

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *In the termination of the Charters Towers Regional Council Union Collective Certified Agreement 2019 [2021] QIRC 362*

PARTIES: **Charters Towers Regional Council**

AND

Queensland Services, Industrial Union of Employees

The Australian Workers' Union of Employees, Queensland

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

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

Plumbers and Gasfitters Employees' Union Queensland, Union of Employees

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

CASE NO.: CB/2021/48

PROCEEDING: Termination of an agreement

DELIVERED ON: 27 October 2021

HEARING DATE: 27 October 2021

MEMBER: Power IC

HEARD AT: Brisbane

ORDER: ***The Charters Towers Regional Council Union Collective Certified Agreement 2019 is terminated.***

CATCHWORDS: INDUSTRIAL LAW - QUEENSLAND - AGREEMENTS - application for termination of agreement after nominal expiry date -

requirements for termination - agreement terminated

LEGISLATION:

Industrial Relations Act 2016, ss 189 and 228

APPEARANCES:

Ms M. Martin of the Local Government Association of Queensland for the Charters Towers Regional Council.

Mr J. Maguire for the Queensland Services, Industrial Union of Employees.

Mr D. Marr for The Australian Workers' Union of Employees, Queensland.

Reasons for Decision

- [1] On 28 September 2021, the Charters Towers Regional Council ('the Applicant') applied, pursuant to s 228(1) of the *Industrial Relations Act 2016* (Qld) ('the Act'), to terminate the *Charters Towers Regional Council Union Collective Certified Agreement 2019* ('the certified agreement').
- [2] The certified agreement has a nominal expiry date of 30 June 2021.
- [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 had regard to:

- (a) the submissions made by the parties who appeared today; and
 - (b) the affidavit of Mr Aaron Johansson, Chief Executive Officer of the Applicant.
- [5] The certified 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 its intention to apply to terminate the certified agreement.
- [7] On 28 September 2021, the Applicant made an application, pursuant to s 189 of the Act, to certify the *Charters Towers Regional Council Union Collective Certified Agreement 2021*.
- [8] The Applicant and the following employee organisations have agreed to the terms of the *Charters Towers Regional Council Union Collective Certified Agreement 2021* which will replace the certified agreement:
- (a) Queensland Services, Industrial Union of Employees;
 - (b) The Australian Workers' Union of Employees, Queensland;
 - (c) Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland;
 - (d) Construction, Forestry, Mining and Energy Industrial Union of Employees, Queensland;
 - (e) Plumbers and Gasfitters Employees' Union Queensland, Union of Employees; and
 - (f) Transport Workers' Union of Australia, Union of Employees (Queensland Branch).
- [9] I am satisfied that:
- (a) all parties to the certified agreement agree to it being terminated; and
 - (b) the termination of the certified 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 *Charters Towers Regional Council Union Collective Certified Agreement 2019* with effect from 27 October 2021.
- [12] I make the following order:

The *Charters Towers Regional Council Union Collective Certified Agreement 2019* is terminated.