RBA forecasts inflation to continue moderating over the next two years to 2.8% by the end of 2025. This figure falls within the RBA's target band of 2-3%.
- [59] Total business profitability declined in the 12 months to the December quarter 2023 by 5.4%. This decline was largely driven by a significant decline in profitability in the mining sector. In the non-mining sector, business profitability grew by 4.2%.
- [60] Business confidence increased in the March quarter 2024 compared to the previous year.

Queensland state economy

Economic growth

- [61] The Queensland economy had growth of 2.3% in 2022-2023 with the *Queensland 2024-2025 Budget Strategy and Outlook Paper* forecasting that economic growth will continue to strengthen to 3% in 2023-2024 and 2024-2025. The Gross State Product ('GSP') is forecast to grow 3% for 2023-2024. Queensland Treasury points to recent and ongoing population growth and a rebound in the overseas trade sector as supporting this growth.

Inflation

- [62] Inflationary pressures eased in Brisbane during 2023. The annual rate of headline inflation fell from a 30 year high of 7.9% in the September quarter 2022 to 3.4% in the March quarter 2024. In yearly averaged terms, the inflation rate is estimated to be 4% for 2023-2024.
- [63] The Queensland Budget forecasts inflation to be 4% in 2023-2024, 2% in 2024-2025 and then increasing to 3.25% in 2025-2026.

Labour Market

- [64] Queensland Treasury expresses a view that "Queensland continues to enjoy exceptionally strong labour market conditions." Employment growth continues to grow in Queensland and is expected to reach 2.75% in 2023-2024 before lessening to 1.5% in 2024-2025 and 1% in 2025-2026.
- [65] After achieving a historic unemployment rate averaged as 3.7% in 2023, unemployment figures are expected to increase to 4.25% in 2023-2024, 4.5% in 2024-2025 and 4.75% in 2025-2026.

Wages Growth

- [66] Data issued by the ABS indicates that the Wage Price Index ('WPI') for Queensland was 4.6% for the March quarter 2024.
- [67] The Queensland Budget anticipates annual growth in Queensland's WPI to be 4.75% in 2023-2024 and 3.75% in 2024-2025.

Business Conditions

- [68] The Queensland Budget indicates that the current level of overall business profitability remains strong in Queensland. However, it noted that "elevated levels of business profits are likely to moderate as commodity prices, particularly coal, normalise and indicators of business confidence and business conditions ease from exceptionally high levels."²⁵
- [69] Queensland Treasury indicates that it is expected that there will be modest growth in business investment over the next two years as interest rates, elevated construction costs and softening commodity prices import investment intentions.

Relative living standards and needs of the low-paid

- [70] The FWC has adopted a process to determine the 'low-paid' benchmark which amounts to two-thirds of the median adult ordinary time earnings of a full-time employee.
- [71] The FWC considered two methods to determine this benchmark based on the ABS data, firstly, for Characteristics Of Employment ('COE') for August 2023 and, secondly, for Employee Earnings and Hours ('EEH') for May 2023.²⁶
- [72] The FWC found the national low-paid benchmark to be \$1066.67 per week based on the COE data and \$1131.33 per week based on the EEH data.²⁷
- [73] In its' submissions, the QCU adopted a similar methodology to calculate the Queensland low-paid benchmark based on Queensland specific ABS data. According to those calculations, the low-paid benchmark in Queensland is \$1031.32 when calculated using the COE data and \$1129.32 per week when calculated using the EEH data.
- [74] The QCU and Together submit that a significant number of classifications across a number of modern awards fall below the Queensland low-paid benchmark.

²⁵ The State of Queensland (Queensland Treasury), *Budget 2024-25: Budget Strategy and Outlook* (Budget Paper No 2) 68.

²⁶ *AWR* (n 23) 72.

²⁷ *Ibid.*

[75] A number of examples were provided by the QCU in their submissions,²⁸ including the following:

- (a) The current award rate per week for the C13 classification in the *Brisbane City Council Operational and Trade Employees Award - State 2016* is \$918.50 and would require an increase of 12.28% to meet the Queensland low-paid benchmark (the award rate for the C13 classification would also require the same increase in other awards such as the *Building, Engineering and Maintenance Services Employees (Queensland Government) Award-State 2016*); and
- (b) The current award rates per week for all Health, Sports and Fitness Services classifications under the *Queensland Local Government Industry (Stream B) Award - State 2017*, except for the Fitness therapist, level 6 classification, are below the Queensland low-paid benchmark with more than half (10 out of 18) of the relevant classifications receiving a current award rate per week of \$933 (this rate would require a 10.54% increase to meet the Queensland low-paid benchmark); and
- (c) The current award rate per fortnight for the C11 classification in the *Building, Engineering and Maintenance Services Employees (Queensland Government) Award - State 2016*, the CW3 classification in the *Civil Construction, Operations and Maintenance General Award-State 2016*, the Hospitality stream Wage Level 3 classification in the *General Employees (Queensland Government Departments) and Other Employees Award - State 2015*, and the BW 1 classification in the *Stadiums Queensland Employees Award - State 2016* is \$1,947 and would require an increase of 5.94% to meet the Queensland low-paid benchmark.

Application of FWC economic assessment

[76] The Full Bench has before it, data of the economic conditions of both the federal and state economies. As already noted, this Full Bench has not had the benefit of analytical expert evidence providing a comparative assessment between the national and state economic data. However, regard has been had to the economic assessment undertaken by the FWC in the AWR.

[77] It is noted that the Full Bench determining the 2023 SWC considered expert comparative analysis of the national and state economic conditions including, but not limited to, productivity, relative living standards and gender equity, job security and collective bargaining. Some of the economic conditions considered by the experts in 2023 were not

²⁸ Submissions of the Queensland Council of Unions filed 7 August 2024, 26(a)-(c).

specifically addressed by the parties in their submissions. The parties have attempted to rely on expert reports that were tendered during the hearing of the 2023 SWC. The full bench in that matter had the benefit of the experts appearing before it and the benefit of the evidence of those experts being tested including by way of cross-examination.

- [78] Relevantly, the expert reports referred to by the parties, including the report of Prof. David Peetz, were prepared for the purpose of assisting the Full Bench in its determination of the 2023 SWC. It is trite to note, that the expert reports analysing the relevant economic conditions at that time of the hearing of the 2023 SWC are of limited assistance to this Full Bench in analysing the economic conditions present in 2024.
- [79] Relevantly, the QCU sought to rely on Prof. Peetz's statement that a "difference of 0.3% in the inflation rate is not significant", stated before the 2023 Full Bench, to argue that it is open to this Full Bench to conclude that 0.4% between the national and state inflation rate in 2024 is, similarly, not significant.
- [80] The Full Bench approaches such a submission with caution. The logic of that submission, firstly, is premised on the assumption that all other economic conditions in 2023 remain unchanged in 2024, which the material indicates is not the case. Secondly, the submission is also premised on an assumption as to what Prof. Peetz considers to be "significant" in terms of a difference in particular economic conditions. This Full Bench does not have any evidence before it to conclude what Prof. Peetz considers to be a significant difference in the inflation rate other than his evidence before the 2023 SWC in relation to the 2023 economic conditions. In the absence of such evidence, it would be an error to assume what Prof. Peetz means when he refers to there being a significant difference in inflation rates, and, further, to rely on his evidence provided in a separate matter before this Commission in the course of this matter.
- [81] However, we note the parties each submit that there is no significant difference between the data so as to distinguish a feature of the Queensland economy from the national economy.
- [82] Having regard to the economic data before us and placing weight on the position of all parties that there is no significant difference between the data, we conclude that the economic analysis conducted by the FWC of the national economy is substantially the same as that of the Queensland economy. Consequently, we consider that there is no cogent reason to depart from the FWC decision of a 3.75% increase.

Queensland Minimum Wage

- [83] The QMW is currently \$882.80 per week which is \$33.10 per week less than the NMW.
- [84] The two applications filed in this matter, seek an increase of 3.75%. The State and the LGAQ submit that an increase of not more than 3.75% to the QMW is fair and just.

Consideration

- [85] Consistent with the legislative framework including the functions required to be undertaken by ss 141 and 142 of the IR Act, the Commission is mindful of its overarching responsibility to ensure, *inter alia*, that employees are covered by fair and reasonable wages that allow employees to participate in society and to ensure that those who do not benefit from bargaining are not left behind.
- [86] In determining this year's state wage case, the Commission has also taken into account data with respect to the relative wage growth and the cost of living expenses of those living in the state of Queensland. These are factors that arise at both a national and state level.
- [87] The 2024 AWR referred to the principle that “... *in the medium to long term it is desirable that modern award minimum wages maintain their real value and increase in line with the trend rate of national productivity growth*”.²⁹ However, the FWC noted that the principle operated subject to the implicit qualification that in the immediate circumstances of particular annual wage reviews it may not be possible to adhere to that objective.
- [88] Such a principle accords generally with this Commission's functions including those pursuant to ss 141, 142 and 143(1)(i) of the IR Act.
- [89] It remains the case that declining real wage growth is a significant problem in an environment where employees, particularly low-paid employees, are faced with rising cost of living expenses.
- [90] It is noted that this decision will apply within the state and local government sectors and parents and citizens' associations. The employees within the Queensland industrial relations jurisdiction are covered by either an award and/or by a certified agreement.
- [91] In this environment the QMW operates to maintain a safety net of fair minimum wages. We consider that regard should be had to factors that impact the relative living standards of low-paid employees and to whom the QMW may apply. Such factors include, *inter alia*, relative wage growth and inflation. These economic factors support an increase to the QMW.
- [92] Each of the parties accepted that employees within the Queensland jurisdiction should be paid a wage that is fair and reasonable.
- [93] Accordingly, the Commission has determined that the QMW for a full-time employee in Queensland be increased by 3.75% to \$915.90.³⁰

²⁹ AWR (n 23) 154.

³⁰ Rounded to the nearest ten cents.

- [94] Having regard to, and appropriately weighing the matters we are required to take into account pursuant to ss 141, 142 and 143 of the IR Act, the purpose of the IR Act and how that purpose is to be achieved as set out in ss 3 and 4 of the IR Act, and the rate of the QMW, we have determined that the minimum award wage and allowances in Queensland modern awards shall be increased by 3.75%.
- [95] The Commission will issue a declaration of General Ruling giving effect to the orders made which will be issued concurrently with this decision.
- [96] Each of the parties submit that the operative date of these orders and the General Ruling be 1 September 2024. Having regard to the parties' position, and consistent with the approach of the Commission previously taken, these orders and the General Ruling will operate on and from 1 September 2024.

Orders

[97] It is ordered that:

1. **The wages or salaries for full-time adult employees in all state awards shall be increased by 3.75%.**
2. **Monetary allowances (other than expense related allowances) in all state awards that relate to work or to conditions which have not changed, and service increments, are to be increased by 3.75%.**
3. **The minimum wage rate per week for all full-time employees in Queensland is \$915.90.**
4. **The above increases operate on and from 1 September 2024.**