

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *In the making of the Rockhampton Regional Council External Employees Certified Agreement 2018 [2019] QIRC 077*

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/2019/28

PROCEEDING: Application for certification of an agreement

DELIVERED ON: 29 May 2019

HEARING DATE: 29 May 2019

HEARD AT: Brisbane

MEMBER: Merrell DP

ORDER: **1. *The Rockhampton Regional Council External Employees Certified Agreement 2018 is certified.***

CATCHWORDS: INDUSTRIAL LAW – COLLECTIVE BARGAINING – Application for certification of an agreement – Requirements for certification – Agreement certified

LEGISLATION: *Industrial Relations Act 2016*

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 and Gasfitters Employees' Union Queensland, Union of Employees

Reasons for Decision

[1] On 9 May 2019, the Rockhampton Regional Council made an application, pursuant to s 189 of the *Industrial Relations Act 2016* (the Act), to certify the *Rockhampton Regional Council External Employees Certified Agreement 2018* (the agreement).

[2] Section 189 of the Act provides:

189 Application for certification of agreement

- (1) An application for the commission to certify an agreement may be made by a party to the agreement.
- (2) For an agreement made between a single employer and 1 or more employee organisations, the application may be made even though the agreement has not been signed by or for all of the parties if—
 - (a) all the parties have agreed on the terms of the agreement; and
 - (b) the agreement has been approved by a valid majority of the relevant employees at the time in a properly conducted ballot.
- (3) If an agreement has been signed by or for all the parties, the application must be made within 21 days after the agreement is signed.

[3] The agreement was not signed by all the employee organisations listed in the agreement.

[4] The agreement, as filed with the application made by the Rockhampton Regional Council, was not signed by:

- The Electrical Trades Union of Employees Queensland; and
- the Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland.

[5] Section 196 of the Act provides:

196 Proposed bargaining instrument to be in writing and signed by parties

- (1) The commission must be satisfied the proposed bargaining instrument—

- (a) is in writing; and
 - (b) is signed by or for all the parties.
 - (2) Subsection (1)(b) does not apply if the commission is satisfied, in the particular circumstances, that—
 - (a) although the proposed bargaining instrument has not been signed by or for all the parties, all parties have agreed on the terms of the instrument; and
 - (b) the part 5 application was made within a reasonable time after the instrument was approved by a valid majority of the relevant employees at the time in a properly conducted ballot.
 - (3) For subsection (2), in deciding whether all parties have agreed on the terms of the proposed bargaining instrument, the commission may consider—
 - (a) whether the parties negotiated in good faith as required under section 173; and
 - (b) any other evidence supporting or not supporting the alleged agreement.
- [6] Notices, indicating they agree on the terms of the agreement, were filed by:
- The Electrical Trades Union of Employees Queensland; and
 - the Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland.
- [7] In his affidavit filed on 9 May 2019, Mr Evan Pardon, Chief Executive Officer of the Rockhampton Regional Council, stated that the agreement was made with employee organisations, which I infer is all the employee organisations who are referred to in the agreement. As such, the agreement is made with each of the employee organisations referred to in the agreement.
- [8] I am satisfied that the all parties have agreed on the terms of the agreement.
- [9] Mr Pardon's evidence also is that agreement was approved by a by a valid majority of relevant employees, in a properly conducted ballot, on 10 April 2019.
- [10] Having regard to the evidence referred to above, I am satisfied that the application for certification of the agreement was made within a reasonable time after the proposed agreement was approved.
- [11] The agreement is to apply to the Rockhampton Regional Council and to its employees who are or who are eligible to become members of the employee organisations referred to in clause 1.2.1.1 of the agreement, and for whom there is a classification contained in the agreement.
- [12] Having regard to the submissions made by the parties who appeared today and to the two affidavits of Mr. Pardon filed on 9 May 2019:

- I am satisfied of each relevant requirement in ch 4, pt 5, div 2, sub-div 2 of the Act; and
- there is nothing in the agreement which would require me to refuse to grant the application pursuant to ch 4, pt 5, div 2, sub-div 3 of the Act.

[13] The application to certify the *Rockhampton Regional Council External Employees Certified Agreement 2018* is granted.

[14] The *Rockhampton Regional Council External Employees Certified Agreement 2018* operates from the day it is certified, namely 29 May 2019.

[15] Although the nominal expiry date of the *Rockhampton Regional Council External Employees Certified Agreement 2018* is 1 July 2021, it continues to operate until it is terminated under s 227 or s 228 of the Act.

[16] I make the following order:

- 1. The *Rockhampton Regional Council External Employees Certified Agreement 2018* is certified.**