

## TRANSCRIPT OF PROCEEDINGS

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O/N 83875

### TASMANIAN INDUSTRIAL COMMISSION

**PRESIDENT P.L. LEARY**  
**DEPUTY PRESIDENT P.C. SHELLEY**  
**COMMISSIONER T.J. ABEY**

**T No 13142 of 2008**

**T No 13143 of 2008**

### ALL PRIVATE SECTOR AWARDS

**Application pursuant to the provisions of section 23(2)(b) of the Industrial Relations Act 1984 by the Tasmanian Trades and Labor Council to vary the above awards re (i) increase all award rates and existing allowances relating to work or conditions, in Private Sector Awards of the Tasmanian Industrial Commission, from a common operative date of, on or from the beginning of the first full pay period to commence on or after 1 August 2008 by the amount of four point two per cent (4.2%) or such higher figure as may be indicated by the Wage Price Index for the year ending March 2008; (ii) to increase the minimum wage that is payable to adults, without regard to the work performed, to \$549.30 per week or such higher figure as may be indicated by the Wage Price Index for the year ending March 2008 and (iii) obtain a special increase of rates of meal allowances in all relevant awards; (iv) to seek an increase to \$66 in the minimum rate applying in any Supported Wage System; (v) to the extent necessary to effect these changes, amend the Principles of the Commission**

## **ALL PUBLIC SECTOR AWARDS**

**Application pursuant to the provisions of section 23(2)(b) of the Industrial Relations Act 1984 by the Minister administering the State Service Act 2000 to vary the above awards re (i) increase all wage rates where applicable and all existing allowances relating to work or conditions in Public Sector Awards from a common operative date of, on or from the first full pay period to commence on or after 1 August 2008 to reflect any increase that may be determined by the Tasmanian Industrial Commission pertaining to the minimum wage payable to adults under its awards; (ii) increase rates of meal allowances in all relevant Public Sector Awards; (iii) to review and amend if necessary the Wage Fixing Principles of the Tasmanian Industrial Commission as determined in July 2007 in Matter T12940**

**HOBART**

**10.32 AM, FRIDAY, 20 JUNE 2008**

PRESIDENT LEARY: Thank you. Could I take appearances please?

MR S. COCKER: Simon Cocker for Tasmanian Trades and Labour Council.

5 PRESIDENT LEARY: Thank you.

MR T. JACOBSON: Tim Jacobson, appearing on behalf of the Health Services Union of Australia, Tasmania number 1 branch.

10 PRESIDENT LEARY: Thank you.

MR N. WISHART: Norm Wishart, for the Australian Education Union, Tasmanian branch.

15 PRESIDENT LEARY: Thank you.

MR P. MAZENGARB: Good morning, President, Deputy President and Commissioner. Paul Mazengarb representing the Tasmanian Chamber of Commerce and Industry Limited. And I have authority, which I think has been passed on to you, President, to represent also the Tasmanian Farmers and Graziers Employers Association Incorporated.

20 PRESIDENT LEARY: Yes, I had a letter from Keith Rice, Chief Executive, to that effect.

25 MR MAZENGARB: And both appearances are in T number 13142 of 2008, if the Commission pleases.

30 PRESIDENT LEARY: Thank you.

MR P. BAKER: President and members of the bench, I appear on behalf of the Minister administering the State Service Act 2000, P. Baker. And I would also seek leave to intervene on behalf of the Minister for Workplace Relations in accordance with section 27(1) of the Act.

35 PRESIDENT LEARY: I take it there is no objection to that. Could I also note for the record that the Australian Mines and Metals have advised that they won't be present at this hearing and they do want to ensure that the email is placed on the record. In fact they have sent it twice, so it is on the record, but only once. Mr Cocker.

40 MR COCKER: If the Commission pleases, I'm standing to address T13142, application by the Tasmanian Trades and Labor Council made on 29 April. The application was to increase all award rates and existing allowances relating to work conditions in Private Sector Awards of the Commission, for a common operative date on and from the beginning of the first full pay period to commence on or after 45 1 August 2008 by the amount of 4.2 per cent, or such higher figure as may be indicated by the wage price index for the year ending March 2008, to increase the

minimum wage that is payable to adults without regard to the work performed to \$529.30 per week, or such higher figure as may be indicated by the wage price index for the year ending March 2008, to obtain a special increase of meal allowances, to seek an increase to \$66 in the minimum rate applying in any supported wage system clause, and to the extent necessary amend the principles of the Commission to effect those changes.

It is also noted that this application meets the requirement of section 35(10)(a) of the Industrial Relations Act 1984 to hold an annual hearing to determine the Tasmanian minimum wage. It is noted that the lodgment of this application pre-dates the release from the Australian Bureau of Statistics of the data that we rely on for this case. And that at the time of application it is necessary to make an estimate of the figure that we expect for the wage price index some months later. In this particular case that figure has come in lower than expected, and is in fact 3.6 for the 12 months to the end of March. If we apply that figure, then our claim would become one of 3.6 per cent or \$19 a week and a Tasmanian minimum wage of \$55.10 a week.

I am pleased to advise the Commission that discussions have occurred between the Tasmanian Trades and Labor Council and the Tasmanian Chamber of Commerce and Industry, and that agreement has been reached on a preferred outcome for this hearing, and as I understand it, our friend from the Minister's office also will be supporting that memorandum. That agreement has been documented in a memorandum of understanding. There are six points in that memorandum. They are that the wage rates in all state's private sector awards be increased by an amount of \$19 a week, including junior apprentice and trainee rates on a proportional basis as from the first full pay period on or after 1 August 2008, that that increase may be reduced to the extent of any over-award payment or enterprise bargaining increases currently being paid by the employer.

Wage rates in state private sector awards to increase by \$19 a week as from the first full pay period on or after 1 August 2008 where existing wage rates have been varied to include the wage increase arising out of the 2007 wage case and a period of 12 months has elapsed since the wage rates in the award were increased. That the state minimum wage be increased by \$19 to \$546.10 a week. That's from the first full pay period on or after 1 August 2008. That existing allowances, with the exclusion of meal allowances, relating to work or conditions be increased by 3.1 per cent as from the first full pay period on or after 1 August 2008. Five – that meal allowances in state private sector awards where the current rate is \$14.10 per week be increased to \$14.60 per week as from the first full pay period on or after - - -

PRESIDENT LEARY: Per meal perhaps, per meal rather than per week.

MR COCKER: Indeed, thank you. We'll starve them into agreement. The memorandum will be amended to say "per meal" rather than "week", thank you. That the minimum weekly wage payable under the supported wage provisions be increased to \$66 per week where this hasn't already occurred, as from the first full pay period on or after 1 August 2008. So with a quick minor amendment I will table that document. Thank you.

PRESIDENT LEARY: Thanks. I'll mark the copy of the memorandum of understanding as Union 1.

5 **EXHIBIT #UNION 1 COPY OF MEMORANDUM OF UNDERSTANDING**

PRESIDENT LEARY: Thank you.

10 MR COCKER: The outcomes in points one to five of this document, I submit,  
reflect the precedents that have been established in the 2006 and 2007 wage hearings  
for considering these matters. In those two decisions the Commission has indicated  
that the wage price index is the most appropriate indicator to form the basis for wage  
adjustment. And that is the figure that has been applied, the 3.6 per cent. It has  
15 indicated its preference for the adjustment to award levels is to take the flat amount  
of the minimum wage rise, in this case \$19, and add it to the levels in each of the  
awards. It has indicated that the non-meal allowance adjustment is to be achieved by  
expressing the flat rise as a percentage of the CTN level of the Metal and  
Engineering Award. In that case \$19 is 3.1 per cent, and the meal allowance  
20 adjustment, which is achieved by the application of the CPI figure for meals and  
eating out. And I table the calculation for that allowance.

PRESIDENT LEARY: Thank you. We'll mark that Union 2.

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**EXHIBIT #UNION 2 CALCULATION FOR MEAL ALLOWANCE  
ADJUSTMENT**

30 MR COCKER: Finally, if the Commission pleases, point 6 in the memorandum is  
the adjustment, the minimum rate to apply to supported-wage clauses and we submit  
that that arises from a previous Full Bench decision in matters T13120, 13121,  
13122, 13123 and 13124, where the Full Bench considered the appropriate level for  
that minimum rate, and adjusted it to \$66 and we would seek to have that flow  
35 through to the remainder of the private sector awards.

It is our submission that the rises outlined are reasonable and moderate outcomes, but  
are required to maintain both the real and relative provisions of the award and  
minimum-wage-reliant workers in Tasmania. We recognise that this year, in this  
40 decision, there is a small discount to CPI as the numbers turn out. Examining the  
CPI for Tasmania – or particularly for Hobart as the ABS provides – the weighted  
basket for the first quintile household consumption provides the CPI figure of about  
3.74 per cent.

45 However, in the interests of working within an accepted fair and reasonable  
principle, and considering that the 2007 decision provided a significant premium  
above the CPI, we will not pursue that difference. In its decision of T12395 July  
2006 the Commission indicated at paragraph 52 that one of its key considerations is

the state of the Tasmanian economy and the likely effect of the proposed award or agreement on the economy of Tasmania, with particular reference to the level of employment. It is our submission that the indicators for both the Australian economy and the Tasmanian economy show that both of these economies remain strong, and that the forecasts indicate that this will continue. To assist in that discussion I have put together a table of some of those key indicators, and I table that document.

10 PRESIDENT LEARY: Thank you. We'll mark it Union 3.

### **EXHIBIT #UNION 3 TABLE OF KEY INDICATORS OF ECONOMIES**

15 MR COCKER: The top table on the document are the key indicators from the Tasmanian Economic Environment. These numbers are taken from either Australian Bureau of Statistics reports or budget paper number 1 from the Tasmanian budget statements, 2008–2009. As we can see, both the growth state product and the state final demand, which are measures of economic activity in the state, have both continued to show strong demand in the state.

20 The figure for 2007-08 and the growth state product is expected to come in at about three and a quarter per cent, and it is forecast that that level of growth will continue into 2008–2009. The state final demand, which is a measure of expenditure, actually showed a very significant increase in 2007-08. While we don't have a forecast for that figure, it is expected that will continue. The Treasury are estimating that the current growth will continue on. The wage price index, as I've indicated, has fallen slightly from 4.5 per cent last year to 3.6 per cent this year.

30 But interestingly, or very importantly, we see significant growth in employment. The Tasmanian employment numbers have 233,000 as at the end of May, which is an unemployment rate of 4.4 per cent. The Australian unemployment rate is currently 4.2 per cent. So the possibility of the Tasmanian rate and the Australian rate being the same would be something that we haven't seen before. But unemployment continues to fall and the government has put in an estimate of jobs growth of 4000 in the next year and an estimate that unemployment will stay at around about 5 per cent. Maybe that's not a pessimistic forecast.

40 Importantly, we have seen growth in the participation rate. Participation is the number of people of work-eligible age who are either in employment or seeking employment. Over the period of the last 12 months that figure has increased from 60.3 to 61.1. And again the Treasury forecast is indicating that they think it will stay higher, that perhaps at this stage they're not expecting to reach the same heights as this year.

45 Population in Tasmania continues to grow and it is forecast that the Tasmanian population will continue to grow and the inflation forecasts are showing a moderation from 3.8 per cent at the end of March this year – sorry, May this year.

The list of economic indicators that I've taken for the Australian economy are also from the Commonwealth budget papers released in May, Commonwealth budget paper number 1 for 2008–2009 and every one of those indicators is showing that the Australian economy remains strong.

5

GDP is forecast to increase. Consumption is expected to increase. Investment is expected to increase. Demand is expected to increase. Exports and imports increase in terms of trade are expected to rise significantly. Employment growth is expected to continue. They are expecting a fairly stable participation rate. They are expecting unemployment to stay about where it is, with perhaps a slight increase. They are looking to a growth in wages. And they are forecasting inflation of 4 per cent across the year. To quote from the Tasmanian budget paper number 1, page 2.1:

15 *Economic conditions in Tasmania continue to support above-trend economic growth despite the less favourable global outlook and the tightening of monetary policy in Australia in response to inflationary pressures. The economic recovery that began in 2001–2002 has continued in 2007-08 with strong jobs growth, investment close to record levels and growth in export sales. The unemployment rate is at a record low level. An additional 4000*  
20 *jobs are expected in 2008-09 with unemployment remaining about 5 per cent. Continued strong economic and employment growth is expected by 2008-09, driven by public and private-sector investment, consumer spending and increases in the volume of mineral-related exports due to increased mining activity in the state.*

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An altogether positive forecast. The Commonwealth forecast is perhaps not quite as bright, but still quite strong. To quote that document:

30 *Potent forces in the global economy are pushing Australia in opposite directions. Slower growth in the United States and turbulence in world financial markets are affecting many countries including us. At the same time the prices of our exports are rising strongly and domestic inflationary pressures are high. But robust growth in the emerging economies of China and India is expected to drive further large rises in Australia's terms of trade,*  
35 *boosting income and prices.*

*The terms of trade are anticipated to rise by over 20 per cent by the end of the year. This will be the largest increase in a generation, lifting nominal economic growth to nine and a quarter per cent, or real adjusted growth to two and a half per cent, the highest rise in 19 years. The Australian economy is in its 17<sup>th</sup> year of growth. We've had 17 consecutive quarters of growth, now spanning three different governments.*

45 I submit that these achievements and forecasts show a very robust and strong national economy and a very strong and robust Tasmanian economy. To consider the impact of this rise in previous evidence to the Commission, we have demonstrated that the likely aggregate wage effect is less than point 2 of one per cent. In addition we have seen since the state wage case has commenced, an increase

in the employment in Tasmania, and importantly we have seen an increase in participation.

5 Each year since the state wage case has been run, both of those numbers have been going up. Indeed, if we consider the participation rates – noting that Tasmania has a participation rate at the moment of 61.1 per cent of age-eligible workers compared to a national rate of 65 per cent – it's perhaps worth noting that employers are indicating labour shortages and skill shortages are the biggest single strain on their business.

10 It could well be argued that encouraging more workers into the work force is the most important task for labour-market programs at the moment. And I would suggest that higher wages can only assist that process. But if Tasmania was to increase its participation rate up to the national average, then there will be another 15 10 or 15,000 people looking for work in Tasmania. And that surely would be a healthy thing for our employers.

In T12395 July 2006 the Commission established two other elements that need to be tested as part of the wage case. Those are the economic position of any industry 20 likely to be affected by the case and then any other issues which are deemed to be in the public interest.

I would submit that given the aggregate strength of the economy, the lack of any evidence to the contrary, and the ongoing right for individual employers to seek 25 relief under the wage-fixing principles, then the principle of economic-position element is clearly simply satisfied, that there is no demonstrated problem with this rise. Employment has been growing. Participation has been growing. The aggregate effect is – as I said – less than point 2 of one per cent. On the question of public interest, I would submit that given that there is broad agreement amongst the 30 parties of the nature and science of the pay rates, as demonstrated by the memorandum of understanding, that any issues of public interest have been met.

If the Commission pleases, this is an important decision for the workers who remain affected by the Tasmanian minimum wage or who are on Tasmanian award rates. 35 These are workers who for whatever reason are not in a position to bargain and rely on a just and equitable decision of this Commission to maintain the value of their wages and to share in the general prosperity. I ask the Commission to give prime consideration to the memorandum of understanding from the parties in making its decision on this matter. Thank you.

40 PRESIDENT LEARY: Mr Cocker, it wouldn't be a state wage case – at least in recent times – if one of the members of the bench didn't ask whether we needed to continue with wage-fixing principles. So consider it asked. But I don't expect any response at the moment. But what I'd like you to do, and the other parties to do over 45 the next few months perhaps, is to think about whether we need wage-fixing principles at all, whether they've reached their use-by date under the current system that we're working. So you can have some time to ponder that.

MR COCKER: Thank you, President. We'll do that.

PRESIDENT LEARY: Thank you.

5 COMMISSIONER ABEY: Mr Cocker, just by way of clarification, if I can take you to Union 3. And the third line of the table, "Treasury estimate." Treasury estimate of what?

MR COCKER: Union 3 is the table of economic indicators.

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COMMISSIONER ABEY: Yes. The third line has got "Treasury estimate."

MR COCKER: Right, okay. The Tasmanian Treasury has a different view on the measurement of economic activity in the state from the Australian Bureau of  
15 Statistics. The gross state product is the ABS's method of determining activity. The Treasury has a different view and it undertakes a survey which is based more on expenditure and investment to measure, and that's what the Treasury estimate is.

COMMISSIONER ABEY: Thank you.

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PRESIDENT LEARY: So one is the ABS and one is the State Treasury.

MR COCKER: Yes.

25 PRESIDENT LEARY: And they've come up with the figure anyway.

MR COCKER: Yes. They're completely different methods but the same answer, yes.

30 PRESIDENT LEARY: All right, thanks. Mr Jacobson?

MR JACOBSON: Thank you, members of the bench. I would simply support the submissions made by Unions Tasmania with respect to this matter. We have a  
35 number of members obviously that would benefit from any decision of this nature. And certainly in the current economic environment providing a decent wage increase for our members would be something that they would be pleased with. So I simply support the application made by Unions Tasmania.

PRESIDENT LEARY: Thank you. Mr Wishart?

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MR WISHART: If it please the Commission, the Tasmanian Education Union would also completely agree with the submission made by our colleague.

PRESIDENT LEARY: All right, thank you. Mr Mazengarb?

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MR MAZENGARB: I'd better move the microphone. Apparently we're on a new system for the very first time in Tasmania. It isn't quite working yet. Obviously we need a few more microphones.

PRESIDENT LEARY: Are we?

MR MAZENGARB: So we're testing it out.

5 PRESIDENT LEARY: We're real trendsetters, aren't we?

MR MAZENGARB: Thank you, President and members of the bench. My relatively brief submissions will primarily be split into three parts. The first part will address the statutory responsibilities that this Commission has to apply, relative to  
10 the application that is currently before you.

The second part will generally address the status of the Tasmanian economy, which has been alluded to by my friend, Mr Cocker. And more particularly how such imposes – or interposes – with the Commission's statutory obligations. And then the  
15 third part of my submission will be directed to the memorandum of understanding as provided by Mr Cocker as the applicant. I suppose there's a fourth part now, which in effect is addressing the wage-fixing principles, which – if my memory serves me correctly – at the end of my submissions I will address.

20 President, members of the bench, Tasmanian Industrial Relations Act 1984 imposes a number of statutory responsibilities or requirements on the State Commission. Relevantly for today's proceedings, section 35(10)(a) of the Act states:

25 *A Full Bench of the Commission must convene and conduct a hearing annually to determine the Tasmanian minimum wage specified in section 47(a)(b).*

Section 36 of the Act states:

30 *(1) Before the Commission makes an award under this Act, or before the Commission approves an industrial agreement, the Commission shall be satisfied that that award or that agreement is consistent with the public interest.*

35 *(2) In deciding whether a proposed award or a proposed industrial agreement would be consistent with the public interest, the Commission shall (a) consider the economic position of any industry likely to be affected by the proposed award or proposed agreement, (b) consider the economy of Tasmania and the likely effect of the proposed award or proposed agreement on the economy of Tasmania, with particular reference to the  
40 level of employment and (c) take into account any other matters considered by the Commission to be relevant to the public interest.*

It is within this factor I wish to move to the second part of the TCCI submission. That second part will provide a snapshot of the Tasmanian economy as it relates to  
45 the statutory responsibilities imposed on the Commission by the Industrial Relations Act. As the TCCI is in accord with the applicant, I do not intend to go through an extensive economic analysis of the state of the Tasmanian economy, but I do intend to provide some key economic indicators which in effect support the position by the

applicant. Such indicators have primarily been sourced from the Australian Bureau of Statistics and alluded to in the State Treasurer's pronouncements relative to the 2008-2009 state budget.

5 President, members of the bench, from ABS figures, Tasmania at March 2008 was  
the nation's strongest economy. The State's economy had expanded by 8.1 per cent  
through the year to March 2008. Consumer spending for the March quarter was up  
2.3 per cent, this being a record high. This in actual fact represented the strongest  
10 growth in Australia. The average debt level in Tasmania was only 55 per cent of the  
national average. Private investment was up 2.2 per cent in the March quarter.  
Nearly one billion dollars was spent in the March quarter, which was a record high,  
and represents the strongest growth in investment nationwide. Dwelling investment  
was up 3 per cent in the March quarter as compared to point 1 per cent – sorry, a  
15 point 1 per cent rise nationally.

For the March quarter Tasmania had the most affordable housing in Australia. The  
average loan was \$90,000, as compared to \$140,000 nationally. With regard to  
employment, there was a record 233,300 Tasmanians with jobs, with full-time jobs at  
a record high. There was a record 4.4 per cent unemployment rate with a large fall in  
20 the long-term unemployed.

With regard to productivity, following revisions to ABS data, productivity in  
Tasmania is now better than first thought. Labour productivity is now at 93 per cent  
of the Australian average. This in actual fact is placing Tasmania ahead of  
25 Queensland and South Australia. In an independent analysis of the 2008-2009  
Tasmanian state budget, Saul Eslake, chief economist with the ANZ Banking Group  
stated last week, on 14 June:

30 *The substantial improvement in the revenue outlook since last year's budget  
has allowed the government to commit to new spending initiatives totalling  
more than one billion dollars over the next four years, while adhering to all of  
the requirements of its fiscal strategy and leaving the budget in a very strong  
financial position.*

35 He went on to state in particular:

*The net operating surplus will exceed one million dollars –*

40 Sorry –

*one hundred million dollars in each year of the forward-estimates period,  
reaching 275 million in 2011-2012. The fiscal balance will be in surplus each  
year and by an average of 65 million per annum over the next four years. The  
45 overall cash surplus will exceed 100 million dollars in each of the next four  
years.*

And in the final statement, he said:

*Net financial assets, that is the excess of financial assets over debt will rise from 969 million dollars at the end of the current financial years to an expected 1.66 billion by June 2012.*

5 Now, that's on the positive side, but other recent data suggests that government and business should or will proceed with caution. This recent data indicates that whilst Tasmania's economic fundamentals remain strong, global and national economic conditions are becoming less favourable. Tasmania as an export-orientated economy is particularly vulnerable to a downturn in these external conditions.

10 Following several years of favourable national and international conditions, the external environment is now more mixed. While some forces are likely to support further economic growth such as continued growth in China and other developing countries that are major purchasers of Tasmania's exports, other pressures are likely to constrain economic activity including higher interest rates.

15 There is a view that on balance external economic conditions are likely to contribute to economic growth to a lesser extent in 2008-2009 than in recent years. These external economic conditions include the fact that Tasmania's overseas export sales eased by 2.4 per cent in nominal terms in the 12 months to March 2008, to 3.52 billion dollars.

25 Export levels remain very high, but historical standards – by historical standards, but it is predicted that previous strong growth levels may not be repeated. Modest growth in overseas and interstate exports is therefore expected for Tasmania in 2008-2009. A strong exchange rate against major currencies, especially the US dollar is likely to impact adversely on the Tasmanian export and import competing sectors, but face strong competition from overseas. Sectors that are exposed include the textile, clothing and footwear industries where production has in some cases, been transferred to South-East Asian countries such as Thailand and India.

30 Of further concern is the potential global inflationary effects arising from the recent increases in food prices and very high oil prices. The TCCI survey of Tasmanian business expectations recently found that Tasmanian business confidence in the national economy over the next 12 months to the end of March quarter 2009 has decreased from 46.59 to 41.02 index points. Similarly confidence in the Tasmanian economy has fallen from 46.14 to 41.46. These index scores indicate Tasmanian business overall expects weakening economic growth prospects over the next 12 months to the end of March 2009.

40 The survey also recorded that wage costs are the second biggest constraint on business growth, second to the availability of skilled labour. In the past two state wage case deliberations, the TCCI for its part has attempted to persuade the Commission to in effect adopt two principal positions, the first position being that the State Commission should delay handing down its decision until the determination of the Australian Fair-Pay Commission was known.

In both instances the TCCI submission, and in one instance the submission of Federal Minister for Employment and Workplace Relations was unsuccessful. In the alternative, in both the 2006 and 2007 cases, the TCCI proposed that any wage increase should be based on the CPI figures for 12 months ended March 2006 and  
5 March 2007 respectively. In rejecting such proposals the Commission has indicated that the wage-price index is the most useful indicator to determine an appropriate and relevant measure for any wage increase.

10 President, members of the bench, I understand that a similar approach was adopted by the Full Bench of the Australian Industrial Relations Commission in its last safety-net adjustment – or safety-net review – which was conducted in 2005. Consequently in the 2007 state wage case decision, this Commission awarded a weekly increase of \$22.70, such being based on the wage and price index for Tasmania of 4.5 per cent for the March quarter ended 2007.

15 It also awarded increases to relevant allowances based on previously agreed formulas. In light of the overall state of the Tasmanian economy and the previously adopted positions of the Commission, the TCCI is of the view that it is not in a position to mount any sustainable argument supporting a divergence from the use of  
20 the wage price index in this instant application.

That then leads me to the third component of today’s TCCI submission, the memorandum of understanding. Being confident that the acceptance and adoption of the wage price index would not offend the Commission’s statutory obligations  
25 relative to public interest, and be cognisant of the last two decisions of this Commission, the TCCI was of the view that a consensus made be achievable with the applicant, the Tasmanian Trades and Labor Council.

30 Following discussions with the secretary of the council, we were able to achieve a consensus. Such is reflected in the memorandum of understanding as tabled and slightly amended by my friend, Mr Cocker. And I should say I have no objection, obviously, to that slight error in the wording in relation to “week” or “meal.”

35 The document is based on the calculation of a flat wage increase of \$19 per week, which is 3.6 per cent of the current minimum wage of \$527.10, with 3.6 per cent being the wage price index for the March 2008 quarter for Tasmania as determined by the Australian Bureau of Statistics. Other outcomes in the memorandum as addressed by Mr Cocker are based on agreed formulas previously developed by the parties, or as reflected in the wage-fixing principles. The operative date of the first  
40 full-pay period on or after 1 August is consistent with date and purposes with past decisions of this Commission.

45 In summary, President, members of the bench, the TCCI contends that the memorandum if adopted by the Commission, does not offend the relevant provisions of the Act, and in particular does not offend the public interest requirements of the Act, is sustainable in the current economic climate of our state, and is not inconsistent in the approach adopted by this Commission in past relevant decisions.

In conclusion the TCCI would encourage the Commission to adopt the agreed position achieved between the peak employee and employer bodies. The fourth point, Madam President, wage-fixing principles. As a practitioner in this business - if we want to call it that – for the last 30 years, I must say that for the first time for  
5 about eight or nine years I did actually have a look at the principles through the course of preparing for this case, and there were some floods of memories coming back - - -

10 PRESIDENT LEARY: I bet.

MR MAZENGARB: - - - with regard to particular principles relative to work-value change.

15 PRESIDENT LEARY: I think that's more a reflection of the number of years that you've spent in the jurisdiction rather than anything else.

MR MAZENGARB: It could be that. The situation is, from the TCCI's perspective, we'll take on board the comments that have been made by yourself on the bench in relation to whether or not they have achieved their use-by date or past  
20 their use-by date.

PRESIDENT LEARY: Well, maybe just some of them, all of them, who knows?

MR MAZENGARB: It's something that – certainly as I said – when I was going  
25 through them, there are some – but components of the principles which I think should be retained. On the other hand there are some components to the principles that may be now obsolete. The question of course begs itself, are the principles doing any injury or causing any injury to any parties, be it my side of the bar table or the other side of the bar table. From my perspective, from where I sit from the  
30 employers perspective - and I haven't received instructions on this – but they certainly don't cause at the moment any injury to the members that I represent.

PRESIDENT LEARY: Is that because they're not being used or observed anyway?

35 MR MAZENGARB: Well, they are being used to an extent in some areas in relation to how we determine the formula for increasing some allowances, etcetera. There is the ability, I think under – forgive me if I'm wrong – under either clause 13 or 14 of principles for employers to argue incapacity to pay, etcetera. Those issues in relation to that particular one I can't recall that being used in this Commission. But  
40 they are there and available - - -

PRESIDENT LEARY: Procedural type - - -

45 MR MAZENGARB: They are more procedural.

PRESIDENT LEARY: - - - principles, yes.

MR MAZENGARB: We certainly take on board comments that you've made with regard to the possibility of examining those principles in relation to their current usage and need for usage in the system, and we'll have a look at that over the next two or three months. And hopefully we'll do that in conjunction with the Trades and Labor Council.

PRESIDENT LEARY: Yes. We certainly would be happy to chair some conferences and have some discussions about them, and just see whether we need the current ones, whether we need to look at some different ones, whether we need to look at a different system altogether. Because some of them I think, are redundant and are being – misused is not the right word – but that's the only one I can think of at the moment.

MR MAZENGARB: From the TCCI's perspective, we would be involved and would actively be involved in such discussions, so that we would encourage that to occur, especially if it was led from the Commission. That concludes my submissions if the Commission pleases.

PRESIDENT LEARY: All right, thank you. Mr Baker, we've listed these two matters together. I haven't formally joined them. Is there any objection to them being joined for the matter – for the purpose of the hearing? It just saves some paperwork that way.

MR COCKER: I'm not familiar with the second case, but I don't think I have any objection.

PRESIDENT LEARY: Okay. So we'll formally join the two matters. Thank you, Mr Baker.

MR BAKER: Thank you, President. The Minister for Workplace Relations supports the memorandum of understanding as tabled in Union 1 this morning. Without wishing to bore you with further budget-type submissions, which have been made this morning in support of the application, demonstrating the strength of the Tasmanian economy, it is true to say that the economy is fairly buoyant. And so my remarks in respect of the economy will be brief. They will mirror what has been put by both Mr Cocker and by Mr Mazengarb. And I quote from the budget paper number 1 at section 2.8. This is a summary of – just a summary:

*The sustained recovery in Tasmania's economic performance which commenced in 2001-02 is expected to continue throughout 2008-2009 and beyond. And that is supported by some major public and private public-sector investment projects. Global conditions remain favourable, although not to the same extent in recent years. The current tight monetary policy may constrain growth prospects, particularly as national consumption rates decline. However, the above trend economic growth is expected throughout '08-09 as a result of positive overall conditions, and the unemployment rate as has been previously pointed out to the Commission is expected to remain at the current record low levels.*

However, there is one constraint on the economy. I think that was pointed out by Mr Cocker, and that is the lack of readily available skilled labour, particularly in certain areas. And those underlying demographic trends may in fact hinder growth in certain areas.

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Having said that, the return to strong investment in Tasmania is sustaining our structural change and in fact that has transformed the economy. That has contributed to the State's growth overall, and indeed, as has been pointed out by Mr Mazengarb this morning, has put us at the forefront of growth as far as economic trends and terms are concerned throughout Australia.

10

It is for those reasons and the reasons that have been put forward today by parties concerned that the Minister for Workplace Relations supports the application as being an increase that is sustainable by the private sector generally. We do so consistent with the public-interest test, under section 36 of the Act, that it's sustainable, and it's consistent with the principles and the Act.

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If I may continue, President and members of the bench, I might put on my other hat as representing the Minister administering the State Service Act, and I would hand to the Commission an exhibit in relation to Public Sector awards.

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PRESIDENT LEARY: Thank you. I'll mark it Minister 1.

25 **EXHIBIT #MINISTER 1 EXHIBIT IN RELATION TO PUBLIC SECTOR AWARDS**

MR BAKER: This is an outline of the awards as we perceive them to be varied. And we say that all public sector awards that contain wage rates ought to be varied to reflect the increase of the minimum wage, except those list of awards as I've indicated there. Those awards, a number of them actually contain actual rates of pay. There are others who contain minimum rates of awards that have not been varied for reasons, firstly they were in the Federal Commission and were not updated when they returned to the state jurisdiction. So we would ask that those awards not be varied consistent with this decision today. And secondly, insofar as the work-related allowances are concerned we say that all awards of the public sector should be varied, except those awards which are indicated there, as they have other mechanisms that vary them accordingly.

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PRESIDENT LEARY: So they've got an internal formula. Is it the same?

MR BAKER: Either a different formula, or in fact they haven't been varied consistent with the principles of the minimum wage when they returned from the federal jurisdiction back into the state system.

45

PRESIDENT LEARY: Are those sorts of aberrations going to be sorted out in your mammoth exercise?

MR BAKER: If we ever get the current wages agreement sorted out, yes. I'll have some staff to devote to it.

5 PRESIDENT LEARY: I was sort of thinking within the next 10 years perhaps, yes. Okay.

MR BAKER: So – yes, so overall – as I said – all of our awards should be varied to reflect the 3.1 per cent in work-related allowances.

10 COMMISSIONER ABEY: So as I'm clear on this, Mr Baker, are you referring to all wage rates or just the minimum wage?

MR BAKER: No. In respect of public sector awards that contain wage rates that have been adjusted by this Commission through the application of the minimum  
15 wage – the annual minimum-wage adjustment – we seek to have those awards varied by the decision – or any decision that arises out of today's hearing.

COMMISSIONER ABEY: Right.

20 MR BAKER: With the exception of the awards as listed.

COMMISSIONER ABEY: Yes. So it's all classifications, not just the minimum wage.

25 MR BAKER: All classifications.

COMMISSIONER ABEY: Thank you.

MR BAKER: I beg your pardon, sir, yes.

30 PRESIDENT LEARY: Okay.

COMMISSIONER ABEY: Thank you.

35 MR BAKER: I think I just need also place on the record I'm sure the Minister now must be the single or indeed the largest employer in respect of an adjustment to minimum wages and allowances of the Commission.

40 PRESIDENT LEARY: It could well be. Of course the increases in the private sector awards only apply to those employers and employees who are still covered by the state system. They don't apply to - - -

MR BAKER: All those others.

45 PRESIDENT LEARY: - - - NAPSES. I have to think of Napisan – NAPSES. Okay, did you want to respond to anything that's been put, Mr Cocker?

MR COCKER: Thank you, President. I'd like to just thank my colleagues at the bench for their support with our claim. In relation to this other matter, we withdrew public sector awards from our original claim. It was my understanding that an alternate method of adjusting those awards process has been gone through. It would appear my understanding – from what Mr Baker has just said – that there were some awards that haven't received that treatment.

PRESIDENT LEARY: It would appear so.

10 MR COCKER: It would be our view if they haven't, that this adjustment apply to those awards too.

PRESIDENT LEARY: Well, some of course have come from the federal system, so they need some attention. And it would appear that there are others that have not been looked at either. It will all come out in the wash, no doubt.

MR COCKER: Yes, yes. We'd have no objection to those adjustments being made.

20 PRESIDENT LEARY: Thank you. Mr Jacobson? No. Mr Wishart?

MR WISHART: I mean, generally on behalf of the AEU I'd agree with this. But I mean I do have some frustration with appearing here today and having this document put in front of me with two awards that concern our union and not having any previous discussions or knowledge, whether it be due to my short period of time in Tasmania, or just not having any consultation with the employer on these matters. So I'm somewhat perturbed about them being put in front of us like this. I mean, I feel very uncomfortable about taking this back to my union without fully understanding the implications of what I'm agreeing to.

30 PRESIDENT LEARY: So are you talking about the TAFE Teachers Award, or just the other two teaching - - -

MR WISHART: The TAFE Teachers Award and the Teaching Service Award.

35 PRESIDENT LEARY: The Teaching Service Award.

MR WISHART: Yes.

40 PRESIDENT LEARY: Okay.

MR WISHART: And a question – when Mr Baker talked about the 3.1 per cent being applicable to all work-related allowances – does he include the awards in the bottom list there or not, because I don't know.

45 PRESIDENT LEARY: Except those ones on the bottom, yes.

MR WISHART: Okay.

PRESIDENT LEARY: And there's – the two teachers awards are there.

MR WISHART: Yes.

5 PRESIDENT LEARY: Look, what I'd suggest you do is perhaps you have a discussion with Mr Baker. I don't think there's anything untoward about what he's proposing.

MR WISHART: No.

10

PRESIDENT LEARY: Have a discussion with him and if there is any reason that we need to have another look at what's done, or what's been proposed, we can do so. But rather than delaying the rest of the proceedings, if Mr Baker is happy to sit down and just explain - - -

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MR BAKER: Yes, I am. They haven't been varied in the past.

PRESIDENT LEARY: Please explain.

20 MR BAKER: All I wanted to do today was just simply clarify so we didn't get awards being varied twice as we have done previously.

PRESIDENT LEARY: Yes. I support that.

25 MR BAKER: The only other thing I meant to mention, President and members of the bench, in relation to the review of the wage fixing principles, we'd be more than happy to participate in that. I did place some comments on the record last year.

PRESIDENT LEARY: Well, there was a variation last year.

30

MR BAKER: Yes. And I do recall in fact we did have a look at it once before, that we went away and had a look at it - and we went away and had a look at it - and we went away and had a look at it. So perhaps it's time we - - -

35 PRESIDENT LEARY: Yes, I know I sound like a broken record. But it's not going to go away. What we will do is we will have a look at a report-back date or a date for some sort of conference which we'll put in our formal decision, because you're not going to get away with it. We're going to do something about it.

40 All right. What we propose to do is we'll endorse the memorandum of understanding prepared between the Trades and Labor Council and the TCCI, and supported by the Minister. What we will do is wait for confirmation from either Mr Baker or Mr Wishart that the increases to go into the public sector awards are as they are spelled out in document Minister 1, just in case there's any change to that, if  
45 somebody could come back to us and let us know.

The increases will take effect from the first pay period on or after 1 August, and we will issue a formal decision in due course. Congratulations on reaching an agreement. Well done. And the Commission adjourns, thank you.

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**MATTER ADJOURNED at 11.21 am INDEFINITELY**

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