

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *In the termination of the Rockhampton Regional Council Certified Agreement 2011 – External Employees* [2019] QIRC 076

PARTIES: **Rockhampton Regional Council**

AND

Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland

The Australian Workers' Union of Employees, Queensland

Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland

The Electrical Trades Union of Employees Queensland

Plumbers & Gasfitters Employees' Union Queensland, Union of Employees

Transport Workers' Union of Australia, Union of Employees (Queensland Branch)

CASE NO: CB/2019/27

PROCEEDING: Termination of an agreement

DELIVERED ON: 29 May 2019

HEARING DATE: 29 May 2019

MEMBER: Merrell DP

HEARD AT: Brisbane

ORDER: **1. The *Rockhampton Regional Council Certified Agreement 2011 – External Employees* is terminated.**

CATCHWORDS: INDUSTRIAL LAW – COLLECTIVE BARGAINING – Application for termination of agreement after nominal expiry date – Requirements for termination – agreement terminated

LEGISLATION: *Industrial Relations Act 2016, s 228*

APPEARANCES: Ms Todd on behalf of the Rockhampton Regional Council.

Ms Young on behalf of The Australian Workers' Union of Employees, Queensland

Mr Scherf on behalf of the Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland and on behalf of the Plumbers & Gasfitters Employees' Union Queensland, Union of Employees

Reasons for Decision

- [1] On 9 May 2019, the Rockhampton Regional Council, pursuant to s 228(1) of the *Industrial Relations Act 2016* (the Act) applied to terminate the *Rockhampton Regional Council Certified Agreement 2011 – External Employees* (the certified agreement).
- [2] The certified agreement had a nominal expiry date of 16 December 2014.
- [3] Section 228(3) of the Act provides:
- (3) The commission must approve the termination if, and must refuse to approve the termination unless, satisfied subsection (2) has been complied with and—
 - (a) for an agreement or determination that provides that it may be terminated if particular conditions are met—the conditions have been met; or
 - (b) for an agreement or determination that does not provide for the way it may be terminated—
 - (i) the other parties to the agreement or determination agree to it being terminated; and
 - (ii) termination of the agreement or determination is not contrary to the public interest.
- [4] The certified agreement does not provide that particular conditions need to be met before it may be terminated.
- [5] I am satisfied that the Rockhampton Regional Council has given notice of its intention to apply to terminate the certified agreement.
- [6] I have had regard to:
- the submissions made by the parties who appeared today;

- the affidavit of Mr. Evan Pardon, Chief Executive Officer of the Rockhampton Regional Council filed on 9 May 2019; and
- the notices, indicating they agree to the termination of the certified agreement, filed by the:
 - the Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland;
 - The Australian Workers' Union of Employees, Queensland;
 - the Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland;
 - The Electrical Trades Union of Employees Queensland;
 - the Plumbers & Gasfitters Employees' Union Queensland, Union of Employees; and
 - the Transport Workers' Union of Australia, Union of Employees (Queensland Branch).

[7] Further, on 9 May 2019, the Rockhampton Regional Council made an application, pursuant to s 189 of the Act, to certify the *Rockhampton Regional Council External Employees Certified Agreement 2018*.

[8] The Rockhampton Regional Council and all the employee organisations listed above have agreed to the terms of the *Rockhampton Regional Council External Employees Certified Agreement 2018* which is expressed to replace the certified agreement.

[9] On the basis of the submissions and material referred to above, I am satisfied that:

- all the parties to the certified agreement agree to it being terminated; and
- the termination of the certified agreement is not contrary to the public interest.

[10] Section 228(4) of the Act provides that termination takes effect when the Commission's approval takes effect.

[11] I approve the termination of the *Rockhampton Regional Council Certified Agreement 2011 – External Employees* with effect as and from 29 May 2019

[12] I make the following order:

1. **The *Rockhampton Regional Council Certified Agreement 2011 – External Employees* is terminated.**