

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *In the termination of the Whitsunday Regional Council Certified Agreement 2017 [2021] QIRC 043*

PARTIES: **Whitsunday Regional Council**

and

The Australian Workers' Union of Employees, Queensland

and

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

and

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

and

Plumbers & Gasfitters Employees' Union Queensland, Union of Employees

and

Queensland Services, Industrial Union of Employees

and

The Association of Professional Engineers, Scientists and Managers, Australia, Queensland Branch, Union of Employees

CASE NO: CB/2020/87

PROCEEDING: Termination of Agreement

DELIVERED ON: 8 February 2021

HEARING DATE: 8 February 2021

HEARD AT: Brisbane

MEMBER: McLennan IC

ORDER: ***The Whitsunday Regional Council Certified Agreement 2017 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* (Qld) s 189, s 228

Reasons for Decision

- [1] On 16 December 2020, the Whitsunday Regional Council ("the applicant"), pursuant to s 228(1) of the *Industrial Relations Act 2016* (Qld) ("the Act"), applied to terminate the *Whitsunday Regional Council Certified Agreement 2017* ("the agreement").
- [2] The agreement has a nominal expiry date of 30 June 2020.
- [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] I have had regard to the affidavit of Mr Rod Ferguson, Chief Executive Officer for the Applicant, filed on 16 December 2020.
- [5] The agreement does not provide that particular conditions need to be met before it may be terminated.
- [6] I am satisfied that the applicant has given the requisite notice of their intention to apply to terminate the agreement.

[7] I am also satisfied that:

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

[8] On 16 December 2020, an application was made by the following parties, pursuant to s 189 of the Act, to certify the *Whitsunday Regional Council Certified Agreement 2020*:

- Whitsunday Regional Council

[9] The abovementioned parties and the following employee organisations have agreed to the terms of the *Whitsunday Regional Council Certified Agreement 2020* which will replace the agreement:

- The Australian Workers' Union of Employees, Queensland
- Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland
- Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland
- Plumbers & Gasfitters Employees' Union Queensland, Union of Employees
- Queensland Services, Industrial Union of Employees
- The Association of Professional Engineers, Scientists and Managers, Australia, Queensland Branch, Union of Employees

[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 *Whitsunday Regional Council Certified Agreement 2017* with effect from 8 February 2021.

[12] I make the following order:

The *Whitsunday Regional Council Certified Agreement 2017* is terminated.