

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *In the termination of the Rockhampton Regional Council Certified Agreement 2012 – Internal Employees* [2019] QIRC 102

PARTIES: **Rockhampton Regional Council**
and
Association of Professional Engineers, Scientists and Managers Australia, Queensland Branch
and
The Australian Workers' Union of Employees, Queensland
and
Queensland Services, Industrial Union of Queensland
and
United Voice, Industrial Union of Employees, Queensland

CASE NO: CB/2019/45

PROCEEDING: Application for approval to terminate certified agreement after nominal expiry date

DELIVERED ON: 5 July 2019

HEARING DATE: 1 July 2019

HEARD AT: Brisbane

MEMBER: Knight IC

ORDER: **1. The Rockhampton Regional Council Certified Agreement 2012 – Internal Employees is terminated.**

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

LEGISLATION:	<i>Industrial Relations Act 2016</i>
APPEARANCES:	Mr. V. Pejovic, of the Local Government Association Queensland, for the Applicant
	Ms. M. Robertson, for the Queensland Services, Industrial Union of Queensland
	Mr. D. Peverill, of United Voice, Industrial Union of Employees, Queensland

Reasons for Decision

- [1] The Rockhampton Regional Council has applied to terminate the *Rockhampton Regional Council Certified Agreement 2012 – Internal Employees* ("the Agreement"). It does so pursuant to s 228(1) of the *Industrial Relations Act 2016* (Qld).
- [2] The Agreement nominally expired on 16 December 2014 and the parties consent to its termination.
- [3] By way of background, in 2008 the Rockhampton Regional Council was formed by the amalgamation of Rockhampton City and Fitzroy, Livingstone and Mount Morgan Shires. In 2013, however, former residents of the Livingstone Shire voted for de-amalgamation.
- [4] While negotiations in respect of a new certified agreement for Livingstone Shire Council are ongoing, its employees remain covered by the Agreement the subject of this application to terminate.
- [5] On 2 July 2019, my Chambers wrote to the Local Government Association Queensland expressing my concern that termination of this Agreement may not be in the public interest in circumstances where the residual Livingstone Shire Council employees would not be covered under the new Agreement and would therefore revert to the applicable Award.
- [6] By letter dated 4 July 2019, Ms Chris Murdoch, Chief Executive Officer of the Livingstone Shire Council, wrote to the relevant unions in the following terms:

Dear Union Organiser,

Re: Termination of the Rockhampton Regional Council Certified Agreements

I have been notified that the Queensland Industrial Relations Commission (QIRC) has recently made an order terminating the *Rockhampton Regional Council Certified Agreement 2011 – External Employees* and has heard an application from Rockhampton Regional Council for the termination of the *Rockhampton Regional Council Certified Agreement 2012 – Internal Employees*.

I advise that Livingstone Shire Council supports the application made by Rockhampton Regional Council for the termination of the Internal Employees Agreement and that Council will continue to preserve conditions and entitlements of all its employees in accordance with both Agreements mentioned above and also the *Rockhampton Regional Council Treatment Plant Operators Certified Agreement 2012*.

In acting in good faith, Livingstone Shire Council will continue to apply all the above mentioned agreements until such time as new Livingstone Shire Council agreements are certified by the QIRC in due course.

- [7] My Chambers was copied into the correspondence.
- [8] I note that at the hearing of this application, the relevant unions including the Queensland Services, Industrial Union of Queensland and United Voice, Industrial Union of Employees, Queensland, also supported the termination of the Agreement.
- [9] On that basis, I am satisfied that:
- the agreement does not provide any particular conditions that must be met before it may be terminated;¹
 - the Commission is satisfied that Rockhampton Regional Council have given notice of its intention to apply to terminate the agreement;²
 - the other parties to the agreement agree to its being terminated;³ and
 - the termination of the agreement is not contrary to the public interest.⁴
- [10] On that basis, I terminate the *Rockhampton Regional Council Certified Agreement 2012 – Internal Employees* with effect from 5 July 2019.⁵
- [11] I make the following order:
1. **The *Rockhampton Regional Council Certified Agreement 2012 – Internal Employees* is terminated.**

¹ *Industrial Relations Act 2016* (Qld) s 228(3).

² *Ibid* s 228(2).

³ *Ibid* s 228(3)(b)(i).

⁴ *Ibid* s 228(3)(b)(ii).

⁵ *Ibid* s 228(4).