

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *In the termination of the Sunshine Coast Council Salaried Officers Certified Agreement 2017 (No. 3) [2021] QIRC 003*

PARTIES: **Sunshine Coast Council**

AND

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

Queensland Services, Industrial Union of Employees

CASE NO: CB/2020/89

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

DELIVERED ON: 5 January 2021

HEARING DATE: 5 January 2021

HEARD AT: Brisbane

MEMBER: POWER IC

ORDER: ***The Sunshine Coast Council Salaried Officers Certified Agreement 2017 (No. 3) is terminated.***

CATCHWORDS: INDUSTRIAL LAW – COLLECTIVE BARGAINING – Requirements for termination – Agreement terminated

LEGISLATION: *Industrial Relations Act 2016 (Qld)*

Reasons for Decision

- [1] On 16 December 2020, the Sunshine Coast Council ("the Applicant") has applied to terminate the *Sunshine Coast Council Salaried Officers Certified Agreement 2017 (No. 3)* ("the Agreement"). It does so pursuant to s 228(1) of the *Industrial Relations Act 2016* (Qld) ("the Act").
- [2] The Agreement nominally expired on 30 June 2020.
- [3] Section 228 of the Act provides:
- 228 Termination after nominal expiry date
- (1) After the nominal expiry date of a certified agreement or arbitration determination, the following persons may apply to the commission to terminate the agreement or determination—
- (a) the employer;
- (b) a valid majority of the relevant employees;
- (c) an employee organisation to which the agreement or determination applies and that has at least 1 member who is a relevant employee.
- (2) The person who intends to apply to terminate the agreement or determination must give all other persons to whom the agreement or determination applies notice of the intention.
- (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 termination takes effect when the commission's approval takes effect.
- [4] I have considered the affidavit of Ms. Emma Thomas, Chief Executive Officer of Sunshine Coast Council, filed on 16 December 2020.
- [5] The Agreement does not provide that particular conditions need to be met before it may be terminated.¹
- [6] I am satisfied that the Applicant has given the requisite notice of their intention to apply to terminate the Agreement.²

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

² *Industrial Relations Act 2016* s 228(2).

[7] I am also satisfied that:

- (a) all parties to the Agreement agree to it being terminated;³ and
- (b) the termination of the Agreement is not contrary to the public interest.⁴

[8] On 16 December 2020, an application was made by the following parties, pursuant to s 189 of the Act, to certify the *Sunshine Coast Council Salaried Officers Certified Agreement 2020 (No. 4)*:

- Sunshine Coast Council;
- The Association of Professional Engineers, Scientists and Managers, Australia, Queensland Branch, Union of Employees; and
- Queensland Services, Industrial Union of Employees.

[9] The abovementioned parties and the following employee organisations have agreed to the terms of the *Sunshine Coast Council Salaried Officers Certified Agreement 2020 (No. 4)* which will replace the Agreement:

- The Association of Professional Engineers, Scientists and Managers, Australia, Queensland Branch, Union of Employees; and
- Queensland Services, Industrial 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 *Sunshine Coast Council Salaried Officers Certified Agreement 2017 (No. 3)* with effect from 5 January 2021.

[12] I make the following order:

The *Sunshine Coast Council Salaried Officers Certified Agreement 2017 (No. 3)* is terminated.

³ Ibid s 228(3)(b)(i).

⁴ Ibid s 228(3)(b)(ii).