

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

*Industrial Relations Act 1999 – s. 156 – certification of an agreement*

Mornington Shire Council Certified Agreement 2015

*Matter No. CA/2015/8*

Commissioner Black

4 June 2015

CERTIFICATE

This matter coming on for hearing before the Commission on 4 June 2015 the Commission certifies the following written agreement:

Mornington Shire Council Certified Agreement 2015.

Made between:

Mornington Shire Council

AND

Employees of Mornington Shire Council

The agreement was certified by the Commission on 4 June 2015 and shall operate from 4 June 2015 until its nominal expiry on 30 June 2018.

There are no agreements to be replaced.

By the Commission.

Commissioner Black

## **Title**

This Agreement shall be known as the Mornington Shire Council Certified Agreement 2015.

## **Part 1 – Application and Operation**

### **1.1 Application**

- 1.1.1 This Agreement shall apply to the Mornington Shire Council (“Council”) and its Employees (“employees”).
- 1.1.2 This Agreement shall not apply to the Chief Executive Officer or a Senior Executive unless a written contract of employment states otherwise.
- 1.1.3 “Senior Executive” means an employee who reports directly to the Chief Executive Officer and is responsible for one of the following departments:
- (a) Corporate Services; or
  - (b) Technical Services; or
  - (c) Any other department created by organisational restructure.
- 1.1.4 No employee currently employed at the time of certification shall suffer a reduction of benefits or wages/salary upon certification of this agreement.

### **1.2 Date and Period of Operation**

This Agreement shall commence upon being certified by the Queensland Industrial Relations Commission (“the Commission”). This Agreement shall have an expiry date of 30 June 2018.

### **1.3 Relationship to Award**

- 1.3.1 This Agreement is deemed to incorporate the following specific terms of the *Queensland Local Government Industry Award 2014* (“the Award”):
- (a) Clause 9.1 – Full-time employment;
  - (b) Clause 9.2 – Part-time employment;
  - (c) Clause 9.3 – Casual employment;
  - (d) Clause 9.5 – Probationary employment;
  - (e) Clause 9.6 – Incidental and peripheral tasks;
  - (f) Clause 11 – Redundancy;
  - (g) Clauses 12.1, 12.2 and 12.5 – Classifications and minimum wage salary levels;
  - (h) Clause 12.9 – Junior Rates - General Stream;

- (i) Clause 13 – Allowances;
- (j) Clause 14 – Superannuation;
- (k) Clauses 15, 16, 17, 18 – Hours of Work, Breaks, On Call, Overtime, Shift Work, Weekend Work;
- (l) Clause 22 - Long Service Leave;
- (m) Clause 23 – Public Holidays;
- (n) Clause 24 – Jury Service;
- (o) Clause 27 – Service Leave;
- (p) Schedule 1 – Classifications and Wage Levels for Employees in the General Stream;
- (q) Schedule 3 - General Stream- Definitions and Position Descriptors.

1.3.2 Where there is any inconsistency between the express terms of this Agreement and the terms of the Award, the terms of this Agreement shall prevail to the extent of any inconsistency. In this Agreement, references to the Award shall mean the specified Award terms as incorporated into this Agreement, unless the context requires otherwise.

1.3.3 The Queensland Employment Standards (“QES”) are minimum employment standards set out in chapter 2A of the *Industrial Relations Act 1999* (Qld) (“the Act”) and shall continue to apply to this Agreement to the extent required by law, namely: -

- (a) minimum wage;
- (b) annual leave;
- (c) personal leave (including sick, carer’s, bereavement and cultural leave);
- (d) parental leave;
- (e) long service leave;
- (f) public holidays; and
- (g) jury service.

## **Part 2 – Required Content – Dispute Resolution, Fixed Term Employment and Higher Duties**

### **2.1 Dispute Resolution**

2.1.1 This term is further to clause 8 of the Award to ensure application to a dispute regarding a matter arising under this Agreement.

2.1.2 An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term if the representative is a union entitled to represent the employee's industrial interests.

2.1.3 In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the employee and relevant supervisors or management, or both.

2.1.4 If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to the Commission.

2.1.5 The Commission may deal with the dispute as follows—

(a) the Commission may first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation;

(b) if the Commission does not resolve the dispute under paragraph (a), the Commission may then deal with the dispute in accordance with its jurisdiction under the Act.

*Note—*

*1 If the commission arbitrates the dispute, it may also use the powers that are available to it under the Act.*

*2 Chapter 9 of the Act provides for appeals against particular decisions made by the commission.*

2.1.6 While the dispute resolution procedure is being conducted, work must continue in accordance with this industrial instrument and the QES.

2.1.7 Subject to applicable work health and safety legislation, an employee must not unreasonably fail to comply with a direction by the Council to perform work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.

2.1.8 The parties to the dispute agree to be bound by a decision made by the commission in accordance with this term.

## **2.2 Fixed Term Employment**

2.2.1 A Fixed Term Employee is one who is engaged for a specified period of time or for a specified task, otherwise defined as a Maximum Term Employee under the Award.

2.2.2 A Fixed Term Employee's employment may be terminated by the Council before the contract's specified end date in the following circumstances:

(a) by written agreement with the employee; or

(b) in the event of an incapacity which prevents the employee from performing the duties they were employed to perform; or

(c) in the event of misconduct; or

(d) in the event of poor performance of the employee following a performance review process; or

(e) by Council upon the provision of six (6) months' pay in lieu of notice or the amount of wages due to the employee for the balance of the contract, whichever is the lesser amount.

2.2.3 A Fixed Term Employee may terminate their employment by the giving of four (4) weeks' notice or the forfeiture of wages for any shortfall in the four (4) weeks' period of notice.

## **2.3 Secondary Employment**

2.3.1 Employees must obtain the written consent of Council prior to taking up and/or engaging in secondary employment, which may not be unreasonably withheld by Council.

2.3.2 Upon application for consent by an employee, Council may, at its sole discretion, expressly prohibit an employee from taking up and/or engaging in secondary employment or other contract work if Council reasonably considers a conflict of interest may exist with current Council duties performed by the employee.

## **2.4 Higher Duties**

Where an employee is instructed to perform duties or relieve another employee for which a higher rate of pay is prescribed, the employee will be paid the higher rate for the period in which the employee performed the duties attracting the higher rate.

## **2.5 Extra Duties**

Where an employee is required to undertake duties outside of his/her position description, the employee may be paid at a higher rate as negotiated by the employee and Council.

## **Part 3 - Leave**

### **3.1 Recreation Leave**

- 3.1.1 Employees will be entitled to six (6) weeks Recreation Leave per year of service comprising: -
- (a) four (4) weeks of Annual Leave prescribed by the QES; and
  - (b) an additional two (2) weeks leave in recognition of the remote location of the service area, various cultural events that occur during the year and in lieu of payment of specific Allowances under the Award as specified in clause 3.1.5 of this Agreement.
- 3.1.2 All Recreation Leave shall attract leave loading, except in the circumstances provided for in clause 3.1.4 where such entitlement is 'cashed out'.
- 3.1.3, Recreation Leave is to be taken at a time that is agreeable between the employee and Council.
- 3.1.4 This additional two (2) weeks Recreation Leave may, upon agreement between the employee and Council at the sole discretion of both, be 'cashed out' by the employee to receive an additional two (2) weeks pay per year. In such instance, such payment will not attract leave loading.
- 3.1.5 The additional two (2) weeks Recreation Leave will be granted to employees in lieu of following Allowances specified in the Award:
- (a) Local Government Industry Allowance;
  - (b) First Aid Allowance; and
  - (c) Divisional and district allowances.

### **3.2 Annual Close Down**

- 3.2.1 Council will close down its operations each year over the Christmas/New Year period.
- 3.2.4 Employees who do not have enough Recreation Leave accrued to cover the period of close down (or any period thereof) shall take unpaid leave.
- 3.2.5 If Council's operational requirements require work to be performed during this period, Council may direct employees to work during the close down period.

### **3.3 Personal Leave**

- 3.3.1 Employee shall be entitled to ten (15) days Personal Leave per year.
- 3.3.3 Part-time employees shall receive the five (5) days on a pro rata basis.
- 3.3.4 Employees shall be required to produce a medical certificate completed by a medical practitioner as proof of lack of fitness to work when the absence from work is more than one (1) day.

3.3.5 Employees shall be required to produce a medical certificate completed by a medical practitioner as proof of lack of fitness to work in circumstances where in all reasonableness at the sole discretion of Council, there appears to be a frequent pattern of absence (e.g. every Friday for three (3) consecutive weeks etc). Failure by an employee to produce a medical certificate in contravention of this provision may be considered misconduct by the employee.

### **3.4 Bereavement Leave**

3.4.1 An employee shall on the death of a member of their Immediate Family or Household, or as otherwise approved by Council under clause 3.4.4 of this Agreement, be entitled to up to five (5) days paid Bereavement Leave per event.

3.4.2 Where evidence of such death is not reasonably apparent to Council, proof of such death shall be furnished by the employee to the satisfaction of the Council.

3.4.3 "Immediate Family or Household" includes:

- Employee's spouse, including a former spouse, a defacto spouse or former defacto spouse, (including a spouse of the same sex as the Employee); and
- A child, ex-nuptial child, step-child, adopted child, ex-foster child of the Employee or Employees' spouse; and
- Parent, grandparent, grandchild, sister or brother of the Employee and of the Employee's spouse (such as the Employee's mother-in-law, father-in-law, grandparent-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law); and
- Step-father, step-mother, (also big uncle or big aunt of an indigenous Employee) half-brother, half-sister, step-brother and step-sister of the Employee; and
- Those who permanently live in the Employee's household.

3.4.4 The list of family members provided for in the definition of 'Immediate Family or Household' is not exhaustive and Council recognises that this may not meet that of all the cultural groups in Council's workforce. Management may also grant requests for Bereavement Leave in circumstances where the deceased is a person that occupied the same prominence in the employee's life as a family member identified in the 'Immediate Family or Household category'. Where an employee is obligated by their respective custom or religion to show their respect for a deceased person by participating in ceremony, Bereavement Leave will be granted.

3.4.5 In addition to specified Bereavement Leave entitlement, an employee may access other accrued paid leave, (including Recreation Leave or TOIL), or unpaid leave in circumstances where clause 3.4 applies, and the period of Bereavement Leave provided is insufficient.

### **3.5 Time Off in Lieu**

- 3.5.1 Subject to Council's prior approval and mutual agreement between Council and an employee, an employee who works outside of the spread of ordinary working hours or in excess of their ordinary daily hours of duty on any day, may be granted Time Off in Lieu ("TOIL") of overtime worked on a time for time basis.
- 3.5.2 A maximum of two (2) days or 16 hours can be accrued at a time.

### **3.8 Payment of wages and salary**

- 3.8.1 Wages and salary shall be paid weekly by electronic funds transfer into employee nominated bank accounts.
- 3.8.2 Wages will increase pursuant to the annual state wage case in the Queensland Industrial Relations Commission.

### **3.9 Training**

- 3.9.1 Employees undertaking relevant courses of study or training courses may be permitted time off with pay and may have any compulsory fees paid by Council.
- 3.9.2 In circumstances where an employee does not attend upon the training, he or she will not be paid for the time and will be required to reimburse Council for the cost of the training. This money may be deducted from an employee's wages.

### **4.1 Airfares**

- 4.1.1 Each full-time employee shall be entitled to 2 return flights per year.
- 4.1.2 The flights may be taken to either Townsville, Mt Isa or Cairns and return.
- 4.1.3 In circumstances where an employee has been prevented from taking a flight through no fault of their own, they shall be entitled to take their second return flight within 3 months of the following year.

**Signed on behalf of the Mornington Shire Regional Council**

SIGNATURE .....

FULL NAME John Keith Page

CAPACITY TO SIGN Acting CEO

DATE 18 May 2015

ADDRESS .....

IN THE PRESENCE OF:

SIGNATURE .....

FULL NAME: Alana Stephanie Kirchhoff

DATE 18 May 2015

ADDRESS .....

**Signed on behalf of the employees of the Mornington Shire Council.**

SIGNATURE .....

FULL NAME Cecily Farrell

CAPACITY TO SIGN Scrutineer and Admin Manager

DATE 18 May 2015

ADDRESS .....

IN THE PRESENCE OF:

SIGNATURE .....

FULL NAME: Alana Stephanie Kirchhoff

DATE 18 May 2015

ADDRESS .....