

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *In the termination of the Western Downs Regional Council Enterprise Bargaining Certified Agreement - External 2012 [2020] QIRC 169*

PARTIES: **Western Downs Regional Council**

AND

Australian Manufacturing Workers' Unions

Plumbers and Pipe Trades Employees Union, Queensland Branch

The Australian Workers' Union of Employees, Queensland

The Construction, Forestry, Mining and Energy Industrial Union of Employees, Queensland

The Electrical Trades Union of Employees of Queensland

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

CASE NO: CB/2020/61

PROCEEDING: Termination of an agreement

DELIVERED ON: 2 October 2020

HEARD AT: On the papers

MEMBER: Industrial Commissioner Dwyer

ORDER: **1. The Western Downs Regional Council Enterprise Bargaining Certified Agreement – External 2012 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*

Reasons for Decision

- [1] On 20 August 2020, the Chief Executive Officer of the Western Downs Regional Council applied, pursuant to s 228(1) of the *Industrial Relations Act 2016* ('the Act'), to terminate the *Western Downs Regional Council Enterprise Bargaining Certified Agreement – External 2012* ('the Agreement').
- [2] The Agreement has a nominal expiry date of 13 February 2016.
- [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 Agreement does not provide that particular conditions need to be met before it may be terminated.
- [5] Having regard to the two affidavits of Ross Andrew Musgrave both filed 20 August 2020, I am satisfied that the Western Downs Regional Council has given the requisite notice of its intention to apply to terminate the Agreement.
- [6] I have had regard to the two affidavit of Ross Andrew Musgrave of the Western Downs Regional Council both filed 20 August 2020.
- [7] On 20 August 2020, the chief executive officer of the Western Downs Regional Council applied, pursuant to s 189 of the Act, to certify the *Western Downs Regional Council Operational Staff Certified Agreement – 2020*.
- [8] The Western Downs Regional Council and the following employee organisations have agreed to the terms of the *Western Downs Regional Council Operational Staff Certified Agreement – 2020*, which will replace the Agreement:
- Australian Manufacturing Workers' Unions;
 - Plumbers and Pipe Trades Employees Union, Queensland Branch;
 - The Australian Workers' Union of Employees, Queensland;

- The Construction, Forestry, Mining and Energy Industrial Union of Employees, Queensland;
- The Electrical Trades Union of Employees of Queensland; and
- Transport Workers' Union of Australia, Union of Employees, Queensland Branch.

[9] I am satisfied that:

- All parties to the Agreement agree to it being terminated; and
- The termination of the 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 *Western Downs Regional Council Enterprise Bargaining Certified Agreement – External 2012* with effect from 2 October 2020.

[12] I make the following order:

- 1. The *Western Downs Regional Council Enterprise Bargaining Certified Agreement – External 2012* is terminated.**