

Queensland Productivity Commission Bill 2024

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**Submission to the
Governance, Energy and Finance Committee**

Queensland Productivity Commission Bill 2024

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Introduction

1. The Queensland Council of Unions (**QCU**) is the peak council of registered unions in Queensland representing 26 affiliated unions and almost 400,000 workers. We have a proud history of representing the voices of Queensland workers since 1885, and have been advocating for their industrial, social, and political interests since that time.
2. We welcome the opportunity to make a submission to the Governance, Energy and Finance Committee's (**Committee**) Inquiry into the Queensland Productivity Commission Bill 2024 (**Bill**).
3. Our submission is intended to address matters proposed in the Bill related to the purpose, functions and independence of the Queensland Productivity Commission (**QPC**).

Purpose and Functions of the Queensland Productivity Commission

4. The objective of the Bill is to implement a key election commitment of the Crisafulli Government the re-establishment of the QPC.¹ However, the Bill goes further than merely re-establishing the QPC. It proposes to expand the purpose and functions of the QPC beyond that of the previous iteration.
5. The functions of the previous QPC under the *Queensland Productivity Commission Act 2015* (**2015 Act**) were principally with respect to 'matters

Explanatory Notes, 1.

relating to productivity, economic development and industry'.² In contrast, the functions of the QPC established by the Bill do not relate to productivity at all.³

6. The word 'productivity' appears in the Bill sixty nine (69) times with all but one (1) of those relating to either the title of the Bill, the name of the QPC, the name of the 'Productivity Commissioner', the name of the Office of Productivity and Red Tape Reduction, or the 2015 Act. The only time productivity is meaningfully mentioned in the Bill is in clause 3 (Main purpose), and it is listed as only one of the matters the QPC should have 'particular regard to' when providing advice to the Minister.
7. The QPC proposed to be established by the Bill does not appear to be a productivity commission at all. Rather, it appears to be a statutory body established to provide centralised policy and legislative advice on any government business and inquire into any matter the Minister, or Government, may determine. This is evident in both clause 3 (Main purpose) and clause 9 (Functions) of the Bill.
8. Clause 3 of the Bill prescribes the following:

3 Main purpose

The main purpose of this Act is to establish the Queensland Productivity Commission to undertake inquiries and research and to provide independent advice to the Minister in relation to economic and social issues, regulatory matters or legislation having particular regard to productivity, economic growth and improving living standards in Queensland.

² Queensland Productivity Commission Act 2015, s 9.

³ Clause 9 of the Bill.

9. As proposed, the QPC's purpose relates to inquiry, research and advice about any: i) economic issue, ii) social issue, iii) regulatory matter, or iv) legislation. The terms 'economic issue' and 'social issue' are undefined in the Bill, presumably to take the broadest definition possible, and Schedule 1 of the Bill prescribes that 'Legislation' means 'a law of the State' and 'regulatory matter' means 'a policy, administrative process or proposal related to the making, amendment, implementation or review of legislation'. It is difficult to fathom what government business would not fall into one of these broad categories.
10. While the QPC is to have 'particular regard' to 'productivity, economic growth and improving living standards in Queensland' it is evident that this is not its principal purpose. If it were, clause 3 of the Bill would not be framed in such broad terms.
11. Further, clause 9 of the Bill prescribes the following:

9 Functions

- (1) *The main functions of the commission are*
- (a) to undertake inquiries into economic and social issues, regulatory matters or legislation as directed by the Minister; and*
 - (b) to undertake research into economic and social issues, regulatory matters or legislation as directed or approved by the Minister, or on its own initiative; and*
 - (c) to administer, monitor and review regulatory matters as directed by the Minister; and*
 - (d) to provide advice to the Minister as requested.*
- (2) *Also, the commission has any other function given to it under this Act or another Act.*

12. Again, it is evident that the QPC's proposed functions are beyond matters related to productivity. Consistent with the purpose prescribed in clause 3 of the Bill, the functions of the QPC prescribed in clause 9 of the Bill relate to undertaking inquiries and research and providing advice about: i) economic issues, ii) social issues, iii) regulatory matters, and iv) legislation.
13. In effect, as currently drafted the QPC may be used to circumvent existing statutory review or Parliamentary processes to consider legislation or regulations. It is unclear what the role of the QPC will be in regard to for example, the Queensland Law Reform Commission's processes, where five year statutory reviews are required, or the Office of Best Practice Regulation, or indeed for Parliamentary Committee processes.
14. The Bill's attempt to widen the remit of the QPC requires careful consideration of the Committee. The QPC should not be established in a manner that leaves it open to be misused as a vehicle to circumvent or undermine the work of long established institutions, statutory bodies, or parliamentary processes.
15. To provide appropriate safeguards, the QCU recommends amending clause 3 and 9 of the Bill to read as follows:

3 Main purpose

*The main purpose of this Act is to establish the Queensland Productivity Commission to undertake inquiries and research and to provide independent advice to the Minister in relation to **matters relating to productivity, economic growth and improving living standards in Queensland, including giving consideration to** ~~to economic and social issues, regulatory matters or legislation~~ having particular regard to*

~~productivity, economic growth and improving living standards in Queensland~~ *the social costs and benefits of those matters to the people of Queensland.*

9 Functions

- (1) The main functions of the commission are
- (a) ~~to undertake inquiries into economic and social issues, regulatory matters or legislation~~ *matters relating to productivity, economic growth and improving living standards in Queensland* as directed by the Minister; and
 - (b) ~~to undertake research into economic and social issues, regulatory matters or legislation~~ *matters relating to productivity, economic growth and improving living standards in Queensland* as directed or approved by the Minister, or on its own initiative; and
 - (c) ~~to administer, monitor and review regulatory matters as directed by the Minister; and~~
 - (d) ~~to provide advice to the Minister as requested.~~
- (2) Also, the commission has any other function given to it under this Act or another Act.

16. Consequential amendments would also be required to clauses 32 and 37 of the Bill:

32 Application of part

This part applies if a direction is given by the Minister under section 38 to the commission

- (a) to undertake an inquiry into a stated ~~economic or social issue, regulatory matter or legislation~~ **matter relating to productivity, economic growth and improving living standards in Queensland**; or
- (b) to undertake research into, and give advice about, ~~a stated economic or social issues, regulatory matters or legislation~~ **matter relating to productivity, economic growth and improving living standards in Queensland**; or
- (c) to administer, monitor or review a stated regulatory matter.

37 Undertaking research on commission's initiative

- (1) The commission may, on its own initiative, undertake research into a matter relating to ~~economic and social issues, regulatory matters or legislation~~ **productivity, economic growth and improving living standards in Queensland**.
- (2) Subsection (3) applies if the commission intends to publish the results of the research (the **proposed research**).
- (3) Before undertaking the proposed research, the commission must give the Minister notice of its decision (a **research proposal**) to undertake the proposed research.
- (4) A research proposal must include sufficient information about the proposed research to enable the Minister to decide whether the proposed research is
 - (a) relevant to ~~economic or social issues, regulatory matters or legislation~~ **productivity, economic growth and improving living standards in Queensland**; and
 - (b) suitable to be undertaken by the commission.
- (5) After receiving the research proposal, the Minister must
 - (a) consider the proposed research; and

- (b) *decide whether to approve or refuse the commission undertaking the proposed research.*
- (6) *In deciding whether to approve the proposed research, the Minister may amend the research proposal.*
- (7) *The Minister must give the commission notice of the Minister's decision.*
- (8) *If the Minister approves the proposed research, or amended proposed research, the commission may*
(a) undertake the research and prepare a report on the research; and
(b) publish the report on the commission's website.
- (9) *Also, the commission must give the chief executive a copy of the report at least 10 business days before the commission publishes the report.*
- (10) *The commission must not publish any research undertaken on its own initiative unless the research has been approved by the Minister under this section.*

Independence of the Queensland Productivity Commission

17. The QPC must be an independent statutory body with appropriate safeguards relating to the matters the Minister may give the QPC a direction about.
18. Clause 38 addresses this matter. However, it appears to omit in sub section (3) that a Ministerial direction cannot be about the content of a report prepared by the QPC (as was prescribed in the 2015 Act). The provision is confined to 'any advice or recommendation'.
19. This may very well be an oversight, but if left unaddressed, it presents a significant risk to the independence of the QPC. The QCU therefore recommends the following amendment to clause 38 of the Bill:

38 Ministerial directions

- (1) *The Minister may give the commission a written direction about the performance of its functions or the exercise of its powers if the Minister is satisfied it is reasonably necessary to give the direction.*
- (2) *Without limiting subsection (1), the Minister may give the commission a direction under that subsection*
 - (a) *to give the Minister, or publish, stated reports, advice or information within a stated period; or*
 - (b) *to have regard to particular matters in complying with the direction; or*
 - (c) *to undertake a particular type of public consultation in undertaking a stated inquiry.*
- (3) *The direction can not be about the content of any advice or recommendation given by the commission, or a report prepared by the commission.*
- (4) *If a direction is given under subsection (1), the commission must*
 - (a) *comply with the direction; and*
 - (b) *publish a copy of the direction on the commission's website.*

Conclusion

20. The QCU thanks the Committee for the opportunity to make this submission.

21. We encourage the Committee to carefully consider the improvements recommended by the QCU above, and welcome the opportunity to attend a public hearing should an invite be extended.