

**AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION**

*Workplace Relations Act 1996*

**WAGES AND ALLOWANCES REVIEW 2008**

**SUBMISSION BY THE AUSTRALIAN CATHOLIC COUNCIL  
FOR EMPLOYMENT RELATIONS**

**6 AUGUST 2008**

**Introduction**

1. This submission is made by the Australian Catholic Council for Employment Relations (“ACCER”) for the *Wages and Allowances Review 2008* in the Australian Industrial Relations Commission (“the Commission”).
2. The Commission’s review follows the decision of the Australian Fair Pay Commission (“the AFPC”) in July 2008 to increase the Federal Minimum Wage (“FMW”) and other wage rates by \$21.66 per week for a full time adult worker, effective from the commencement of the first pay period on or after 1 October 2008; *Wage-Setting Decision and Reasons for Decision, July 2008* (“the 2008 Decision”). The wages part of the Commission’s review arises under Schedule 6 of the *Workplace Relations Act 1996* (“the Act”) The Commission is required to consider whether it should increase the wage rates in a range of awards by this or some other amount.
3. In its submission to the AFPC’s Minimum Wages Review 2008 ACCER argued that the AFPC should increase the FMW and other wage rates by 4.2%, with a further amount equal to \$9.30 per week in the case of the FMW. It also submitted that, in the event that the AFPC decided to increase rates by a money amount, it should increase the FMW by a further amount equal to \$9.30 per week. ACCER’s submissions were based on estimates of the appropriate level of a needs-based

safety net FMW, with \$9.30 being treated as the first step in a process that would require the undertaking of relevant research.

4. These submissions are only concerned with the increases to be applied to the FMW and not to the AFPC's decision in respect of other wage rates. For the reasons set out below, ACCER submits that the Commission should set the FMW in the transitional awards under Schedule 6 of the Act at \$552.70 per week.

### **The AFPC's Decision on the FMW should not be followed**

5. ACCER submits that the Commission should not follow the AFPC decision to increase the FMW by only \$21.66 per week because the AFPC, in exercising its powers and in having regard to the provision of a safety net for the low paid:

- (a) made errors of fact by

- failing to properly consider and take into account the housing costs of low paid workers and their dependents;
- acting on estimates of the housing costs of low paid workers (being, inter alia, \$158.74 per week for a family of four and \$122.34 per week for a single person in December 2007) that were not based on any or any proper evidence;
- failing to take into account relevant material regarding housing costs; and
- failing to take into account the consequence that, having regard to housing costs, some FMW-dependent workers and their families (including a family of two adults and two children) would be living below the poverty line that the AFPC used for the purpose of identifying the living costs of low paid workers and their families; and

- (b) made errors of law and/or principle by:

- deciding that it should set the FMW on the basis of the needs of a single person without dependants;
- finding that a wage that provides a "reasonable margin" above the *Henderson Poverty Line* for a single person (which margin

it found to be 25%) should be the appropriate wage rate “for a person earning the lowest adult full time wage in the regulated market sector”;

- failing to set a wage that would permit adequate support for workers with dependants;
- setting wages at a level that would require that the costs of supporting the families of FMW-dependent workers to pass to the Commonwealth, without any commitment from the Commonwealth that it would do so;
- adopting a policy on the setting of the FMW that is not supported by, and is inconsistent with, established principles of wage-setting in Australia and inconsistent with the *Minimum Wage Fixing Convention, 1970*; and
- failing to have proper regard for the anti-discrimination provisions of section 222 of the Act by setting the FMW at a rate, and for reasons, that do not take account of, and are contrary to, the principles of the *Family Responsibilities Convention* and by failing to ensure that its decision does not contain provisions that discriminate because of, or for reasons including, family responsibilities.

6. The Commission’s review cannot be an appeal against the AFPC’s decision. However, the errors that we have identified are matters that are relevant to the proper exercise of the Commission’s jurisdiction. ACCER submits that, for the reasons outlined, the Commission should not adopt the FMW set by the AFPC. Further, the basis of the AFPC’s reasoning and decision is inconsistent with principles and decisions of the Commission. Accordingly, the Commission should vary the safety net FMW in the transitional awards covered by Schedule 6:

- (a) on the basis of the living costs, including housing costs, of low paid workers and their families; and

- (b) with regard for the ability of low paid workers to support their dependants and without limiting that assessment to the needs of a single worker who does not have dependants.
7. Having regard to the matters referred to in the previous paragraphs and to the matters set out later in these submissions, ACCER submits that, the Commission should set the FMW in the awards covered by Schedule 6 of the Act at \$552.70 per week rather than the rate of \$543.78 per week decided by the AFPC and, further, reserve, with directions, the question of any further adjustments to the FMW.
  8. ACCER submits that these matters are of major importance and public interest. For a number of years ACCER has argued in wage review cases in the Commission and the AFPC that the FMW, together with transfer payments, is manifestly inadequate to provide an acceptable standard of living for FMW-dependent workers and their families. The AFPC has now treated the FMW as an appropriate wage for a single person without family responsibilities, thereby confirming what ACCER has contended. This is a matter of major consequence, especially because government family assistance payments are not intended to, and do not, cover the extra costs of dependants in low paid working families.
  9. The Commission is the successor of the Court that recognised 101 years ago the importance of setting a wage that is fair and reasonable and capable of supporting families; *Ex parte H V McKay* (1907) 2 CAR 1 (“the *Harvester* case”). The concern for the families of workers in wage-setting decisions has continued in the Commission. Until its major wage-setting role was transferred to the AFPC in 2006 by the *Work Choices* amendments, the Commission conducted annual reviews in which a wide range of issues concerning safety net wages for workers and their families were canvassed. In the *Safety Net Review Case-Wages, May 2004* the Commission said:
 

“Whilst a significant proportion of Australian families continue to rely on a single wage as their sole source of income, the needs of single income families will continue to be relevant in connection with the needs of the low paid” (Print 002004, paragraph [275])
  10. The adoption of the AFPC’s decision regarding the FMW would be contrary to this established position. In these circumstances, the Commission should invite

submissions from the Commonwealth and other relevant parties on the legal, social and budgetary consequences of any decision to set wages on the basis of the needs of a single person without family responsibilities.

### **The constitutional and statutory framework**

11. This submission is concerned with that part of the Commission’s review that is conducted pursuant to Schedule 6 of the Act. Schedule 6 covers a range of employers and employees who are not covered by the substantive provisions of the Act. Prior to the *Work Choices* amendments, the principal basis for federal regulation of workplace relations was the conciliation and arbitration power of the *Australian Constitution*. However, the substantive provisions of the Act introduced by those amendments are not based on that power. Employers and employees who are not covered by the substantive provisions but are covered by an award previously made under the conciliation and arbitration power, are now regulated by Schedule 6 of the Act. The awards that cover them are known as “transitional awards”. The nature of the constitutional power underpinning Schedule 6 has important implications for the way in which the Commission performs its functions under the Schedule.
12. Clause 29 of the Schedule enables the Commission to vary the transitional awards in various respects, including *safety net* entitlements to rates of pay. Clause 8 provides that the AIRC must perform its functions in a way that furthers the objects set out in clause 1, which includes an object stating that the powers to vary transitional awards “are [to be] exercised so that wages and other monetary entitlements are not inconsistent with wage-setting decisions of the AFPC”. Clause 8 provides that “the Commission must ensure that minimum safety net entitlements are maintained for wages and other specified monetary entitlements, having regard to” several specified matters, including “wage-setting decisions of the AFPC” and “the desirability of its decisions being consistent with wage-setting decisions of the AFPC”.
13. The conciliation and arbitration power enables the setting up of a dispute resolution system in which the Commission has a degree of constitutionally protected

independence. A statutory obligation on the Commission cannot be inconsistent with the Commission's independence when acting pursuant to the conciliation and arbitration power. The limitation in the power was summarized by Barwick CJ in *R v Commonwealth Conciliation and Arbitration Commission; Ex parte Amalgamated Engineering Union (Australian Section)* (1967) 118 CLR 219, at 242:

"The constitutional power in this area is to make laws with respect to the settlement of industrial disputes extending beyond the limits of one State by a specific means, namely, by conciliation and arbitration. The Parliament is unable itself to legislate the level of wages to be paid. Nor has it power to direct the arbitrator as to the level of wages he shall prescribe in the settlement of a dispute as to wages. The constitutional power requires that settlement of the dispute be left to the arbitrator."

In the same case, Windeyer J said (at 269):

"...the Parliament has no power under the Constitution to direct that it go about its task of settling industrial disputes by fixing wages according to some particular principle or formula. It must be given a discretion as to means having regard to the end, the prevention and settlement of industrial disputes by conciliation and arbitration. If the Act commanded that the Commission fix wages by reference to a basic wage it would, I consider, be invalid."

14. This extent of parliament's power to direct the Commission was considered in the constitutional challenge to the *Work Choices* amendments to the Act. In *New South Wales v Commonwealth* [2006] HCA 52, the majority referred to submissions regarding the constitutionality of Schedule 6 and the Commonwealth's defence of the provisions and said: "The submissions by the Commonwealth that to require the AIRC to have regard to particular matters in making a decision is not to mandate a particular outcome should be accepted." (paragraph 305).
15. Clause 8 does not mandate the application of the AFPC decision in the 2008 review. An obligation to have regard to it and to the desirability of following the decision does not prevent the Commission from dealing with these matters in accordance with its constitutional independence and its general statutory powers. In particular, the Commission "must act according to equity, good conscience and

the substantial merits of the case, without regard to technicalities and legal forms” (clause 44(2) (c)). It must also observe relevant anti-discrimination considerations, as provided by clause 9. Clause 9(1) provides:

“Without limiting clause 8, in exercising any of its powers under this Schedule, the Commission must: ....

- (d) take account of the principles embodied in the *Family Responsibilities Convention*, in particular those relating to:
  - (i) preventing discrimination against workers who have family responsibilities; or
  - (ii) helping workers to reconcile their employment and family responsibilities; and
- (e) ensure that its decisions do not contain provisions that discriminate because of, or for reasons including, race, colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin.”

16. The *Family Responsibilities Convention* is reproduced in Schedule 5 of the Act. Article 3 of the Convention requires each member nation to make it an “aim of national policy” to:

“...enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities.”

Article 4 of the Convention provides:

“With a view to creating effective equality of opportunity and treatment for men and women workers, all measures compatible with national conditions and possibilities shall be taken-

- (a) To enable workers with family responsibilities to exercise their right to free choice of employment; and
- (b) To take account of their needs in terms and conditions of employment and in social security.”

### **The AFPC’s statutory functions**

17. The AFPC is required to adjust the FMW (section 196) and to adjust the minimum rates of pay for the many work classifications in the Australian Pay and Classification Scales (section 216). Adjustments to the FMW and the pay scales are subject, in part, to the provisions of section 23 of the Act.
18. Under section 23(c), the AFPC, “in performing its wage-setting function is to promote the economic security of the people having regard to [amongst other matters]...providing a safety net for the low paid”. The term *safety net* (which is also used in Schedule 6) is not defined in the Act, but, it is submitted, is one that is commonly understood. A wages safety net provides incomes that are sufficient to meet the basic needs of workers, having regard to general living standards in the community. The basic needs of workers must include the needs of their dependants. A wages safety net has to take into account the tax paid by workers and government transfers paid to them and to their families.
19. Section 23 requires the AFPC to consider more than the provision of a wage safety net when it sets wages. In particular, section 23(a) and (b) require that it have regard to “the capacity of the unemployed and low paid to obtain and remain in employment” and to “employment and competitiveness across the whole of the economy”.
20. Section 222 of the Act imposes anti-discrimination obligations on the AFPC when it is exercising any of its wage setting powers in the same terms as those set out earlier in regard to the Commission’s functions under Schedule 6.

### **The Historical Context and the “Family Wage”**

21. It is important to place the issues now before the Commission in historical context, both to demonstrate their importance in wage-setting and to support the argument that the Commission should not follow the AFPC’s decision on the FMW.
22. As we noted earlier, the *Harvester* case recognised the importance of setting a wage that is fair and reasonable and capable of supporting families. A wage that is fair and reasonable is more than a “poverty wage” and is one that rewards work



with, at least, an appropriate minimum standard of living for workers and their families in the context of the living generally prevailing in the community.

23. ACCER has played an active role in minimum wage cases in the Commission and the AFPC because of the importance that Catholic Social Teaching attaches to setting of minimum wage rates. On the centenary of Pope Leo XIII's 1891 encyclical *Rerum Novarum*, the Australian Catholic Bishops referred to the need for adequate wages and other entitlements:

“It was his [Pope Leo XIII's] view that human society is built upon and around productive human work. When a person is employed to work full-time for wages, the employer, in strict justice, will pay for an honest day's work a wage sufficient to enable the worker, even if unskilled, to have the benefits of survival, good health, security and modest comfort. The wage must also allow the worker to provide for the future and acquire the personal property needed for the support of a family. To pressure or trick the worker into taking less is, therefore, unjust.” (*A Century of Catholic Social Teaching*)

24. ACCER believes that this important objective has wide community support. This objective is not just an aspiration found in community sentiment. The recognition of the support of families in the setting of minimum wages is evident in, for example, the International Labour Organisation's *Minimum Wage Fixing Convention, 1970*, which has been ratified by Australia. Article 3 of the Convention recognises the interests of workers and their families and the relevance of general economic circumstances:

“The elements to be taken into consideration in determining the level of minimum wages shall, so far as possible and appropriate in relation to national practice and conditions, include--

- (a) the needs of workers *and their families*, taking into account the general level of wages in the country, the cost of living, social security benefits, and the relative living standards of other social groups;
- (b) economic factors, including the requirements of economic development, levels of productivity and the desirability of attaining and maintaining a high level of employment.” (Emphasis added)

25. Consistent with Catholic Social Teaching, ACCER's submissions to wage cases conducted by the Commission and the AFPC have sought the fixing of minimum

rates of pay that are sufficient, after allowing for income tax and relevant government transfers, to support a family of four at the minimum acceptable standard of living without the need for the second parent to undertake paid employment. The family of four has been identified because a family with two children best approximates the size of contemporary Australian families.

26. Major economic and social changes have impacted on the family, particularly in recent decades and there is less reliance on a single wage. Much more frequently both parents work, often with one working part time. Furthermore, the increasing value of various government transfer payments to families has meant that low income families receive a significant part of their incomes from the public purse.
27. These changes do not affect the fundamental importance of providing parents with a choice about how they care for their children. The issue was usefully summarised in the major report of the Commonwealth's Commission of Inquiry into Poverty, published in April 1975. (We will make further reference to this Inquiry later.) A major concern of the Inquiry was the extent of poverty among families in which there was a full time breadwinner. The Commission wrote the following in its review of the extent of poverty among families:

“A further way in which many low income families are often placed under great stress is in relation to the freedom parents have to decide how they will divide their time between working, looking after children, and other activities. Because of financial pressures some parents are confronted with the choice of spending more time earning money and less time at home or struggling on an income below the poverty line....

Some fathers compensate for their low wages by working low wages or working two jobs. In many instances this may create considerable pressure on parents and their children....

Inadequate wages and pensions place considerable pressure on mothers to work...The mere fact of a mother working is not necessarily detrimental to the family. The relationship between a mother working and child development has been hotly debated in recent years, but the research on the subject has been inconclusive. The pertinent issue is the freedom of mothers to choose whether or not to work, so that each family can reach a solution which is satisfactory for its members. The pressure to work created by an inadequate income means that some mothers are less free to choose.” (*First Main Report, April 1975*, volume 1, page 204, footnote omitted.)

28. This passage was written in the context of a higher proportion of stay-at-home mothers than is presently the case. Whether the changes since that time in workforce participation by mothers are the result of free choice or economic pressure is a matter of debate. However, the substantive point made in the passage remains true: parents should have the ability to choose that one of them will stay at home and care for the children and not engage in employment.
29. An effective choice by parents as to how they will exercise their responsibilities requires a “family wage”, ie a wage which, after allowing for income tax and relevant government transfers, is sufficient to support the family at the minimum acceptable standard of living without the need for the second parent to undertake paid employment. We emphasise that this is not a gender-specific issue. ACCER made this clear in its submissions to the AFPC’s Minimum Wages Review 2008:

“There are three important points to make about ACCER’s view of the family wage. First, parents should have the effective right to choose that one of them will stay out of the employed workforce in order to care for their children. A corollary of this principle is that parents may decide that the interests of the family, and those of the children in particular, would be best served by both of them being employed. Second, the principle applies whether the breadwinner, or principal breadwinner, is male or female. Parents should be able to choose which one of them will be the breadwinner and which one of them will stay out of the employed workforce in order to care for their children. Third, where parents are out of the employed workforce for a substantial period of time in order to raise children there should be various kinds of training programs and other educational support to assist them to return to the workforce when they choose to do so.” (Paragraph 17.)

### **The AFPC Decision in 2006**

30. The AFPC’s 2008 Decision should be read in the context of its earlier findings in respect of family disposable income and the costs of living. In its inaugural decision in 2006 (*Wage-setting Decision and Reasons for Decision – October 2006* (“the 2006 Decision”)) the AFPC calculated the disposable incomes of various household units, including the family of four with one breadwinner employed on the FMW, and said:

“The income support and family assistance safety net, and its continued improvement over recent years, *allows people with family responsibilities*

*to rely solely on a single wage to support their families.”* (Page 96, emphasis added.)

31. This conclusion was essentially based on a comparison of the disposable incomes (after-tax wages and transfer payments) of nine kinds of household groups with relevant Henderson Poverty Lines (“HPLs”) for those groups. The comparison showed, for example, that the disposable income of a single breadwinner family of four, with two children in the 8 to 12 years age group where the breadwinner was paid the FMW, was 31% above the relevant HPL. It was the same percentage by which the single FMW worker exceeded his or her HPL. This implied that the transfers received by the family equated to the extra needs of the dependants. The simple average for the nine household groups showed that they were 32% above the HPL.
32. The AFPC accepted that the safety net for the low paid should be fixed by reference to fairness which, it said, embodies the attributes of: “adequacy (ability to enjoy a reasonable or ‘decent’ standard of living); equity (relativity with higher-paid workers); and incentive (gap between in-work and out-of-work disposable income)”; at pages 95-96. It said, with apparent approval, that there was general agreement in the submissions put to it that “...minimum wages should, in combination with cash transfers, provide an income ‘well above poverty’”; at page 96.
33. The AFPC did not adopt any kind of household group as the reference point, or benchmark, for wage setting. It is clear that the AFPC regarded the margin of about 30% above the HPL as fair and appropriate. The AFPC’s decision to award a weekly wage increase of \$27.36 demonstrates that it did not regard a margin of less than 30% *above poverty* as appropriate.

### **Minimum Wages Review 2007**

34. ACCER argued in the Minimum Wages Review 2007 that the AFPC’s assessment in 2006 of the position of the family of four with one parent employed on the FMW was erroneous. It said that the AFPC’s estimate of the disposable income for the FMW-dependent family was excessive because it included the payment of the

Newstart allowance to the second parent. This allowance is a means-tested unemployment benefit to which he or she would *not* be entitled as a stay-at-home parent. At the time this allowance was paid to the partner of a FMW worker at the rate of \$107.79.

35. ACCER argued that the Newstart allowance was not relevant to the calculation of the disposable income of a family in which one parent stays at home to care for the children. To have an entitlement to the Newstart allowance, the non-breadwinner parent must be prepared to abandon his or her choice to stay in the home to care the children. It is not, therefore, an entitlement that is relevant to the question of whether the FMW and transfer payments allow the family to rely solely on the wage of one breadwinner.
36. In *Wage-Setting Decision No. 3/2007, Reasons for Decision* (“the 2007 Decision”) the AFPC produced a table in similar form to one that it produced in 2006, again setting out the disposable incomes of various household types compared with the relevant HPL. The table (Table 1.10) included various levels of employment income, related to the FMW, and a calculation of income tax and transfer payments. Again, it included the Newstart allowance. In commenting on its modelling in the table, the AFPC said:

“The Commission’s modelling in Table 1.10 does not purport to represent the disposable income of all low-income families, or even the average low-income family. Rather, *it seeks to compare family disposable incomes resulting from typical combinations of low wages and income transfers to commonly-accepted poverty lines*. This is done to judge whether the combination of wages and transfers provide a variety of family types with a level of disposable income that exceeds the relevant Henderson Poverty Lines (HPLs). The table indicates that for all family types the level of disposable income is *well in excess of the relevant HPL*”. (Page 69, emphasis added)

37. In a reference to the inclusion of the Newstart allowance and the inclusion of the maximum amount of rental assistance (which ACCER had questioned) the AFPC said:

“Table 1.10 *assumes that any entitlement to income support is taken up*. Rent assistance is also included since the HPLs include housing costs and it is likely that many low-paid employees live in private rental accommodation. To the extent that individuals with similar characteristics

are either ineligible for particular benefits or *choose not to take up those entitlements*, their disposable incomes will, of course, be lower.” (Page 70, emphasis added.)

38. The AFPC added a conclusion that was, in substance, a re-affirmation of its 2006 conclusion that the FMW, plus transfer payments, would provide an income that would allow workers with family responsibilities “*to rely solely on a single wage to support their families*”:

“The Commission remains satisfied that the combination of minimum wages and available income transfers provide families with at least one full-time wage earner on the standard FMW with incomes *well above the HPLs*.” (Page 70, emphasis added)

39. In ACCER’s view these two passages failed to recognise that the only way in which this standard of living could be achieved in the FMW-dependent family was by the second parent being entitled to the Newstart allowance, ie being prepared to take on paid work outside the home. The entitlement to the Newstart allowance is a limited one. To be entitled to the allowance the second parent must be prepared to work and accept suitable job offers. To seek the allowance without that intention would be wrong and most likely result in the loss of the allowance as a result of the application of Centrelink procedures. The AFPC’s estimate of family household income which includes the allowance can only be regarded as a transitional situation, although it will be for longer periods in times when, or places where, there is high unemployment. Deducting the Newstart allowance from the figure in Table 1.10 showed that the family was 11.6% above the relevant HPL, not 27.5% as specified in the table. It could not be described as “well above” the poverty.
40. By the AFPC’s own test (“well above poverty”) and its preferred measure of living standards (the HPLs), the wage that was set by the AFPC was inadequate for families relying on, seeking to rely on, a single wage FMW. This issue was raised by ACCER in the *Wages and Allowances Review 2007*, but the Commission decided to apply the AFPC’s decision to the transitional awards.

## **Minimum Wages Review 2008**

41. The underlying question is whether the FMW and relevant transfer payments are sufficient to provide the family with a minimum acceptable standard of living. ACCER estimated that at December 2007 the disposable income of the FMW-dependent family of four with two school-aged children was \$754.75 per week, a figure that excluded the Newstart allowance but included the maximum rental assistance. (The AFPC has since estimated that it was \$758.26; see row 7 of Table 4.4 below.) ACCER submitted to the AFPC:

“ACCER submits that a disposable income of \$754.75 does not provide an acceptable standard of living, does not provide a standard of living which is “well above poverty” and is incapable of enabling the family to “rely solely on a single wage”. A worker cannot support a family and educate children on this income. Furthermore, the family’s position is deteriorating because the next wage increase will not come into effect until October 2008.” (Paragraph 36.)

42. The AFPC’s finding in 2007 that FMW-dependent families were above the poverty line, even if not well above it, depended on: (a) the utility of the HPL to measure costs and to provide a guide to living standards; and (b) the estimates of transfer payments to workers and their families. The estimates of transfers involved the vexed issue of the Newstart allowance and the assumption that the families would receive the maximum rental assistance.
43. ACCER had two major submissions in its submissions to the Minimum Wages Review 2008 in regard to the AFPC’s use of the HPL in setting wage rates: (a) the HPL equivalence scales as a basis for calculating relative living standards between various income/household units; and (b) the level of costs incurred by households, in particular the housing costs that were included in the HPLs and child care costs that were not included. ACCER also argued that the circumstances of the family where one parent does not seek paid employment outside the home, and so has no entitlement to the Newstart allowance, should be specifically identified in the AFPC’s calculations.

### **The AFPC’s 2008 Decision**

44. The central part of the AFPC’s analysis of the financial needs and disposable incomes of various kinds of FMW-dependent households is found in Table 4.4 of

the 2008 Decision. The table follows a similar form to the tables in the 2006 and 2007 decisions to which we have made reference. The following is a reproduction of Table 4.4 with the addition of numbers to more easily identify the kinds of households in the various rows. It will be seen that the AFPC has included (at row 7) the family of four which is not eligible to receive the Newstart Allowance

**Table 4.4: Comparison of Henderson Poverty Lines (HPLs) with disposable income (DI) of households earning varying proportions of the FMW, December 2007**

Household type	Henderson Poverty Line (HPL)	Disposable income (DI) (\$pw)			DI as proportion of HPL		
	Dec 07 (\$pw)	50% FMW	100% FMW	150% FMW	50% FMW	100% FMW	150% FMW
1. Single adult, no children	374.11	377.12	467.70	646.50	1.01	1.25	1.73
2. Single parent, one child	480.28	541.96	672.72	843.69	1.13	1.40	1.76
3. Single parent, two children	581.33	627.50	758.26	929.23	1.08	1.30	1.60
4. Single-earner couple, no children	500.45	552.71	624.90	686.88	1.10	1.25	1.37
5. Single-earner couple, one child	601.56	678.32	770.06	843.69	1.13	1.28	1.40
6. Single-earner couple, two children	702.68	763.86	857.22	929.23	1.09	1.22	1.32
7. Single-earner couple, two children (no Newstart Allowance)	702.68	591.84	758.26	929.23	0.84	1.08	1.32
8. Dual-earner couple, no children	571.21	nm	667.03	745.02	nm	1.17	1.30
9. Dual-earner couple, one child	672.32	nm	767.12	883.25	nm	1.14	1.31
10. Dual-earner couple, two children	773.44	nm	852.66	968.79	nm	1.10	1.25

Notes: nm = not modelled.

Sources: AFPC modelling; Melbourne Institute of Applied Economic and Social Research, *Poverty Lines: Australia December Quarter 2007*, University of Melbourne, 11 April 2008

Assumptions: HPLs include housing costs and dual-earner figures include additional 'cost of work' component of \$70.76 pw. FMW = \$522.12 pw. Tax/transfer parameters as at 31 December 2007. Children aged 8-12. Households paying sufficient rent to receive maximum rent assistance, where applicable. Singles on 50% FMW and couples on 50% and 100% FMW eligible to receive Newstart Allowance, unless otherwise specified. Dual-earner examples assume income is split 2:1.



45. The AFPC has also included a new measure of living standards and comparisons between households. Table 4.5 contains a comparison of the various households by reference to the 60% median poverty line. Table 4.5, with row numbers, shows:

**Table 4.5: Comparison of 60% median income poverty lines (PLs) with disposable income (DI) of households earning varying proportions of the FMW, December 2007**

Household type	60% Median Income Poverty Line (PL) Dec 07 (\$pw)	DI as proportion of PL		
		50% FMW	100% FMW	150% FMW
1. Single adult, no children	387.48	0.97	1.21	1.67
2. Single parent, one child	503.73	1.08	1.34	1.67
3. Single parent, two children	619.97	1.01	1.22	1.50
4. Single-earner couple, no children	581.22	0.95	1.08	1.18
5. Single-earner couple, one child	697.47	0.97	1.10	1.21
6. Single-earner couple, two children	813.71	0.94	1.05	1.14
7. Single-earner couple, two children (no Newstart Allowance)	813.71	0.73	0.93	1.14
8. Dual-earner couple, no children	581.22	nm	1.15	1.28
9. Dual-earner couple, one child	697.47	nm	1.10	1.27
10. Dual-earner couple, two children	813.71	nm	1.05	1.19

Notes: nm = not modelled.

Sources: AFPC modelling; ABS, *Household Income and Income Distribution, Australia, 2005-06*, Catalogue No. 6523.0; Melbourne Institute of Applied Economic and Social Research (MIAESR), *Poverty Lines: Australia December Quarter 2007*, University of Melbourne, 11 April 2008

Assumptions: PLs are based on estimates of median equivalised disposable household income for 2005-06, updated for movements in household disposable income per head as calculated by MIAESR, and adjusted for household composition using modified OECD equivalence scale. FMW = \$522.12 pw. Tax/transfer parameters as at 31 December 2007. Children aged 8-12. Households paying sufficient rent to receive maximum rent assistance, where applicable. Singles on 50% FMW and couples on 50% and 100% FMW eligible to receive Newstart Allowance, unless otherwise specified. Dual-earner examples assume income split 2:1.

46. The AFPC's conclusion to its consideration of the FMW, and its adoption of the single person test for setting the FMW, after these tables:

"Of the household types whose disposable incomes the Commission has modelled, a single person without children is the only one whose disposable income does not depend on income transfers. These wage-earners have disposable income that is 25 per cent above the relevant HPL and 21 per cent above a poverty line based on 60 per cent of median equivalised disposable income. In the Commission's view, *this is a reasonable margin above poverty for a person earning the lowest adult full time wage in the regulated labour market.*" (Page 68, emphasis added.)

47. The first point that we make is that the ratios between the disposable incomes of the various households and their respective HPLs have fallen substantially. In Table 5.2 of the 2006 Decision the AFPC set out the margins at July 2006. A comparison of that table and Table 4.4 shows:

	July 2006	Dec. 2007
1. Single adult, no children	1.31	1.25
2. Single parent, 1 child	1.48	1.40
3. Single parent, two children	1.39	1.30
4. Single-earner couple, no children	1.33	1.25
5. Single-earner couple, one child	1.38	1.28
6. Single-earner couple, two children	1.31	1.22
7. Single-earner couple, two children	1.13	1.08
8. Dual-earner couple, no children	1.25	1.17
9. Dual-earner couple, one child	1.24	1.14
10. Dual-earner couple, two children	1.20	1.10

Note: row 7 applies to couples who do not qualify for the Newstart allowance. The figure for July 2006 has been calculated by ACCER.

48. Some significant differences appear between the two tables. The spread of margins in July 2006 that provided the basis of the AFPC's conclusion that wages were "well above poverty" has gone. (We note that the HPL figures in Table 5.2 of the 2006 Decision were those at March 2006, which were then the latest available figures. The increases in the HPLs over the following quarter turned out to be less than 1%. In that quarter minimum wages were unchanged and, to our knowledge, no relevant changes, such as indexation, occurred in relation to transfer payments. The 2006 figures may be treated as at March 2006. The comparison remains valid.)
49. The simple average of the nine households in the 2006 Decision was 1.32. The simple average of the same nine households in Table 4.4 is 1.23. This decline of nine percentage points represents the loss of more than one quarter of the margin that the households had over their respective HPLs in July 2006. The case of the single adult without children is particularly significant. The AFPC has treated this new percentage as standard for setting the FMW, yet there is no reference in the 2008 Decision of why a standard of living that was regarded as appropriate in 2006

(and permitted a \$27.00 per week increase) has been reduced. The changes are not adverted to in the 2008 Decision, despite the AFPC's view that poverty lines can be used to "assess how the relativities move over time" (page 65). We return later to the movement of relativities over a longer period.

50. The figures in Tables 4.4 and 4.5 show a very marked contrast between the single person and the single breadwinner family of four in row 7 of each of the tables. In Table 4.4 the family is 17 percentage points below the single person and, in Table 4.5, 28 percentage points below. The reason for this substantial variation is the use of different equivalence scales in the two tables. The former uses the original HPL scales, the latter uses the widely-accepted equivalence scales used by the Organization for Economic Co-operation and Development ("OECD"). By comparison to the OECD scales, the HPL scales underestimate the costs of the family relative to the single person. ACCER argued in its 2008 submissions for the use of the OECD equivalence scales, which are also used by the Australian Bureau of Statistics. (The HPL equivalence scales are based on research by the Budget Standards Service of New York in 1954; see *First Main Report, April 1975*, volume 1, page 13. In July 2008 the City of New York announced a new poverty measure based on recommendations made by the U.S National Academy of Sciences (*The Economist* 19 July 2008, page 42))
51. In reference to the estimation that some families are nine per cent below the relative poverty line, the AFPC says that the relative poverty lines that represent 60 per cent of median income are "the most generous definition of poverty commonly used by the OECD and academic researchers" (page 65). This point, if correct, does not lessen the significance of the result, either for wage-setting or public policy generally. The AFPC seems to further minimize the significance of this matter in the following passage:

"Nevertheless, households with one earner on the standard FMW have income in excess of both Henderson and relative poverty lines, when available income support entitlements are included. Results for single people, with and without children, are comfortably above both measures, with couples faring less well by comparison, especially under the relative poverty lines. The only family type with income below the relative poverty line (when receiving the standard FMW) is a single-earner couple

with two children that *chooses to forgo access to Newstart Allowance.*”  
(Page 66, emphasis added.)

52. As we have stressed, a single-earner couple is not *entitled* to the benefit of the Newstart allowance if the second parent wishes to stay at home care for the children and not seek paid employment. This may be read as an opinion that these families are the architects of their own poverty. Some will have that opinion. It is no answer to, in effect, tell the parent who is not employed to “get a job” so that the family can achieve a decent standard of living, and to go on welfare until that happens. The implication of this kind of thinking is that the objective of supporting a single-earner low income family is not legitimate and that the second parent should seek, and then take, paid employment in order to avoid poverty. The suggestion that the low paid single-breadwinner family puts itself in or near poverty by its own choice should be rejected.
53. The family which has an entitlement to the Newstart allowance (at row 6) only has a qualified right: suitable employment must be taken if it is available. The circumstances at row 6 are transitional and have limited relevance or utility to wage-setting, unless wages are to be set on the basis of an obligation for both parents to seek paid employment.
54. As we noted earlier, ACCER proposed the use of OECD equivalence scales as a better way to determine the respective needs of the family and the single person. This is of some significance because, under the HPLs, the single person’s HPL is 53% of the family of two adults and two children, whereas the OECD figure is 47.6%, a difference that can have significant results. Put another way the family rate would be 1.89 times (HPL) and 2.1 times (OECD) the single person’s rate.
55. The use of the OECD figures rather than the HPL equivalents in Table 4.4 would show that the family is worse off relative to the single person than it presently appears. This can be illustrated by reference to the single person benchmark with a disposable income of \$467.70 per week and a 25% margin above the HPL. This is the standard that the AFPC has set in the setting of a wage “for a person earning the lowest adult full time wage in the regulated labour market”. That being the case, we can use this money amount to calculate the impact of that wage on other

households in the light of the more widely accepted OECD equivalence scales. This means that the families in rows 6 and 7 would have a poverty line of \$785.63 (ie \$374.11 x 2.1), not \$702.68 as shown in Table 4.4. As a result, the family at row 7 would be *3.5% below poverty*, not 8% above poverty as shown in Table 4.4; and the family at row 7 (in receipt of the Newstart allowance) would be 9% above poverty, not 22% above poverty as shown in Table 4.4.

56. These are important matters, which show that the position of the families is much worse than Table 4.4 would suggest. They demonstrate that the FMW is not a wage that *“allows people with family responsibilities to rely solely on a single wage to support their families.”*
57. Row 10 of Table 4.4 provides a guide to the consequences of both parents working. It shows that if both parents work a full time FMW job between them, they will only be 10% above their HPL, a slightly better position than the single-earner couple family.
58. Row 10 also shows the kind of position that families would be in if the second parent had applied for the Newstart allowance. This is a common kind of working pattern by parents: full time work and part time work. The couple working full time and half time are only able to achieve the reasonable standard of living identified by the AFPC, ie a 25% margin above the poverty line. This means that, in order for the family of four to reach that minimum acceptable standard of living, the second parent has to get half time work. This is a fundamental departure from the objective that the FMW should be set at a level that is capable of allowing a family to rely solely on a single wage to support themselves at the minimum acceptable standard of living.
59. Row 10 also raises doubts about the capacity of low income families to work their way towards a better life. Couples who are working one and a half FMW jobs between them will have very little capacity to provide financial security, to save for a house or to provide better education for their children. In many Australian families the second parent works part time. The reward for that work should be an improvement over the minimum acceptable standard of living, not the mere achievement of it. A sole breadwinner should not be required to work a second job

or overtime in order to achieve that basic standard of living for his or her family. We refer again to the views of the Commission of Inquiry into Poverty quoted earlier (at paragraph 27) on the importance of families having an effective right to choose how they will exercise their family responsibilities. These are legitimate and relevant considerations in setting of safety net wages.

60. We turn now to the single parent calculations at rows 2 and 3 of Table 4.4. The rate that the AFPC set was not a rate on some kind of average across households. It did not say that, nor did it have the relevant statistics. It may, however, have been affected by the *apparent* living standards of single parents. The AFPC's calculations at rows 2 and 3 show that single parent households, with one or two children, have higher disposable incomes than *all other* households. This reflects earlier figures in 2006 and 2007. If these estimates of relative living standards are correct, family break-up would result in higher material living standards. ACCER has submitted to the AFPC that these estimates cannot be correct and has urged the AFPC (in 2007 and 2008) to have research done on this issue, but nothing has been done. The AFPC acknowledged this submission, at page 65, but did not deal with it. (We will return later to the costs of child care.) But the simple point, which ACCER made to the AFPC in the 2008 submissions, is that the HPLs do not include any amount for child care.
61. We turn to the position of the "benchmark" single worker at row 1 of Table 4.4. The AFPC's view that the single worker's 25% margin over the HPL was a reasonable margin, and to be used for setting the FMW, did not involve any contemporary evidence as to that person's costs of living, other than the adjusted HPLs. The setting of the rate must involve the need to make provision for the future needs of the worker. The future needs include the capacity to save for a home and prepare for the financial costs of family life. The FMW leaves the worker only \$93.59 above the poverty line, which is based, in part, on estimated housing costs of only \$122.34 at December 2007. This figure underestimates housing costs. After taking into account real housing costs and other reasonable expenses this is no more than a "hand to mouth" existence.

62. Another matter of concern is the long term decline in the value of the FMW relative to the HPL. At the commencement of the HPLs in August 1973 the minimum wage, after tax, was \$54.00 per week and the HPL for the single worker, without children was \$33.40. In the space of less than a working life the single person's margin over the poverty line has dropped from 61.7% to 25%. This is a very significant statistic with important social consequences, especially for the capacity of low paid workers to prepare for family life.

### **The Poverty Inquiry and the Henderson Poverty Lines**

63. Before turning to other matters arising out of the AFPC's decision, we refer to the nature and history of the HPLs and their relevance to the AFPC's continuing reliance on the HPLs, as illustrated in the following passages from the AFPC's 2006 and 2007:

“The income support and family assistance safety net, and its continued improvement over recent years, *allows people with family responsibilities to rely solely on a single wage to support their families.*” (2006 Decision, page 96, emphasis added.)

“It is also worth noting that the original Henderson poverty benchmark for a couple family with one earner and two dependent children was equal to the combined value of the then basic wage and child endowment. In other words, at that time, a family with one earner on the basic wage had an income equal to the HPL. Continued improvements over many years in the extent and coverage of income transfers *for working families have resulted in families now having disposable incomes well in excess of relevant HPLs.*” (2007 Decision, page 70, footnote omitted, emphasis added.)

64. The Commonwealth Commission of Inquiry into Poverty (“the Poverty Commission”) was established by the McMahon Government in August 1972, with Professor R F Henderson as its sole member. In March 1973 it was expanded to include four extra Commissioners, with Professor Henderson becoming Chairman. The Commission delivered its *First Main Report* in April 1975 (“the Poverty Report”).

65. The Poverty Report published poverty lines for a number of household types, based on research dating back to 1966 by Professor Henderson and others at the Institute of Applied Economic and Social Research, now the Melbourne Institute of Applied Economic and Social Research (“Melbourne Institute”). These have come to be known as Henderson poverty lines, or HPLs. Updated HPLs are published quarterly by the Melbourne Institute, with the following explanation:

“The poverty lines are based on a benchmark income of \$62.70 for the September quarter 1973 established by the Henderson poverty enquiry. The benchmark income was the disposable income required to support the basic needs of a family of two adults and two children. Poverty lines for other types of households are derived from the benchmark using equivalence scales. The poverty lines are to periods subsequent to the benchmark date using an index of per capita household disposable income. A detailed description of the calculation and use of poverty lines is published in the Australian Economic Review, 4<sup>th</sup> Quarter 1987 and a discussion of their limitations is published in the Australian Economic Review, 1<sup>st</sup> quarter 1996.” (*Poverty Lines: Australia ISSN 1448-0530 December Quarter 2007*, page 1)

66. It should be emphasised that the HPL benchmark household was, and remains, the benchmark family of two adults and two children, with one or neither of the parents being employed. It is the reference point for each of the other nine types of households in the publication. The published poverty lines are in two kinds of income units: “Head in workforce” and “Head not in workforce”. For each household there is poverty line that includes housing and one that excludes housing.
67. It is important to understand that the HPL benchmark does not cover the position of a household in which both parents work. It was not established as a measure for a family in which both parents are, or seek to be, employed. Nor did it take into account, as has the AFPC, any unemployment benefit, such as the Newstart allowance, that the second parent may be able to claim when measuring the benchmark family’s standard of living. Because child care is provided by one of the parents in the benchmark family, child care costs are not included. For example, the costs of working are the same for a single person as they are for the single parent with two children. In the latest published HPLs they are \$71.51 per



week each; see *Poverty Lines: Australia ISSN 1448-0530 March Quarter 2008*, page 1.

68. The Poverty Commission fixed the HPLs at an “austere low level”. It said that it did this so that “It cannot seriously be argued that those below this austere line, whom we describe as ‘very poor’, are not so.” (*First Main Report*, page 13.)
69. The Poverty Commission’s calculations showed the following at August 1973:

<u>Income unit</u>	<u>Poverty line</u>	<u>Min wage after tax</u>	<u>Child endowment</u>	<u>Total</u>
Single	\$33.40	\$54.00	-	\$54.00
Couple	\$44.70	\$55.00	-	\$55.00
Couple, 2 children	\$62.70	\$57.00	\$1.50	\$58.50

(Extracted from Table 3.14 of the *First Main Report*. The minimum wage used by the Poverty Commission was \$60.00 per week and was fixed by reference to the different male rates that applied throughout Australia. The equal pay decisions had not been implemented at that time.)

70. These figures show that the family of four had a “poverty gap” of \$4.20 or 7% in August 1973. They show that the family received tax rebates of \$3.00 and child endowment of \$1.50 which were equal to 7.7% of its disposable income. By comparison, the proportion of tax benefits and transfer payments for the family in December 2007 (at row 7 of Table 4.4) was 38.3%. It shows a major change in the portions of family income coming from the wage packet and the public purse. We have already referred to the 61.7% margin that the single worker had over the poverty line. The decline in that margin to 25% demonstrates that underlying wages contribution to family incomes has been falling and increased contributions from the public purse are offsetting that trend. Whether this has resulted in a net improvement to these families (and, if so, to what extent) depends to a large extent on a consideration of changing housing costs, to which we return.
71. The Poverty Commission took no account of any potential entitlement to an unemployment benefit in the nature of the Newstart allowance because the intention was to consider and provide support to the single-breadwinner family. The policy objective was to have an acceptable disposable income for families

without the need for the second parent to undertake, or apply for, paid employment. The HPL benchmark family was, and remains, the family where the second parent stays at home in order to look after the children. It is represented by row 7 in Table 4.4.

### **Housing Costs**

72. Housing costs have been separately included in the HPLs since their inception. Each quarterly update contains estimates of housing costs for each household unit. The HPLs in Table 4.4 are those estimated for the December Quarter 2007. The housing costs for a single person were \$122.34, for the couple with two children, \$158.78 and for a single parent with one child, \$146.58; *Poverty Lines: Australia ISSN 1448-0530 December Quarter 2007*, page 1. In the March Quarter 2008 the housing costs have shown only slight increases: for a single person were \$123.64, for the couple with two children, \$160.42 and for a single parent with one child, \$148.13; *Poverty Lines: Australia ISSN 1448-0530 March Quarter 2008*, page 1.
73. Housing costs in the HPLs are adjusted in the same way as other costs. Their proportion of total costs remains constant over time. Housing costs for the single person are 32.7%, for a family of four, 22.6% and for a single parent with one child, 28%. These proportions more than a generation ago.
74. Various parties raised the issue of housing costs in their submissions to the Minimum Wages Review 2008 and referred to what are commonly known as “the housing crisis” and “housing stress”. The difficulties are confronted both by home owners and renters. Low income families are more likely to be renters.
75. The AFPC responded to these submissions in the context of rising costs and “financial stress”:

“Several submissions express concern about increases in living costs for low-paid working households. They highlight the rising costs of mortgage repayments, rents and transportation (including petrol). Prices for other basic expenses, such as milk and bread, have also been rising strongly:

‘...low paid employees and their families have been disproportionately affected by sharp increase in rents over the past year (since they are more likely to rent) and higher fuel prices (since they are more likely to live in outer urban and rural areas). The average increase in rents across capital cities from December

2006 to December 2007 was 6.4% and the corresponding increase in petrol costs was 14.3%.’

‘Successive interest rate increases, rent increases, rising personal debt, and spiraling costs of petrol, childcare, health care and education mean that low paid working Australians are struggling to meet their day to day costs of living.’

‘Higher inflation impacts on low paid workers, including those who are Pay Scale-reliant. It is clear that some low paid workers continue to experience financial stress. These workers are least able to maintain their standard of living in the face of higher prices and mortgage repayments or rents.’

....

Submissions from the ACTU, ACOSS and the Australian Government assert that one outcome of increased cost pressures on families is higher levels of financial stress:

In determining the level of minimum wages, the Government submits that the Commission should take into consideration the degree of financial stress reported by the low paid. At a time of rising prices and with recent increases in interest rates, it is important to consider the number of low paid households experiencing financial stress.

The Australian Government cites recent research by the Australian Housing and Urban Research Institute, which finds significant levels of reported financial stress among low income earners who were paying more than 30 per cent of their income on rent (the common definition of ‘housing stress’). The ACTU draws attention to other research commissioned by the Government which ‘concludes that housing stress is a particularly serious problem for low and middle income earners - those in the bottom 40 per cent of all earners in Australia’.

On the other hand, the Australian Government also cites research which shows that only six per cent of households containing low-paid adults consider themselves ‘poor or very poor’, despite the fact that around one third of all such households report one or more episodes of financial hardship during the previous year.

In order to improve its understanding of the living standards and financial pressures facing low-paid workers, the Commission has contracted external research into the household incomes, assets and consumption patterns of low-paid employees. This research, which is due to be completed in the latter half of 2008, will also analyse longitudinal data to determine the extent to which low-paid households face persistently low living standards over time.

In this Decision, the Commission has been especially cognisant of the financial pressures on low-income households at this time. Movements in consumer prices, in particular, have put many low-income households under considerable financial stress. While most submissions to the Commission raise this issue, there is no agreement on forecasts of inflation nor on the quantum of increase in minimum wages the Commission should award.” (2008 Decision, pages 62 and 64, footnotes omitted.)

76. ACCER’s submissions on housing costs emphasized the substantial divergence between the HPL estimates of housing costs and the levels of housing costs that had given rise to housing stress and the housing crisis. It argued that the HPL estimates of the cost of housing are manifestly inadequate and do not reflect the high cost of housing in contemporary Australia and said that the high cost of housing, of itself, has the capacity to reduce families to poverty and undermine the AFPC’s earlier conclusion that low paid single breadwinner families can live “well above poverty” and that workers on the FMW are able “to rely solely on a single wage to support their families”. The AFPC noted ACCER’s submissions (at page 65), but didn’t respond to them.
77. The importance of scrutinizing the HPL estimates of housing costs is apparent from Table 4.4. In the case of the family at row 7 the margin above poverty is only \$55.58 per week above the HPL, based on the unrealistic housing estimate of \$158.78 per week. If the real cost of the family’s housing is \$215 per week or more, they are living in poverty according to the HPLs. Even if not, they are placed under very substantial economic pressure.
78. The AFPC did take any account of the divergence between the range of material put to it and the HPL figures which it used to make its decision. Its decision to commission research was a sensible one for the purpose of estimating the full costs of housing, but it was not needed, or even desirable, to deal with the manifest inadequacy of the HPL estimates. There was material put to the AFPC which should have led it to conclude that the HPL figures for housing were wrong and that much higher figures were appropriate. ACCER submits that the Commission, in its own consideration, should be mindful of these matters and should not adopt the same course as the AFPC.

79. It is not necessary for the Commission in the current review to form a concluded view on the level of housing costs for home owners and renters, especially given the modest claim by ACCER in respect of the FMW adjustment and the high housing costs. ACCER submits that the Commission is under an obligation to deal with this issue, notwithstanding the absence of more comprehensive material: clause 44 (2) (c) provides that the Commission “must act according to equity, good conscience and the substantial merits of the case, without regard to technicalities and legal forms” (clause 44(2) (c))
80. ACCER submits that the Commission, in considering the utility of the estimates housing costs in the HPLs, should have regard to the material put to the AFPC; in particular that referred to in the earlier extract from the 2008 Decision.
81. ACCER referred the AFPC to a speech by the Prime Minister, Mr Rudd, on 3 March 2008 in which he referred to research by the National Centre for Social and Economic Modelling on the extent of housing stress on low income earners. It included:

“The Real Estate Institute of Australia reports that rental vacancy rates have now slipped below 3 per cent in every capital city. It is no wonder that the average rents for three bedroom homes have risen by 82% since 1996....

The research shows that there are now 1.1 million low to middle income households spending more than 30 per cent of their income on housing. That has increased by a quarter-or 220,000 households since 2004....And the data shows that it is a problem affecting all generations:

The number of low income families in housing stress that are headed by a person under 29 years old has increased to 350,000-an estimated 55% increase since 2004.

The number of families with children in housing stress has more than doubled since 2004. There are now an estimated 575,000 low and middle income families with children in housing stress – around 300,000 more than in 2004

The number of older Australians in housing stress has doubled since 2004....

When you look at this data, it is clear that the housing affordability problem has been one that has emerged over time and is now at a critical point.”

*(The Economy, Inflation and the Challenge of Housing Affordability; at [www.pm.gov.au/media/Speech/2008/speech\\_0114.cfm](http://www.pm.gov.au/media/Speech/2008/speech_0114.cfm))*

82. ACCER also referred the AFPC to a survey by the Real Estate Institute of Australia of median weekly rents for the September Quarter 2007 showed that the following for the five mainland capitals: Melbourne, \$260; Sydney, \$295; Brisbane \$300; Perth \$300 and Adelaide, \$255 (*The Age*, 4 March 2008, page 4). A more recent survey by Australia Property Monitors (*Quarterly APM Rental Series-June*) shows at June 2008 the median weekly asking rents capital city houses were: Melbourne, \$350; Sydney, \$420; Brisbane \$350; Perth \$350, Hobart \$285 and Adelaide, \$290. Median weekly asking rents for units were: Melbourne, \$310; Sydney, \$400; Brisbane \$300; Perth \$350, Hobart \$235 and Adelaide, \$240.
83. The Commonwealth has taken some major initiatives to address the housing crisis. The reasons for those initiatives are summarized in *Making Housing Affordable Again*, published by the Department of Families, Housing, Community Services and Indigenous Affairs in March 2008. These initiatives would not have been needed if the real costs of housing are or near at the levels shown in the HPLs.
84. We referred earlier to the AFPC's decision to include the maximum amount of rental assistance in the calculations of disposable incomes. ACCER has questioned the use of the maximum and submitted that, if rental assistance is to be included, it should be an average figure. Furthermore, there are policy implications in having rental assistance treated in this way. It has the effect of depressing wages for the low paid and making it harder for them to move into home ownership. Rental assistance should be taken into account, but it should be done in the process of estimating housing costs and done on an averaging basis. This emphasizes the need for the undertaking of contemporary research.
85. The AFPC's failure to take into account the real level of housing costs is inconsistent with its treatment of rental assistance. Rental assistance to low income earners is paid in various ways. At present the family at rows 6 and 7 in Table 4.4, for example, would not be eligible for rental assistance if its weekly rent is less than \$92.82. It would receive the maximum amount of rental assistance if its weekly rent is more than \$176.73. The maximum amount of rental assistance is \$62.96 per week. The amount is paid on a sliding scale over that rental range. The rate of rental assistance is \$3.00 for every \$4.00 over the range. A family paying

the HPL estimate of rent does not qualify for maximum rental assistance. It is inconsistent to include the maximum and limit housing costs to \$158.78. At \$158.78 per week the rental assistance is \$49.47, \$13.49 less than the maximum. This is a substantial amount.

### **Child Care Costs**

86. Another shortcoming of the HPL material is the absence of any estimate of child care costs. Child care costs are not included in the costs of the benchmark HPL family, from which the single parent HPLs are calculated, because child care is provided by the one of the parents. No addition is made in the HPLs for the child care costs of single parents. Child care costs can be incurred for all day care and for before and after school care. The costs of before and after school care (“B/ASC”) were considered in *Before and/or after school care*, a publication of the Australian Bureau of Statistics in August 2007. It included:

“In 2005, the average weekly cost of B/ASC (after the Child Care Benefit was taken into account) was \$26. This ranged from \$9 for school children using B/ASC for one weekday, to \$41 for those using B/ASC five weekdays per week.” (Australian Bureau of Statistics *Australian Social Trends 2007, Before and/or after school care*, 4102.0 0

87. ACCER submits that the absence of any consideration of child care costs means that Table 4.4 presents an erroneous assessment of the living costs of single parent families and their standard of living. As is apparent from the previous quotation, child care costs can be substantial, not only for single parents, but for other parents, such as those at row 10 of the table who take up part time employment. This situation is compounded when one considers that the HPL housing costs are inadequate assessments of the actual costs; for example, the estimated housing costs for a single parent and two children were only 146.58 at the December Quarter 2007 *Poverty Lines: Australia ISSN 1448-0530 December Quarter 2007*, page 1. ACCER submits that the true position is that low paid single parents and their children have a standard of living that is a long way from the “well above poverty” assessment made by the AFPC in its 2006 and 2007 decisions.

### **The Increase in the FMW**

88. ACCER has participated in wage review cases in the AIRC and the AFPC for a number of years and has argued that the FMW and the wage rates of other low paid classifications, together with transfer payments, are manifestly inadequate to support a family at a decent standard of living. It has regularly called for the undertaking of research on living costs for the purpose of setting a properly informed minimum wage. It has accepted that the extra amount needed to provide that standard of living cannot be provided by any one wage review case and that the economic impact of each wage decision must be considered. The attainment of a decent standard of living has to be achieved by incremental increases.
89. As a result of the wage case decisions handed down in 2008, the Federal Minimum Wage ("FMW") will move to \$543.78 (from October 2008), with the comparable minimum rates in the States being \$552.70 (NSW), \$557.40 (WA) \$546.10 (Tasmania). The 2008 State reviews in Queensland and South Australia are incomplete. The current rate in Queensland is \$528.40, \$6.28 more than the FMW set by the AFPC in 2007. In South Australia the current rate is \$522.15, which is essentially the same as rate set by the AFPC in 2007.
90. ACCER asked the AFPC to adopt the New South Wales minimum wage as the first modest step in moving towards a fair and reasonable safety net for low paid Australian working families. We stress that this was not for the purpose of removing jurisdictional inconsistencies. ACCER said that, on a proper evaluation of the evidence, the FMW should be increased by substantially more than that amount, but at a later date. ACCER submits that this should be done by the Commission in this review by way of an interim increase to the FMW with the matters adjourned for consideration and further determination under Schedule 6.
91. ACCER accepts that the Commission may take the view that proceedings under Schedule 6 are not the best way to consider some of the issues in this case. It also accepts that the Commission, if it were minded to increase the FMW in the way we have proposed, may prefer to make a final decision and not an interim one. The



referral of the unresolved issues might be referred to the award modernisation process under the *Forward With Fairness* amendments to the Act. That may give the Commission more flexibility to deal with the range of issues raised in these submissions, and in a proposal that ACCER put to the AFPC:

In each of its submissions to the AFPC in 2006 and 2007, ACCER has raised a number of issues about the way in which a safety net wage should be formulated and applied. These issues include the needs of workers and their dependants, the relevance and averaging of transfer payments and other benefits (including parenting payments and rental assistance) and the provisions the *Family Responsibilities Convention*. A proper understanding of these issues is essential to the future operation of a wages system that is underpinned by safety net minimum wages. ACCER calls on the AFPC to conduct an inquiry into the way in which a safety net wage should be formulated and applied. Having regard to the Commonwealth's proposal for the AFPC to be abolished by the end of 2009, ACCER proposes that the AFPC consult and work with the AIRC and State industrial tribunals in this task. (Paragraph 110.)

92. ACCER sees this process as a matter that can be taken up in the award modernisation process and has already filed submissions with the Commission in respect of some of these aspects.